

**MICHIGAN STATE
UNIVERSITY**

June 11, 2012

MEMORANDUM

TO: Board of Trustees

FROM: Lou Anna K. Simon, President *LAKS*
J. Ian Gray, Vice President for Research & Graduate Studies *JIG*

SUBJECT: Authorization to Create a University Research Organization (URO)
Internal to Michigan State University, and to Implement Special
Policies Specifically Regarding Its Operation

RECOMMENDATION:

BE IT RESOLVED that the Trustee Policy Committee recommends to the Board of Trustees that:

(a) the Administration be authorized to create a new unit of the University (the "University Research Organization" or "URO") for the specific purpose of hosting projects that are envisioned as unclassified research but will be subject in their funded conduct to external publication approval, participant citizenship restrictions, or other forms of significant government control on project access or the dissemination of results. The URO is to be created within the explicitly reaffirmed MSU policy context that such research is unacceptable in all other units of the University absent an exception based upon an exigency of national defense;

(b) the President be delegated authority to approve, upon the written recommendation of the cognizant vice president(s), policies and procedures specific to the URO, specifically indicating any interim exceptions to general University policies, procedures, and regulations, provided that all such interim exceptions are:

- (1) specific to the URO alone,
- (2) reasonably necessary for its operation,
- (3) communicated promptly to academic governance, and
- (4) superseded upon the completed approval of the next amendment of the general University policy, procedure, or regulation via normal channels, unless the President earlier revokes the exception or its need (and hence the exception itself) should lapse naturally at an earlier time;



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- (c) the administration be charged to ensure that the URO is housed, now and in the future, in space sufficiently separate from normal academic and support activity as to avoid diminishing the openness of the MSU campus to an international community of scholars; and
- (d) the President be delegated on-going authority to determine the administrative reporting line of the URO.

BACKGROUND:

As approved by the Board of Trustees on March 20, 1970, MSU's *Major Guidelines for Sponsored Research and Creative Activities* state in part:

“The University should retain for its scholars the right of first publication. The imposition of restriction on publication of research results is incompatible with the basic concept of an educational institution. Exigencies of national defense may at times make exceptions to this policy on publication necessary.”

That assertion in the *Major Guidelines* embodies an academic freedom principle that is embraced generally by AAU institutions. In addition, observance of the guideline is necessary to ensure that campus-based fundamental research is excluded from export control under the U.S. Government's International Traffic in Arms Regulations (ITAR) and the Export Administration regulation (EAR).

Put another way, the acceptance by MSU of restrictions on research access, or of research dissemination controls, makes otherwise excluded fundamental research subject to ITAR and EAR, creating the hazard that normally open academic discourse within a globalized community may result in civil or criminal offenses and/or institutional liabilities. That hazard is particularly problematic in an academic setting that seeks to introduce very inexperienced scholars to research work. Hence overall the University strives to protect academic freedom in inquiry and publication, and to preserve the applicability to its scholarship of the “Fundamental Research Exclusion” provided under ITAR and EAR. Those efforts must continue.

At the same time, significant Federal and private sector funding now exists for research projects involving publication approval by funders and/or restrictions on participant citizenship. A growing number of MSU faculty wish to pursue such projects, both to support their own trajectories of professional expertise, relevancy, and growth, and to obtain access to the potential funding resources on offer. Unsurprisingly, many such project opportunities arise in the defense realm, and implicate ITAR controls in the absence of the Fundamental Research Exclusion. However, Federal use of export controls to impede human rights abuses, nuclear proliferation, and terrorism extends the reach of EAR to so-called “dual use”

technologies with long-standing civilian applications. “Dual use” technologies may be found in areas such as criminal justice, geographic information, biofuels, robotics, and food safety. MSU faculty members possess expertise and seek to pursue funded projects in many such areas.

Michigan State University seeks to act in the best scholarly traditions of its AAU peer group, thus emphasizing its commitment to academic freedom, human and intellectual openness, and the overarching proposition that research can and must benefit all of humanity. At the same time, MSU seeks to act in the land-grant tradition of addressing real societal needs through faculty expertise, fully deployed in the national interest – an interest which may sometimes demand restrictions on research participation and dissemination.

A number of other major universities have confronted this dilemma. To meet it, they created variously named university research organizations, or “URO’s”, beginning after World War II: roughly two decades before Michigan Agricultural College had matured into MSU. Additional waves of URO creation were catalyzed by Viet Nam-era social concerns with defense-related research and by later Federal agency funding of University Affiliated Research Centers (UARC’s). A list of UARCs and other URO-like organizations and their university hosts or progenitors is provided in Appendix A. The list illustrates that today some URO’s are internal to peer universities, and others have an independent, 501(c)(3) corporate existence. Their annual funding varies, with URO sponsored research totals exceeding \$200 M per year in some cases.

For the reasons summarized above, the time now seems ripe for MSU to institute its own URO.

