Appendix B: Deliverable Base Project Agreements

Chapter 4
Project Agreements

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Section 1
Approval

Proposal Selection

Proposals received are initially evaluated through an administrative review. During this review, RTI staff determines:

- All researchers on the proposed teams are eligible to participate in the program.
- Each proposal is complete enough to be deemed responsive.
- Each proposal meets any specific constraint or limitation specified in the RFP.

The previously appointed Project Teams are sent the proposals (TxDOT) and team members then evaluate proposals given technical criteria. Each team receives proposals, along with evaluation instructions and criteria. Each proposal is rated against the needs described in the Project Statement and the criteria provided.

Project evaluators independently rate each proposal. The RTI team coordinates and facilitates any required assistance by each respective Project Team. The RTI team simultaneously conducts evaluations. Given all evaluation scores, the RTI project management team then provides recommendations and builds a prioritized list to be reviewed by the Project Review Board.

Project Review Board Approval

In the fall and spring, the Project Review Board will meet to decide which Project Proposals receive funding for Project Award.

Funding Approval

The Project Review Board approves funding for new research projects for the approaching year, given the proposal selections from the project evaluators, and a financial summary prepared by RTI. Given the availability of funds, proposals are awarded or denied given budgetary constraints.

Revisions to the Project Agreement

Although a proposal may be approved by the Project Review Board, the proposal may be require additions, deletions or changes to become a Project Agreement. After funding is approved by the Project Review Board, RTI will prompt the University Liaison to submit a revised Project Agreement.

Revisions requested can be administrative and technical. Each revised agreement will:

- Carry a new date on the Cover Page.
- Clearly mark all revised language.
- Be coordinated through the University Liaison and the RTI Contract Specialist.

After all revisions have been approved by TxDOT, RTI will request a signed copy of the agreement from the lead University Liaison. Before execution by the university (ies), all highlighted revisions will be incorporated, or “accepted” into the agreement.

Section 2
Activation

Initial Activation

Once a Project Agreement has been executed by TxDOT, the liaison for each university will receive an activation letter from RTI. The Activation date is the first day which work can begin. Work completed, or purchases made, before the activation date will not be reimbursed by TxDOT.

Although the term of the agreement may cover several fiscal years, the initial activation covers only the fiscal year specified in the letter, or on attachments to the letter.

On occasion, the initial project activation covers only portions of the project. In those cases, the activation letter will state which work tasks are not yet approved, and researchers will not begin work on those tasks. RTI will issue a subsequent activation letter when that work is approved to start. Work on unapproved tasks will not be reimbursed by TxDOT.

Continued Activation

For projects that extend beyond the initial fiscal year, RTI will issue a separate activation letter for each year. If there are no issues pending resolution on a project, the project will be included on an annual activation letter issued in August, for the fiscal year that starts the following month allowing projects for which work has been approved for the coming year to continue without interruption.

Approval for a specific fiscal year does not guarantee that future years of the project will be funded and approved. No work will continue on a project in a fiscal year for which RTI has not issued an activation letter.

Activation Lists

Activation lists show the termination date and budget amount activated for each project. With each annual activation letter, the total amount shown on the activation list for each program (research or implementation) shows the amount that Article 9 of the CRIA refers to as “Total Program Funding” for that annual program. This amount changes throughout the year as new projects or modifications are activated.

Section 3
Modifications

Determining if a Modification (Mod) is Required

The terms of a Project Agreement can be changed only by executing a Modification. Existing terms in an agreement may be clarified, and some estimates may be updated, without modifying the agreement. Common examples of both scenarios are shown below.

Examples of When a Modification is Required

- Change the total project budget.
- Change an agency's annual budget or indirect cost rate.
- Change the Project Supervisor.
- Change the termination date.
- Change the Work Plan, including changes in technical objectives, project scope, or tasks.
- Add or remove any item from the Deliverables Table.
- Change the due date for any item on the Deliverables Table.
- Change in the project schedule.

Examples of When a Modification is not Required

- Change a researcher who is not the Project Supervisor.
- Update the status or clarify an entry on the Deliverables Table. A university liaison will submit an updated Deliverables Table to RTI. RTI will evaluate the need for Project Team concurrence.
- Update the Schedule of Research Activities without adding or deleting tasks or changing the duration of the project. The liaison will submit an updated schedule to RTI, and RTI will evaluate the need for Project Team concurrence.
- Update an Itemized Budget to move funding between line items within a deliverable or between deliverables within a fiscal year. The project manager's approval is required when making changes such as adding or changing equipment, subcontracts, or out-of-state travel line items in the budget; including when there was not a previous line item.

