



Private Bag X727, PRETORIA, 0001 • Building 22, CSIR Campus, Meiring Naude Road,  
<https://nipmo.dst.gov.za>

## GUIDELINE 2.9 OF 2025

### GUIDELINES FOR THE OPERATION OF THE INTELLECTUAL PROPERTY FUND

#### 1. CLAIM AND REVIEW PERIODS

The following timelines provide guidance pertaining to the operation of the Intellectual Property (IP) Fund:

| Term                     | Timeline                                                                                                                                                                                                                                                             |
|--------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Claim Period             | Financial period during which the application for a rebate from the IP Fund is submitted to NIPMO.<br><i>For example, the claim period is the 2024/2025 financial period for a review period of 1 April 2023 to 31 March 2024.</i>                                   |
| Review Period            | Period during which IP protection and maintenance costs are incurred, for which a rebate will be requested in the next financial period.<br><i>For example, the review period would be 1 April 2023 to 31 March 2024 and the corresponding claim period 2024/25.</i> |
| IP Fund application date | <b>30 June of each year</b>                                                                                                                                                                                                                                          |

#### 2. STRUCTURE OF THE INTELLECTUAL PROPERTY FUND

##### 2.1 Legislative Mandate

Section 13(1) to (3) of the Intellectual Property Rights from Publicly Financed Research and Development Act (IPR Act) states:

*“(1) There is hereby established an Intellectual Property Fund to be managed by NIPMO. (2) The purpose of the Intellectual Property Fund is to – (a) **provide financial support to institutions** for the statutory protection and maintenance of intellectual property rights... (3) An institution may recover the costs incurred ... (a) to the extent determined by NIPMO; and (b) on such terms as may be determined by NIPMO.”*

Furthermore, regulation 13(1) and (2) of the IPR Act reads as follows:

*“NIPMO must develop **appropriate policies and procedures** for the effective implementation of the Intellectual Property Fund to ensure that the objects of the Act are met. (2) NIPMO must, in accordance with the objects of the Act, determine the operations of the Intellectual Property Fund, **subject to availability of funding from National Treasury.**”*

It is on this basis that NIPMO has established the IP Fund and developed these Guidelines to provide financial support through a rebate of up to 50% of the qualifying costs incurred for the protection and or maintenance of IPRs at institutions. Please note that the rebate percentage may be reduced, subject to available funding, **but will not exceed the 50% threshold**

## 2.2 Scope of the Intellectual Property (IP) Fund

Financial support will be provided for a range of activities which secure and maintain IP rights (IPRs) for IP which was generated following publicly financed research and development (R&D) activities or associated directly with the product, process and/or service which resulted from R&D. Such IPRs include patents, plant breeders' rights, registered designs and trade marks, and applications for such rights. NIPMO may, in turn, grant the rebate when it is satisfied that all the requirements as set out in this Guideline have been met.

## 3 REQUIREMENTS TO QUALIFY FOR A REBATE FROM THE IP FUND

The minimum requirements for an IP Fund application is set out in **Appendix B**. **Appendix C** is an example of an IPF1 Form that must accompany the application. This form must be fully and accurately filled in as no additions/amendments will be allowed after receipt of the application by NIPMO.

### 3.1 Claimant for a rebate from the IP Fund

The claimant must be the institution directly, or the institution's office of technology transfer (OTT) or a designated person or existing structure within the institution that has been formally designated by the institution's executive to undertake the responsibilities of the OTT in respect of the IPR Act and the regulations thereto.

### 3.2 Minimum requirements for IP to be considered for a rebate

#### 3.2.1 Qualifying IP under the IPR Act

The IP must fall within the scope of the IPR Act. This means that it must have been created after 2 August 2010, must be publicly funded and as a result of an R&D activity (see NIPMO Interpretation Note 10).

#### 3.2.2 Reporting requirements and timing

To be considered for a rebate, the following information must have been disclosed to NIPMO by 30 April of the year in which the IP Fund application is submitted (review period):

- All claims must be linked to an IP record formally disclosed to NIPMO and assigned a corresponding **CR (IP7) number** (see Practice Note 5). It remains the responsibility of the applying institution to supply NIPMO with the correct CR number on the application form (IPF1 form) to enable NIPMO to verify whether the IP for which the claim is submitted was previously disclosed or not.
- The **title** on the invoice must match the title reported/disclosed to NIPMO. To avoid queries, please ensure that all IP titles are updated on the KIM system prior to application.
- The specific **application, validation or grant** (or similar) **number** for which the invoice has been raised must have been reported to NIPMO PRIOR to the submission of the IP Fund application.
  - For example, if the claim relates to PCT application IB/2023/XXXXXX then this specific PCT number must have already been reported to NIPMO, on the KIM system, during the biannual reporting periods prior to the submission of the IP Fund application.

