

## MOUs Between Fermilab & Other Institutions

### Management System: Technology Transfer & Partnerships

#### Revision History

<b>Author</b>	<b>Description of Change</b>	<b>Revision No. &amp; Date</b>
Gary Leonard	Further defined MOUs and other documents that provide legal and contractual obligations, and the process for handling MOUs with non-US institutions.	Revision 004 October 2013
Gary Leonard, Jed Heyes, Roy Rubinstein	Broaden the scope of this procedure to include any institution as well as non-US institution	Revision 003 November 2012
Jed Heyes	Put into standard procedure format with version control & revisions to 4.1, 4.3 & 4.4 with DOE input	Revision 001 June 2012
Roy Rubinstein	Created on behalf of the COO in response to Memo of 14 May 2012 from United States Secretary of Energy on MOUs with Foreign Partners	Revision 00 May 2012

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## 1.0 INTRODUCTION

This policy outlines the requirements for proposed MOUs (Memorandum of Understanding) between Fermilab and other institutions to ensure legal and contractual obligations are met, and ensure MOUs with a non-US institution are managed in accordance with the guidance in the 14 May 2012 Memo from Secretary of Energy Steven Chu on MOUs with Foreign Partners. Note that an MOU is generally used when a simple statement of intent for future collaboration is needed. More detailed descriptions of collaborative activities are usually contained in other documents, such as a Purchase Order (PO), a Cooperative Research and Development Agreement (CRADA), a Work for Others (WFO), or a User Agreement (UA) for participation in a research experiment at the Lab's DOE designated user facilities.

This procedure applies to all proposed MOUs between Fermilab and other institutions. In the case of non-US institutions, this includes Memorandum of Understanding, Memorandum of Agreement, Statement of Intent, Letter of Intent, Declaration of Principles or similar document whatever its title, and in the case of non-US institutions must only be used for informal, non-R&D, non-legally binding collaboration. Contractual instruments such as WFOs, CRADAs, etc. are already subject to statutory and regulatory requirements and DOE orders (cited from Secretary Chu's 14 May 2012 Memo).

## 2.0 DEFINITIONS

### 2.1 Memorandum of Understanding (MOU):

A signed agreement between two parties signifying an intent to collaborate.

For purposes of this procedure for MOUs with non-US institutions this includes Memorandum of Understanding, Memorandum of Agreement, Statement of Intent, Letter of Intent, Declaration of Principles or similar document whatever its title and must only be used for informal, non-R&D, non-legally binding collaboration.

### 2.2 Non-US Institution:

Any institution that is outside the United States of America as broadly understood.

## 3.0 RESPONSIBILITIES

### Chief Operating Officer (COO):

Reviews all proposed MOUs between Fermilab and other institutions.

## 4.0 POLICY

**4.1** All proposed MOUs between Fermilab and other institutions shall be submitted to Fermilab's Chief Operating Officer (COO).

**4.2** The COO shall verify, based on input from the Fermilab initiator of the MOU that the proposed MOU meets our legal and contractual obligations, and that MOUs with non-US institutions meets the following tests given by Secretary Chu's Memo of 14 May 2012:

- a) It must align with the strategic interests and policies of the United States (in our case that is the Mission of Fermilab as set out in the FRA Contract with DOE in Contract DE-AC02-07CH11359)
- b) It must be legally sound (not make any legally binding commitment)
- c) Due diligence must be performed to ensure that any counterintelligence considerations are addressed (Export Control, sensitive countries, etc.)

If necessary, the COO will return the MOU to the initiator for modifications to meet these requirements.

**4.3** For an MOU with a non-US institution the COO shall submit the MOU electronically, together with any other pertinent information, to DOE's Fermi Site Office (FSO) for approval.

**4.4** A general (but not always applicable) sequence is that there be an MOU between Fermilab and another institution stating that the two entities intend to collaborate in the future. Under this MOU will be subsequent agreements (in the past variously called Annexes, Accords, Addenda, etc.) which describe specific collaboration actions.

Any transfer of funds under these agreements shall be carried out using Fermilab's standard procedures (which may include POs, UAs, CRADAs, WFOs, Project Annexes or other written agreement).

**4.5** MOUs signed by Fermilab and another institution shall be maintained by the office of the COO.

**4.6** This procedure will be reviewed at a minimum of 5 years or when deemed necessary by the COO. Reviewers will include at a minimum the COO and General Council, and the Fermilab Director shall approve the policy.

## **5.0 REFERENCES**

Memo of 14 May 2012 from United States Secretary of Energy Steven Chu on MOUs with Foreign Partners