



Australasian Research Management Society

"ENABLING GLOBAL RESEARCH EXCELLENCE"

Response by the Australasian Research Management Society to the Higher Education Research Commercialisation IP Framework – Consultation Paper

18 October 2021

ARMS welcomes the opportunity to make a submission on the Higher Education Commercialisation IP Framework.

PREAMBLE:

The [Australasian Research Management Society](#) (ARMS) Inc is an internationally connected community of research management professionals¹ operating at the highest standards to influence, support and enhance the global delivery of research and innovation excellence. With almost 70% of ARMS' corporate members representing the higher education community in Australia, and as a key voice for the sector, we are well placed to provide guidance and critical assessment on the proposed Higher Education Research Commercialisation IP Framework. ARMS members directly engage with research contracting partners and work closely with University Legal Offices.

KEY RECOMMENDATIONS:

The consultation paper states:

"A HERC IP Framework will provide standardised IP licencing and contractual agreements that are likely to establish a strong foundation for negotiations and management successful university-industry collaboration and partnerships".

ARMS recommends that:

- Greater emphasis be placed on the introduction of a toolkits and guidance tools rather than model agreements – the latter should be used as starting points.
- The development of the Framework progresses through further discussion with ARMS, universities and industry to learn from our collective experience.
- We advise on the substantial work undertaken by our ARMS Contract Working Group in developing standard multi-institutional agreement templates for major funding programs such as ARC Linkage, ARC LIEF and ARC Discovery-Projects and related NHMRC and MRFF templates.
- The first areas of priority that are selected for agreement harmonisation are used as test or pilot cases.
- Clear criteria for measuring success be established as this is not apparent from the consultation paper.
- Education, awareness, training and support to both universities and industry is imperative and must be considered as part of this Framework. We believe that uptake of any standard IP licencing and contractual agreements should neither mandated nor legislated but, instead, encouraged as a voluntary process.

¹ Research Management Professionals are defined as individuals who provide specific, management, technical, administrative, or clerical assistance to support the research endeavour.

OVERVIEW

ARMS recognises the value of commercialisation and the importance of IP as a component of university-industry R&D. We therefore welcome the Government's efforts to accelerate socio-economic development through innovation and research commercialisation. However, we wish to express our deep concern at the speed at which this Framework is being introduced and the suggestion *that it be mandated*. We believe that the Framework will fail to achieve its goals if mandated and, that it may instead have the adverse effect of leading to a reduction in collaboration and commercialisation outcomes.

We therefore strongly urge the Government to progress the development of the Framework through further discussion with ARMS, universities and industry to learn from our collective experience.

We also encourage the Government to continue engagement with other stakeholders such as [IP Australia](#), [Knowledge Commercialisation Australia](#), and the [Society of University Lawyers](#) as they each have relevant experience in IP and commercialisation negotiations with university and industry.

OUR EXPERIENCE IN STANDARDISING CONTRACT AGREEMENTS:

As a community of practice which provides opportunities and resources to drive the development and sharing of best practice, our ARMS Directors of Research Special Interest Group has over the past four years constituted a range of **contract working groups**. The purpose of these working groups is to develop model agreements that may be adopted across our membership to help improve negotiations for projects funded by major Commonwealth research programs. Model agreements currently exist for a range of major funding programs, including: ARC Discovery Projects, ARC LIEF, ARC Linkage-Projects, NHMRC Project Grants, and NHMRC Investigator Grants. Draft clauses are also currently under consideration for research involving First Nations Peoples to incorporate into these agreements.

While the use of these model agreements has not been mandated, uptake has been strong across our membership. Many of our members already have very productive collaborations with industry, but even with model agreements in place, this does not always guarantee successful negotiations or commercial outcomes. From our experience, all contract negotiations are unique and increasingly complex, especially those involving international partners.

ARMS members are therefore united in their view that any attempt to impose rather than encourage the use of standard IP licencing and contractual agreements are likely to lead to a "*road to ruin*", potentially resulting in a reduction in collaboration and commercialisation outputs and quite possibly an increase rather than decrease in legal complexities. We would instead recommend the introduction of a toolkit and other guidance materials as well as model agreements to be used as a *starting point*, following the line of the UK's Lambert IP Toolkit experience. We have also found that where there are regular and multiple relationships with an external partner, the use of model agreements provides a rapid engagement path designed for that specific partnership.

EDUCATION AND AWARENESS

We believe that an educated and trained workforce is paramount to improved collaborations and commercial outcomes. ARMS is part of a broader international community of Research Management Professionals through [INORMS](#) and also offers its members an annual conference where best practice on a range of related topics is consistently shared. For example, in the upcoming [virtual conference of ARMS \(3-5 November\)](#), we will be delivering a joint panel session with Knowledge Commercialisation Australia (KCA) which will explore how Government and Universities are placing increasing emphasis on university-business collaboration and commercialisation and the need for universities and business to better collaborate and coordinate.

In addition, we offer ARMS members an Accreditation Program, with topics of relevance offered under the following modules:

Costing and Pricing of Research - Provides participants with a comprehensive understanding of Research Project Costing and Pricing to ultimately ensure there are enough resources for a project to be successfully completed within the project scope and ensure that key Organisational and Investor requirements have been considered.

Legislation as it affects Research – Covering the most common legislative frameworks affecting research in Australia (companion modules for New Zealand and Singapore).

Post Award Grant Processes – Covering financial management and reporting requirements, institutional systems to support effective post-award grants management, central vs devolved models, mechanisms for interaction with finance units, faculties, researchers and funders, IT support systems.

Working with Industry – Examines different research drivers for industry and public research organisations; institutional strategies and parameters that build a culture of collaboration and the role that research management and business development play in ensuring industry collaborations are effective and beneficial to all parties.

It should also be noted that the Society will be developing content for a new module in 2022 on Contract Management and that relevant Government, University and Industry representatives will be appointed on our reference group. ARMS will also consult with members from our Finance Manager and Directors of Research Special Interest Group during the development of this program.

We consider that it is imperative that awareness and education tools, support and training is similarly available to business, industry and suggest that DESE work actively with peak bodies as well as established teams such as CSIRO SME Engagement and Innovation Connection brokers.

CONCLUSION:

ARMS has a firm commitment to university-industry partnership and collaboration and strongly supports any efforts that accelerate socio-economic development through innovation and research for the greater benefit of Australia. Our members are willing and able to work with the Government and all key stakeholders to facilitate the development of policies and procedures that fundamentally improve research commercialisation.

ARMS looks forward to a formal engagement in the next stages of development of the Framework, given our substantial experience in developing and implementing model agreements for ARC and NHMRC programs.

CONTACT: To discuss further, please contact Maria Zollo, ARMS Chief Operating Officer in the first instance email Maria.Zollo@flinders.edu.au or telephone +61 402 418 973