In April 2011, Research & Graduate Studies provided academic governance with two prospectus documents: one for an internal URO and one for an independent 501(c)(3)-based URO, together with a Frequently Asked Questions (FAQ) list spanning both. The chairperson of the then-Executive Committee and now-Steering Committee of Academic Governance, Prof. John Powell, appointed a Faculty Exploratory Committee (FEC).

The FEC met during the summer and autumn of 2011, conducted phone interviews with URO administrators and participants at other universities, and returned a report to the Steering Committee on November 1, 2011. The report endorsed the concept of creating a URO subject to six caveats, which are discussed below. The FEC membership list, the committee’s report, minutes of the meetings, a bibliography, identity-redacted summaries of the interviews, and other resources compiled by the FEC may be found at <https://uro.egr.msu.edu>. (An MSUnet password is required to access the site.)

Viewed in retrospect, the process described above was noteworthy in that the administration initially placed two competing URO models before the campus community for review. Thereafter, the FEC endorsed in concept the implementation of a URO under either model, as did the Faculty Senate and the University Council after review by multiple standing committees of academic governance.

Based upon a variety of policy and feasibility considerations, the administration has concluded that implementation of an internal URO should now be recommended to the Board of Trustees.

Key points in the underlying analysis include the following:

- Relative to the external, independent 501(c)(3) option, the internal option permits unambiguous crediting of the University and its constituent colleges for the research funds attracted by the URO. (This is an important consideration vis-à-vis institutional rankings, accreditations, and peer grouping.)
- The path to URO research inception and funding growth should be shorter, due to the use of existing support infrastructure and the utilization of broadly familiar personnel policies, institutional assurances, and regulatory compliance mechanisms (including research integrity, conflict of interest, human subjects, animal use, export control, etc.).
- The possibility of “spinning off” the URO into an independent existence, after an appropriate maturation period, will remain available to the University, consistent with the incubation trajectory often followed elsewhere.

As envisioned, the internal MSU URO would:

- (i) be designed and implemented for the fullest possible recovery of actual costs, using resources not deriving from tuition or state general fund appropriations;
- (ii) not submit proposals for classified projects;
- (iii) involve undergraduates, graduate students, post-docs, and junior academic staff and faculty only in accord with appropriate protocols applicable to each group, requiring as a prerequisite to participation personal advisement by administrative staff exterior to the URO regarding the career implications and constraints entailed in such participation;
- (iv) conduct only projects that could not be conducted normally elsewhere in the University, under general MSU policies and procedures¹;
- (v) be itself governed by normal University policies, procedures, and regulations, except as formal exceptions for it are established pursuant to the recommended Board of Trustees resolution;

¹ Projects that qualify for the “exigencies of national defense” exception included in *Major Guidelines for Sponsored Research and Creative Activities* would be conducted in the MSU venue (i.e., URO or non-URO) judged most suitable on a case-by-case basis.

regarding the career implications and constraints entailed in such participation;

- (iv) conduct only projects that could not be conducted normally elsewhere in the University, under general MSU policies and procedures¹;
- (v) be itself governed by normal University policies, procedures, and regulations, except as formal exceptions for it are established pursuant to the recommended Board of Trustees resolution;
- (vi) be designed, implemented, and administered so as to preserve the ability of the Board of Trustees to “spin out” the entity as an independent corporation in the future, should the Board conclude that it is in the best interests of the University to do so;
- (vii) function organizationally like the NSCL/FRIB -- i.e., as a major administrative unit independent of the colleges; and
- (viii) report administratively as determined by the President, with periodic advisory input concerning it from one or more advisory boards appointed by the President with input from the MSU academic governance system.

The Vice President for Research & Graduate Studies and the URO administrative reporting line will work with the Provost to ensure that URO-related policy matters are resolved appropriately. The Board of Trustees will be kept apprised of URO projects and progress.

The administration now requests approval of the resolution presented above by the Board Policy Committee, and subsequently by the full Board of Trustees.

cc: Secretary Beekman
Provost Wilcox
Vice President Poston
Vice President Noto

¹ Projects that qualify for the “exigencies of national defense” exception included in *Major Guidelines for Sponsored Research and Creative Activities* would be conducted in the MSU venue (i.e., URO or non-URO) judged most suitable on a case-by-case basis.

Appendix A

Independent URO-like organizations “spun off” by major research universities:

- Altarum Institute, from ERIM and predecessors, from University of Michigan
- Draper Laboratory, from MIT
- RTI International, from Duke, UNC / Chapel Hill, and NCSU
- SRC, from Syracuse University
- SRI International, from Stanford University

University Affiliated Research Centers (UARCs)

- Army
 - Georgia Tech
 - MIT
 - University of California at Santa Barbara
 - University of Southern California
 - University of Texas / Austin
- Navy
 - Johns Hopkins University
 - Penn State University
 - University of Hawaii
 - University of Texas / Austin
 - University of Washington
- NASA
 - University of California at Santa Cruz
- NSA
 - Stevens Institute of Technology