

**Lebanese American University**  
**Compliance Program for United States Sponsored Programs & Procurement Contracts**  
**Intellectual Property/Reporting**

**1. PURPOSE**

The purpose of this Policy is to establish standards and guidelines for the handling and reporting of intellectual property developed, delivered, or utilized in the performance of Awards and FAR Contracts, as defined below. For purposes of this Policy, unless stated otherwise, use of the term Award includes Subawards and Award Subcontracts, and the term FAR Contract includes FAR Contracts.

**2. TERMS AND DEFINITIONS**

2.1 The following terms shall have the meanings indicated below for purposes of this Policy, regardless of whether the terms are capitalized:

2.1.1 Agreements Officer – The individual designated as such by the Awarding Agency. This individual is the Government official authorized to execute and modify Awards on behalf of the Government and the Awarding Agency. This individual may also be referred to as the Grants Officer. The terms may be used interchangeably.

2.1.2 Award – U.S. grants, cooperative agreements, and any other Federal financial assistance from an Awarding Agency. These are agreements that would be subject to [2 CFR Part 200](#), if entered into after December 26, 2014.

2.1.3 Award Subcontract – A subcontract issued under an Award strictly for the purchase of property or services needed to carry out the performance of the Award. This term does not include an agreement that qualifies as a Subaward (i.e., an agreement to actually carry out part of the Award scope of work). See “Procurements, Subawards, and Subrecipient Monitoring” Policy for further explanation of the differences between a Subaward and an Award Subcontract.

2.1.4 Awardee – The recipient of an Award directly from an Awarding Agency.

2.1.5 Awarding Agency - The Government department or agency that solicits and enters into an Award or a FAR Contract.

2.1.6 Contracting Officer or CO – The individual designated as such by the Awarding Agency. The Contracting Officer is the official authorized to execute and modify FAR Contracts on behalf of the Government and the Awarding Agency.

2.1.7 Data - Recorded information, regardless of form or the media on which it may be recorded. The term includes Technical Data and computer software. The term does not include information incidental to Award or FAR Contract

administration, such as financial, administrative, cost or pricing, or management information.

- 2.1.8 FAR Subcontract – A subcontract issued under a FAR Contract for the purchase of property or services needed to carry out the performance of the FAR Contract.
- 2.1.9 Federal Acquisition Regulation or “FAR” – The regulations in Title 48 of the Code of Federal Regulations implementing uniform policies and procedures for acquisitions by Government executive agencies. The FAR is the primary set of regulation for this purpose, but Government agencies can issue their own acquisition regulations to supplement the FAR.
- 2.1.10 Government – The Federal government of the United States of America.
- 2.1.11 Grants Officer – See definition of Agreements Officer above. The terms Grants Officer and Agreements Officer are interchangeable.
- 2.1.12 Invention – means any [invention](#) or discovery which is or may be patentable or otherwise protectable under U.S. patent laws in Title 35 of the United States Code or any novel variety of plant which is or may be protectable under the Plant Variety Protection Act ([7 U.S.C. 2321](#) et seq.)
- 2.1.13 LAU –refers to the Lebanese American University.
- 2.1.14 Prime Contractor – The recipient of a FAR Contract directly from an Awarding Agency.
- 2.1.15 Sponsored Program – A program funded at least in part with an Award or Subaward.
- 2.1.16 Subaward – An agreement issued under an Award by the Awardee to a Subawardee, or made from one Subawardee to another, to carry out part of the performance of an Award. It does not include an agreement by which an Awardee or Subawardee merely purchases property or services needed to carry out the Award. See “Procurements, Subawards, and Subrecipient Monitoring” Policy for further explanation of the differences between a Subaward and an Award Subcontract.
- 2.1.17 Subawardee or Subrecipient – Recipient of a Subaward.
- 2.1.18 Subject Invention – means any Invention conceived or first actually reduced to practice in the performance of work under an Award or FAR Contract.
- 2.1.19 Technical Data - Recorded information (regardless of the form or method of the recording) of a scientific or technical nature (including computer databases and computer software documentation). This term does not include computer software or financial, administrative, cost or pricing, or management data or other information incidental to Award or FAR Contract

administration. The term includes recorded information of a scientific or technical nature that is included in computer databases.

