

Key Provisions of Laws and Regulations Related to Research & Development - For Overseas Organization -

This document is prepared to help overseas organizations understand the procedures and systems of Korea's national research programs. Please refer to the applicable laws and regulations for the specific provisions as this is only an excerpt and contains part of the applicable laws and regulations.

1. Applicable Laws and Regulations

- National Research and Development Innovation Act (the “**Innovation Act**”), its Enforcement Decree and, Enforcement Rule;
- Criteria for Use of Research Expenses for the National Research and Development Project (the “**Criteria for the Use of Research Expenses**”);
- Industrial Technology Innovation Promotion Act, its Enforcement Decree, and Enforcement Rule;
- Common Operational Regulation for the Industrial Technology Innovation Program (the “**Operational Regulation**”); and
- Guidelines for Calculation, Management, Use, and Settlement of Research Expenses for the Industrial Technology Innovation Project (the “**Research Expenses Guidelines**”)

2. Key Provisions

□ Participants in National Research Program

- Dedicated Organization(s): Organization designated by the Minister of Trade, Industry and Energy (the “**MOTIE**”) to perform the duties related to planning, evaluation, and management of research projects. The Korea Evaluation Institute of Industrial Technology (KEIT), as the Dedicated Organization, enters into an agreement with the Research Institute and provides funding for the Research Expenses and evaluates the performance results of the research project (Innovation Act, Article 2, Subparagraph 2; and Operational Regulation, Article 11);
- Research Institute(s): Comprised of lead Research Institutes (that supervise and perform the research project) and joint Research Institutes (that jointly perform the research project with the lead Research Institute in accordance with the research project agreement) (Innovation Act, Article 2, Subparagraph 3; and its Enforcement Decree, Article 2 (2)); and
- Overseas Organization(s): Universities and colleges, research institutions, groups, and so forth located in countries other than Korea that jointly participate in the research program in accordance with an agreement with the Research Institute (Operational Regulation, Article 19 (2)).

□ Execution and Amendment of Agreement

- Dedicated Organization enters into an agreement with the Research Institute and funds the Research Expenses (Innovation Act, Articles 11 and 13).

- Research Institute which intends to perform the research program jointly with an Overseas Organization must submit a copy of the cooperative research and development agreement to the Dedicated Organization.
- The agreement between the Dedicated Organization and the Research Institute shall, in principle, be concluded within sixty (60) days from the date of being notified of its selection (Operational Regulation, Article 26 (2)).
 - If it is difficult to submit a copy of the cooperative research and development agreement entered into with the Overseas Organization within the specified deadline, the Research Institute may extend the specified deadline in consultation with the Dedicated Organization.
- In case the required documents, such as the copy of the agreement between the Research Institute and the Overseas Organization, etc., are not submitted within the period described above, the Dedicated Organization may revoke the selection of the research project concerned and suspend disbursement of the Research Expenses even after the execution of the agreement (Operational Regulation, Articles 26 (2) and 29 (3)).

□ Funding, Use, and Settlement of Research Expenses

- The Minister of the MOTIE may pay the Research Expenses in lump sum or installments no later than one month from the conclusion of the agreement with the Research Institute but may adjust the payment schedule taking into account the characteristics of each program or the budgetary circumstance (Operational Regulation, Article 29).
- The government-funded Research Expenses may be adjusted in consideration of the evaluation results or the government's budget, etc. (Operational Regulation, Article 29).
- Overseas Organization may calculate the budget of Research Expenses according to its own guideline, and the settlement process may be substituted with a letter of confirmation of its own settlement result (Operational Regulation, Article 49 (2)).
- Research Institute shall manage and use the Research Expenses for the relevant research project with the duty of care as a bona fide manager (Operational Regulation, Article 30).
- In case the Research Institute intends to change the purpose of using the Research Expenses payable to the Overseas Organization differently from the initial plan (other than the case where the amount varies as a result of foreign exchange fluctuation), it shall obtain prior approval from the Dedicated Organization (Criteria for the Use of Research Expenses, Article 73 (1) 8).
 - The agreement between the Research Institute and the Overseas Organization may be amended by agreement of the parties; *provided that* if there are events for an amendment to the agreement between the Dedicated Organization and the Research Institute – addition or change of the Research Institute, modification of the final objective, revision of the research period, etc. – the Research Institute shall obtain prior approval from the Dedicated Organization.

□ **Evaluation of Research Results**

- Research Institute shall submit to the Dedicated Organization the interim report for each phase by no later than thirty (30) days before the closing of each phase, and the final report by no later than sixty (60) days from the conclusion of the total project period (Operational Regulation, Articles 32-4 and 32- 6); and the Dedicated Organization shall evaluate the results report submitted (Operational Regulation, Article 32).
- Dedicated Organization may determine whether to continue or suspend the funding based on the result of its evaluation of the performance for each phase (Operational Regulation, Article 32-4); and even during the project period, if the Dedicated Organization finds or suspects the Research Institute’s illegal acts, such as unfair practice or use of the Research Expenses for any other purposes, etc., the Dedicated Organization may make a special evaluation and determine whether to continue or suspend funding to the Research Institute (Operational Regulation, Article 32-5).

□ **Ownership and Utilization of Research Results**

- Among the research deliverables and results created during the performance of the research project, (i) those created solely by a party shall be owned by such party; and (ii) those created jointly by the parties shall be jointly owned in proportion to each party’s respective contribution; *provided that* the ratio of ownership and matters related to grant of license may be determined by agreement between the Research Institutes (Enforcement Decree of the Innovation Act, Article 32).
- The head of the central administrative authorities shall assist to ensure that the research deliverables and results created by the Research Institute in the course of the joint research and development with the Overseas Organization will be owned or licensed in priority to the Research Institute (Enforcement Decree of the Innovation Act, Article 32 (2)).

□ **Termination of Agreement**

- The head of the Dedicated Organization may terminate the agreement with the Research Institute and discontinue funding of the project, in the event of any of the following (Operational Regulation, Article 28):
 - (i) If the Research Institute commits forgery, falsification, plagiarism, or other wrongdoings;
 - (ii) If a disposition to prohibit the principal researcher from participating in the national research program is finally determined;
 - (iii) If it is no longer necessary to continue with the project due to changes in the research climate, etc.; or
 - (iv) If the Research Institute or the researcher fails to comply with the applicable laws and regulations or its obligations under the agreement, or if it is deemed impossible for the Research Institute or the researcher to continue performing the research project.