Guidelines for Intellectual Property Management in Government-commissioned Research and Development

Aiming to manage intellectual property (IP) arising from government-commissioned R&D projects, the Ministry of Economy, Trade and Industry (METI) compiled matters to be considered by personnel in charge of government-commissioned R&D projects into guidelines.

METI aims to maximize national wealth through the appropriate management of IP by R&D projects under the guidelines.

1. Background
In response to the interim report prepared by the R&D and Evaluation Subcommittee of the Committee on Industrial Science and Technology Policy and Environment under the Industrial Structure Council in June 2014, METI discussed ideal approaches to management of intellectual property arising from government-commissioned R&D projects, including operation of the Japanese Bayh-Dole Act (Article 19 of the Industrial Technology Enhancement Act), and compiled the results of the discussion into Guidelines for Intellectual Property Management in Government-commissioned Research and Development.

2. Outline of the guidelines
1) Targets of the guidelines
The guidelines target R&D projects for technologies which will be commissioned by METI or incorporated administrative agencies under METI's jurisdiction under METI’s budgets, and for which the call for applicants begins on July 1, 2015 or thereafter.

2) Highlight of the guidelines
- The basic stances, e.g., significance of commercializing the outcome of R&D projects, are explicitly specified.
- In principle, governing authorities are required to formulate a project-based basic policy concerning management of IP arising from the projects (IP policy).
- Working procedures concerning IP are presented, ranging from the pre-project period to the post-project period (see the figure below).
- Matters to be considered are streamlined, including the following:
  . Ideal approaches to flexible IP right ownership and measures for utilizing IP by expected pattern are shown as reference, so as to encourage the commercialization of project results.
  . Indication of what constitutes “a considerable period of time” in terms of contractor utilization (or lack thereof) of patent right, etc. under the Japanese Bayh-Dole Act.
Matters, about which participants in a project should consider in providing their own related IP (background IP) to each other, are streamlined.

- Examples of preparing an IP policy and an IP-related written agreement are described.

**Figure: Overall flow of IP management**

**Before starting the project**

- In calling for applications, governing authorities present a basic policy concerning IP management to applicants (those who wish to become contractors) to which R&D projects will be.

**During the project**

Concluding an agreement for commission, including:
- Stipulating whether or not the provisions under the Japanese Bayh-Dole Act are applied
- Granting a working license to a third party concerning an IP right that has not been utilized for a considerable period of time
- Gaining prior approval for transfer of IP rights

**After finishing the project**

A framework for managing IP arising from projects should be developed, e.g., establishment of IP operation committees.

IP should be managed by IP operation committees or councils.

A written agreement should be prepared among participants in projects on how to deal with IP through stipulating rules among the participants, including:
- Ownership of IP rights
- Granting a working license of an IP right
- Granting a non-exclusive license with a sublicensing right
- Preventing leaks of technological and other important information
- Responding to changes in the project framework
- Clarifying the rights and obligations of trustees after finishing the project

The details of the written agreement on IP should be revised in response to changes in conditions, e.g., those in the project framework.

**Release date**

May 15, 2015

**Division in charge**

Industrial Science and Technology Policy Division, Industrial Science and Technology Policy and Environment Bureau