- 2.1.20 Uniform Requirements – the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Award at [2 CFR Part 200, as supplemented by applicable agency supplements, including, for example, 2 CFR Parts 600 \(Department of State\) and 700 \(USAID\)](#).

### **3. RESPONSIBILITY**

- 3.1 It is the responsibility of LAU and its faculty, staff, and other individuals working on Sponsored Programs to fully comply with this Policy. It is imperative that each person with such responsibility reviews, understands, and complies with this Policy. Violations may result in severe consequences to LAU and all individual violators and may result in the loss of rights in intellectual property.
- 3.2 The Office of Grants and Contracts is responsible for the maintenance and general oversight of this Policy. They, or their designee(s), are responsible for:
- 3.2.1 to properly educate all LAU faculty, staff, and other consultants on the Policy and its purpose;
  - 3.2.2 Updating the Policy as necessary to address changes in applicable Awards, FAR Contracts, and/or regulations;
  - 3.2.3 Providing employees the proper markings for Data developed or used in the performance of an Award or FAR Contract; and
- 3.3 Each principal investigator is responsible for promptly disclosing to the Office of Grants and Contracts Inventions conceived or first reduced to practice in the performance of an Award or FAR Contract.
- 3.4 Office of Grants and Contracts shall make all required disclosures of Subject Inventions to the Government in accordance with the Awards, FAR Contracts, and applicable laws. The Office of Grants and Contracts also is responsible for ensuring that data and software are properly marked in accordance with the Awards and FAR Contracts.
- 3.5 All questions concerning this Policy should be directed to the following, in this order:
- 3.5.1 Direct Supervisor
  - 3.5.2 The Office of Grants and Contracts;

### **4. SCOPE AND APPLICABILITY**

This Policy applies to all Data, Inventions, and other intellectual property developed, delivered, or otherwise utilized in connection with Awards and FAR Contracts. This Policy should be viewed as a supplement to LAU's other policies. Implementation of this Policy is intended to ensure that LAU can properly protect its interests in its existing intellectual property and the intellectual

property developed in the performance of an Award or FAR Contract. Further, LAU's intent with this Policy to be in complete compliance with all applicable Government regulations and the terms and conditions of the Awards and FAR Contracts.

## 5. STATEMENT OF POLICY

- 5.1 LAU must comply with the applicable intellectual property provisions for patent and data rights in each Award and FAR Contract not only to avoid a breach, but also to protect LAU's rights in its Inventions, Data, and other intellectual property.
- 5.2 This begins as early as the solicitation and proposal phase. The intellectual property provisions of all solicitations and proposals for Awards and FAR Contracts must be reviewed by the Office of the LAU General Counsel prior to submission of a proposal in order to ensure that the terms are consistent with applicable laws and LAU goals. The principal investigator must cooperate with the Office of Grants and Contracts by, among other things providing sufficient information regarding the proposed work and a description of all existing intellectual property that may be used. With this information the Office of LAU General Counsel shall:
  - 5.2.1 Determine whether the solicitation contains the appropriate patent and data rights clauses;
  - 5.2.2 Determine whether a patent waiver is necessary and, if so, seeking a patent waiver from the Government at the appropriate time (e.g., an advance waiver);
  - 5.2.3 Review all proposals to ensure that they are consistent with the applicable patent and data rights clauses (e.g., they do not allege to provide more rights than required by the applicable terms) and that proprietary information included in the proposals, if any, is treated appropriately.
- 5.3 Inventions that may have been conceived or first reduced to practice in the performance of an Award or FAR Contract must be evaluated to confirm whether they qualify as Subject Inventions pursuant to the applicable patent rights clause and determine LAU's disclosure, election, filing, and reporting requirements to protect LAU's desired rights and comply with the Award or FAR Contract.
- 5.4 All employees working on an Award or a FAR Contract (other than clerical and nontechnical employees) must provide valid invention assignments and agree in writing to: (i) disclose promptly in writing to personnel identified as responsible for the administration of patent matters each Subject Invention in order for LAU to comply with the applicable disclosure and reporting obligations of the applicable patent rights clause, and (ii) execute all papers necessary to file patent applications on Subject Inventions and to establish the Government's rights in the Subject Inventions.
- 5.5 Faculty performing research and development under an Award or FAR Contract must maintain complete and accurate lab books, databases, and other records identifying the development, conception, and reduction to practice of all Inventions and Technical Data sufficient to designate such development, conception, and/or reduction as originating

and being attributed to Government-funded work or private commercial work.

