

Open Source Licensing at Indiana University

Indiana University is supportive of faculty and staff electing to distribute their software via open source licenses. It is the role of the Innovation and Commercialization Office (ICO) to support faculty and staff through the open source release process.

In order to ensure that the author is free to distribute via open source, it is important to understand:

- a. if the work incorporated third party software, and whether
- b. there are contractual obligations that may limit licensing options or
- c. whether the software may be a work that falls under our intellectual property policy as a University Work (UA-05).

The university needs to ensure there is not an associated sponsored research, federal grant, or other contract (e.g., license agreements) that would prevent or impede an open-source release due to obligations to sponsors.

Intellectual Property Policy Review

The first issue for review is to determine software ownership and authorship. In some cases, the authors of the work will be the owners of the software. In this case, ICO will provide general advice and support to the authors in moving forward with an open source release as appropriate, including any overlapping issues with respect to university policy.

If the determination is made that it is a University Work, the next stage of the review will be to determine what, if any, obligations there might be to another party (another institution and/or an individual who is not affiliated with IU as faculty, staff, or student). This may include rights of sponsors for the work. Additionally, as provided under copyright law, all contributors or co-authors should be in agreement with respect to the decision for an open source release.

❖ **Third Party Rights--Inclusion of Pre-existing Materials from Outside Sources**

If the software contains other “open source” or “free” software, or any software that has been downloaded, used, copied, linked, or has been provided by a third party, these the code and licenses associated with it need to be identified. ICO can help to understand the license terms under which that software has been provided. Certain license terms have specific restrictions, and certain open source licenses are incompatible with university policy. The license terms of attached to such works contain terms that the university cannot fulfill. ICO can provide advice and assistance to authors to understand these terms and find a suitable open source license.

❖ **Sponsors and Funding Obligations**

Before choosing to distribute via open source, the authors should confirm that any sponsors of the software will agree to an open source distribution model. ICO will also assess any pertinent contractual obligations to ensure compliance prior to an open source release.

❖ **Rights of Co-authors or Collaborators**

Much, in fact most, of the software code arising in the context of university research is collaborative, and the UA-05 policy also ensures that the decisions on copyright works are made in consultation

with all IU affiliated authors. University ownership of the software allows for the management of the process to respect the interests of all contributors to the work, and ICO works to confirm and document the same.

Review for Compliance with other University Policies

Once third party rights, if any, are resolved, ICO will also confirm compliance with other university policies, including [Conflicts of Interest and Commitment](#), [Appropriate Use of Information Technology Resources](#), and [Export Control](#).

❖ **Conflict of Interest Review**

There is potential for an outside business interest to benefit financially from open source release of software that is supported by grants or other funding. Release of any software requires administrative review to ensure compliance with conflict of interest provisions. Generally, ICO will work with the head of the relevant department, laboratory, or center to ensure that the release is not contributing to a potential conflict of interest. This review will address issues of use of information technology resources, if needed.

❖ **Export Control**

Further, because open source releases are managed online, it necessarily involves making the code available across national boundaries. Export control regulations in the United States, may require taking additional steps to ensure that an open source project is in compliance. Given the affiliation with the university, any release of content undertaken as part of the research and development activity here must also be managed consistently with the legal obligations of the university with respect to these laws, and ICO will provide guidance on export control ~~that issue~~ as part of the review process.

❖ **Other Research Compliance Policies**

Depending on the nature of the software, there may be additional concerns with legal or ethical obligations of the university, and these will be raised as part of the ICO review.

Managing the Open Source Release and Distribution

There are numerous open source license models from which to choose. In general ICO will recommend use of either a license approved by the Open Source Initiative (“OSI”) or a standard “shared source” license that can be used to retain some rights for commercialization. A complete list of OSI approved licenses can be seen at www.opensource.org/licenses. Typically, ICO recommends either the BSD license or the GPLv2 or LGPLv2 licenses, but this can be dependent on other legal considerations with respect to funding obligations, etc. The ICO manager assigned to the project will discuss potential open source licensing strategies with the authors.

The authors control and manage timing and medium of the actual release of the software to post or distribute the software under the chosen open source license, and to maintain any associated repository. This includes compliance with instructions related to the specific license and to provide the appropriate copyright/license text with your postings. Once the release has been made, the authors should provide details to ICO with the website URL at which your software is posted, confirming the terms of the release and the date.