

**Independent Citizen's Oversight Committee
San Francisco, CA
July 23, 2012**

Revenue Sharing Amendments

Agenda Item #15

Presented by:

Elona Baum, General Counsel & VP, Business Development

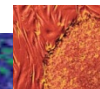
Objectives

- To smooth out payment obligations arising from commercial sales
- To extend revenue sharing obligations to licensees
- To clarify/simplify the proportionality calculation relating to licensing revenue sharing obligations
- To maintain existing revenue sharing scheme as it pertains to non-profits (except with respect to simplification of the proportionality deduction calculation)



Proposed Amendments

- 1) Licensing Revenue Proportionality Reduction Calculation: (100608 (a))
 - Existing: The 25% licensing revenue sharing obligation is reduced by the fraction of CIRM's funding of the invention and/or technology divided by the total costs of the funding supporting the CIRM funded inventions/technology
 - Proposed:
 - If CIRM funds 50% or more of the CIRM funded project during the project period which gives rise to the CIRM Funded Invention or Technology, royalty share = 25%
 - If CIRM funds less than 50%, royalty share = 15%



Proposed Amendments

- 2) Definition of Licensing Revenue
 - With respect to for-profit Grantees & Collaborators, licensing revenue excludes pre-commercial revenues such as upfront payments and development milestone payments (Consistent with amendments to the LAP recently approved by ICOC)
- 3) Share of Net Commercial Revenue
 - Extended to apply to Commercializing Entity (now defined to include in licensees, in addition to Grantees and Collaborators) that sells, offers for sale or transfers a Drug, product (e.g diagnostic) or service (e.g. screening)



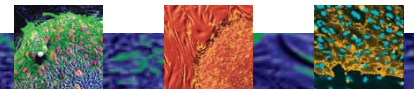
Proposed Amendments

- 4) Share of Net Commercial Revenues (cont)
 - To avoid double payments on the same revenue stream, in the event a Commercializing Entity is making the appropriate payment to California for the sale of a certain product, service or Drug, for-profit Grantees/Collaborators do not have any licensing revenue sharing obligation which derives from the same sales revenue stream



Proposed Amendments

- 5) Royalty rate on Net Commercial Revenue (NCR)
 - Existing: after the first \$500k,
 - 3%/year until reach 3x grant amount,
 - Then a 1 time payment of 3x once exceed \$250M/year
 - Then a 1 time payment of 3x once exceed \$500M/year;
 - Plus - 1% royalty on NCR in excess of \$500M/year for life of any patent covering a CIRM Funded Invention/Technology (where grants contributing to creation of the NCR greater than \$5M)
 - Proposed:
 - 0.1% per \$1Million in grant, for the earlier of Ten (10) years and 9x the grant amount
 - Thereafter, 1% royalty on NCR in excess of \$500M/year, until the last to expire patent covering a CIRM Funded Invention (where grants contributing to creation of the NCR are equal to or greater than \$5M)



Requested Action

- Motion: Approval of proposed amendments
- Motion: The amendments are necessary to ensure (i) essential research is not unreasonably hindered and (ii) that the State has an opportunity to benefit from the patents and royalties which from CIRM funded research