- 5.6 For Subject Inventions in which LAU desires to retain title and full rights, the Office of LAU General Counsel and the Office of Grants and Contracts shall:
  - 5.6.1 Ensure LAU complies with the disclosure, election, and patent filing requirement for each Subject Invention. Any decision not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, must be timely conveyed to the Government;
  - 5.6.2 Ensure the specification of any U.S. patent application and any patent issuing thereon covering a Subject Invention includes the appropriate statement of Government rights in the invention;
  - 5.6.3 Ensure licensing of the Subject Invention and/or patent includes proper restrictions on foreign manufacturing (for exclusive licenses) and precludes royalty charges on future acquisitions involving Government funds and requires refunds of the royalty payments if made;
  - 5.6.4 Ensure LAU furnishes to appropriate Government personnel all interim and final reports and certifications, including reports on utilization of Subject Inventions and, when required, notice of all subcontracts or subawards that contain a patent rights clause required by an Award; and
  - 5.6.5 Ensure that all manufacturing of products embodying Subject Inventions or produced through the use of any Subject Inventions are manufactured in conformance with any applicable U.S. competitiveness or preference provision in the patent rights clause (i.e., must be manufactured substantially in the U.S.).
- 5.7 For data and software designated for delivery to the Government in performance of an Award or FAR Contract:
  - 5.7.1 The Office of Office of Grants and Contracts with the principal investigator and/or the investigator's department shall work together to properly identify whether the Data and/or software deliverables should be delivered with restrictions pursuant to the applicable data rights clause and, if so, what restrictions apply (e.g., protected rights, limited rights, or restricted rights for software);
  - 5.7.2 With the assistance of the Office of Grants and Contracts, the principal investigator shall handle all data and software according to applicable data rights clauses, including:
    - 5.7.2.1 Withholding limited rights Data (as applicable);
    - 5.7.2.2 Applying the appropriate restrictive markings, if any;

- 5.7.2.3 Assist the Office of Grants and Contracts to timely respond to challenges to the propriety of restrictive markings.
- 5.8 The Office of LAU General Counsel, will ensure that each Subaward and FAR Subcontract issued by LAU under an Award or FAR Contract contains all required and appropriate patent and data rights clauses. Typically, this requires:
  - 5.8.1 A patent rights clause that allows the Subrecipient to elect to retain title to each Subject Invention, but the patent rights clause of the Award or FAR Contract will dictate which clause is included in the Subaward or FAR Subcontract;
  - 5.8.2 A data rights clause similar to the clause in the Award or FAR Contract and obtains from the Subrecipient all data and rights therein necessary to fulfill LAU's obligations to the Government under the Award or FAR Contract.

## 6. REFERENCES

Please refer to the following regulations and documents for further details regarding the above policy:

- 6.1 [2 CFR Part 200.315](#)
- 6.2 [37 CFR Part 401](#)
- 6.3 [FAR Part 27](#) and the relevant Awarding Agency supplement, if any
- 6.4 LAU Copy Right and Patent Policy LAU Policies for United States Sponsored Programs and Contracts - Compliance Program For Financial Assistance Awards
- 6.5 LAU Policies for United States Sponsored Programs and Contracts - Records Retention and Audits
- 6.6 LAU Policies for United States Sponsored Programs and Contracts - Public Sector Supplement to Code of Ethics
- 6.7 LAU Policies for United States Sponsored Programs and Contracts - Procurements, Subawards, and Subrecipient Monitoring

### **Effective Date:**

The foregoing Compliance Program for United States Sponsored Programs & Procurement Contracts: Intellectual Property/Reporting was adopted by the Board of Trustees on September 6 & 7, 2018 and is effective as of September 7, 2018.