Communicating the Need for a Modification

Notify RTI as soon as there is a known need for a modification of a Project Agreement. Initial discussions commonly happen through email or at a project meeting.

Information universities provide about potential Modifications will include as much information as practical about which terms in the agreement will be impacted, an explanation of justification and impact if not implemented. Enough information must be provided to enable TxDOT to make an effective and realistic initial evaluation of the request.

The explanation of why the agreement needs to be modified will answer the following:

- Why can project work not be completed within the terms of the current agreement?
- How do the proposed changes relate to any previous Modifications on the project?
- Is the information provided consistent with previous status information submitted for the project – in Progress Reports, a Tech Memos, or project meetings?
- How will the recommended changes preserve, or enhance, the value of the project to TxDOT?
- What will happen if the Modification is not approved?

While a researcher may certainly discuss a potential Modification with the Project team members it is essential to include the RTI PM. PMs will facilitate the modification of the terms of a Project Agreement and the PM will promptly communicate the possibility of committed funds to the appropriate team members.

Changing the Project Supervisor

When a Project Supervisor leaves a project, finding a replacement is critical to project continuation. The project team must conduct a thorough assessment of project progress to date and documentation of respective work.

As soon as possible, the Project Supervisor or University Liaison will notify the RTI PM that the Project Supervisor is planning to leave the project, along with an estimated date of departure.

The lead university will develop a plan to continue the project. The lead university will submit a nomination for replacement and a continuation project plan to RTI including:

- When and how the university intends to deliver project documentation.
- Name and professional background of the nominated Research Supervisor.
- The nominee’s relationship to the project.

The PM and the project team will review the status of project work and identify all outstanding concerns, review the status of deliverables due on the project, review the qualifications and past performance of the researcher nominated as the new Project Supervisor, agree to the nominated Research Supervisor or negotiate another solution, decide whether the agreement will be modified to accept a new Project Supervisor or terminated.

Submitting a Modification Form

If initial discussions about modifying an agreement are positive, the University Liaison will submit a formal written Modification. This document, prepared on RTI's Modification form, provides the details about what terms in the agreement need to change, and how.

The University will submit a Modification form in response to a request from RTI. The Contract Specialist on the project will send the request to the lead University Liaison after the Modification has been conceptually approved within TxDOT and funding has been identified. If the changes proposed to the agreement are approved, and funding is secured, a RTI Contract Specialist will promptly request the university to sign the Modification and send the partially executed agreement to RTI, for final execution.

The last date in each fiscal year that RTI typically will request a signed Modification is August 1, with the signed Modification due back to RTI by August 15. These deadlines allow adequate time for final processing before the end of the fiscal year. Meeting deadlines is critical, especially on any agreement set to terminate at the end of August; terminated agreements cannot be modified.

Preparing a Modification Form

The Modification form is the signature page. Language on the signature page must either specify the new contract terms, or incorporated by reference. All documentation associated with the Modification is attached to the signature page. Most items on the form parallel items on the Cover Page of a Project Agreement, and are self-explanatory. The following discusses those items which are unique to Modifications.

- Numbering Modifications - Number Modifications in sequence, starting with "1". The sequence continues through the life of the agreement.
- Document Dates - Each Modification, and each respective Modification, will be uniquely dated. Each document will carry the date it was developed or last edited. The date distinguishes that document from other versions of that particular Modification, and from any other agreement document for that project. Attachments to the Modification signature page do not need to be separately dated.
- The "revision date" fields on the Itemized Budget and Schedule of Research Activities are used when these documents are updated to provide more current information or

clarification, not as part of a Modification. They will be left blank when submitted as part of a Modification.

- Language on a Modification Form - The forms that RTI distributes to University Liaisons include a file with example language for common scenarios that arise when agreements need to be modified. Basic language is included for the scenarios listed below, along with reminders of other parts of the agreement that may be affected.

- Budget Modification

  - Increase to Annual and Total Budget
  - Move budget from one university to another, no change in Total Budget.
  - Reduce budget in one year, increase in another year, and no change in Total Budget.
  - Reducing a deliverables budget to increase another, including across fiscal years, and no change in Total Budget.

- Project Duration Modification

- Research Supervisor Modification

- Deliverables Table Modification

- Add, Delete, or Revise Tasks

  - Minor revisions to a task(s) – new Work Plan not attached.
  - Major revisions to a task(s) – new Work Plan not attached.
  - Add a task – new Work Plan not attached.
  - Delete a task – new Work Plan not attached.
  - Revise tasks – new Work Plan is attached.
  - Add tasks – new Work Plan is attached.

Marking Changes in Attachments

When attaching documents to the Modification to show what specific terms of the agreement are being changed, clearly mark all modified language.

Each Modification will highlight only the changes being made in the respective Modification. Changes approved in previous Modifications will be incorporated, or accepted, into the agreement before developing the current Modification. Mark the current changes in simple ways. Common techniques are to underline for additions and strikethrough for deletions.

As with all agreements, use information in the footer, such as the project and modification numbers, and page numbers, to clearly identify the Modification.

Work Plan Rewritten

Occasionally, changes needed to a Work Plan may be so extensive that a complete rewrite is needed. In those situations, language on the Modification signature page will state something like “Entire Work Plan is revised. New Work Plan is as attached.”

Changes in the Work Plan are not highlighted in this situation. Rather, the following notice will be included at the beginning of the Work Plan:

> Significant Modification – This is a significant modification of the Work Plan. Changes are not highlighted and some previous material may have been removed. This Work Plan must be reviewed in its entirety.

Project Agreement Rewritten

In rare cases, the entire Project Agreement may need to be rewritten. In those rare cases, a new Project Agreement form, rather than a Modification form is used. Review the requirements for Project Agreements in general, and pay particular attention to these items.

- Cover Page — the heading on the cover page will state: "Modification No. ___" before the line reading "Project Agreement." This modification will be numbered in sequence, with all other modifications to the agreement for this project.
- Notice of Rewrite — No highlighting of additions and deletions is necessary. Instead, a notice similar to that shown above for a rewritten Work Plan will be included at the beginning of the Cover Page.

Section 4
Subcontracts

What is a Subcontract?

TxDOT's *Research Manual* defines subcontracts, as they relate to research and implementation Project Agreements.

In general, subcontracts include engineering or professional services provided by someone who is not part of the university. Subcontracts in this context do not include routine service purchases, or services not typically provided by a Texas state-supported university.

The definition of a subcontract is dependent on the type of service to be provided, not on the university's method of procurement.

Purpose of RTI Review

RTI reviews the proposed use of a subcontractor to ensure there is a real need for someone other than a Texas state-supported university to do that work, not to determine the adequacy of the contract provisions. RTI relies on the university to see that subcontracts meet the requirements in the CRIA and the university's own contracting standards.

There are occasions when the private sector or an out-of-state university may be needed to provide a service that is critical to a project, but is not readily available in the Texas university community. Specialized testing services are an example. Before a university plans to subcontract, make a realistic assessment of whether the work can be done by another Texas state-supported university, if not by another department in the researcher's university.

Evidence of RTI Concurrence

RTI's concurrence in a subcontract may be evidenced in either of two ways:

- Execution of a Project Agreement that adequately discloses the subcontract.
- By a written statement from RTI identifying the subcontract and explicitly concurring.

Adequate disclosure of a subcontract in a Project Agreement includes showing an estimated budget for the subcontract on each Itemized Budget affected and clearly describing in the Work Plan what work the subcontractor is expected to perform. If a specific subcontractor has been selected, the name of the subcontractor should be shown on the budget(s).

If a Project Agreement mentions a subcontract, but does not clearly describe the work the subcontractor is to do, execution of the agreement by RTI does **not** serve as evidence of RTI concurrence. The university will need to request specific concurrence for that subcontract. A written statement of concurrence from RTI will include at least the project number, the name of the subcontractor, and a brief description of the work the subcontractor is expected to perform. RTI's concurrence covers only the work identified. This most typically happens when the need for a subcontract was not known, or not disclosed, in the Project Agreement.

In such cases, submit subcontracts to RTI for review at least ten (10) working days before execution before execution of the subcontract.