- Claims will be *disqualified* if:
  - A grant number appears on the invoice but only the application number was previously disclosed to NIPMO (or similar scenarios where the specific IP number was not previously disclosed to NIPMO);
  - An invoice is submitted for a rebate, but the associated IP data is updated on the KIM system after the institutional IP Fund submission (either in October of the review period or in response to an IP Fund NIPMO query).
- If the claim relates to the **validation of IP** in various countries, the IP grant/validation number and associated country must have been reported to NIPMO.
  - Claims will be *disqualified* if the specific grant/validation number and associated country are not on the NIPMO database or have not been reported to NIPMO.
- For claims related to **trade mark filings**, the relevant trade mark class/es for which the invoice has been raised must have been reported to NIPMO PRIOR to the submission of the IP Fund application. If multiple trade mark classes are involved, all the associated classes must have been reported to NIPMO in advance.

### 3.2.3 Ownership of IP

To qualify for a rebate, the institution or its OTT (or the wholly owned subsidiary performing the OTT function) must be recorded as the applicant, co-applicant, assignee, co-assignee, patentee or co-patentee (similarly for breeders or proprietors) for all pending and registered IPRs at the relevant IP registration office. Claims will be *disqualified* if:

- a current employee, inventor(s) or previous employee of the institution is recorded as the sole applicant, assignee or patentee and the institution is also not cited as an applicant, assignee or patentee;
- the IPR belongs to the institution as per an agreement, however, the assignment has not been recorded at the relevant IP registration office; and/or
- the IPR is in the process of being assigned to the institution and the institution is responsible for making payments for the protection and maintenance costs, however, the assignment has not been finalised during the claim period.
  - If the IP is assigned during the review period and reflects at the relevant IP registration office, then any IP protection and maintenance costs incurred during the remainder of the review period will qualify for a rebate.
  - For example, if the review period is 1 April 2024 to 31 March 2025 and assignment takes effect at the IP registration office on 31 October 2024, then all costs incurred between 31 October 2024 and 31 March 2025 may be claimed for during the 2025/26 claim period. Supporting documentation to verify the date assignment was recorded at the IP registration office must be provided to enable NIPMO to calculate the qualifying rebate which may be applicable.

### 3.2.4 Co-ownership

In the instance where an institution is recorded as a co-applicant, co-assignee or co-patentee (similarly for breeders' or proprietors), **supporting documentation should be provided** stipulating the percentage of ownership each institution has to the IPR to allow NIPMO to adjust the rebate in accordance with the shareholding percentage.

Where the IP or IPR are co- owned by two or more institutions, the following **must** be provided:

- Proof to the satisfaction of NIPMO of the percentage of ownership that each institution has to the IPR. The proof may be in the form of a signed agreement between the institutions which indicates the percentage of ownership each institution has to the IPR.
  - Where an institution fails to provide satisfactory proof of its percentage of ownership of the IPR, NIPMO will conclude that the IPR are equally shared by the institutions i.e. the institutions each own fifty percent (50%) of the share in the IPR.
- The invoice must clearly state whether the amount due for payment represents:
  - The full invoice amount payable to the service provider; or
  - The full invoice amount relates to the institution's share in the IPR (for example, the invoice may include the words "Your 50% share").
- In the case where an institution has misrepresented its percentage of ownership of the IPR, and it later transpires that NIPMO has granted a rebate based on such misrepresentation, the institution will be required to pay back to NIPMO any funds which were incorrectly allocated to it or will be considered as overpayment and deducted in the following application.

### 3.2.5 Spin out companies

If IPR are registered at the IP office under the name of a spin-out company that is wholly/partly owned by the institution and the institution covers the protection and maintenance costs, then that IP will qualify for a rebate under the following conditions:

- the percentage rebate is dependent on the percentage shareholding of the spin out company held by the institution. For example, if the institution holds 70% of the shares in the spin out company, then the institution will qualify for up to 50% rebate of its shareholding (70%) relationship for the IP prosecution and maintenance costs incurred in question; and
- supporting documentation indicating the percentage shareholding in the spin out company held by the institution must be submitted in support of the application.

## 4 ELIGIBLE/NON-ELIGIBLE COSTS FOR A REBATE

### 4.1 Eligible Costs

To qualifying for a rebate from the IP Fund, costs which are regarded as statutory protection and maintenance costs include:

- 4.1.1 **Search costs** (including novelty and freedom to operate searches);
- 4.1.2 **IP attorney fees** for drafting the application, filing the application (international or national application), preparation of any formal documents required during filing and/or subsequent prosecution (including an assignment or a power of attorney), and for prosecuting the application to grant (including a correction or amendment; receiving, preparing and responding to an official action, translation fees, validation of a granted application; and all related foreign associate fees and patent office official fees);
- 4.1.3 **Renewal/maintenance fees**;
- 4.1.4 **Overhead charges** (for example, printing, faxing, telephone etc) incurred by the service provider and reflected on their invoice for services rendered; and
- 4.1.5 Costs incurred in defending the grant of IPRs against opposition or challenges, restricted to legal fees and essential expenses arising from statutory opposition proceedings required to preserve the validity of IPR grant

## 4.2 Non-eligible costs

The following costs do not qualify as IP protection and maintenance costs for IP generated following an R&D activity using public funds and **cannot** be claimed from the IP Fund:

- 4.2.1 Salaries and consultant's fees (with the exception of IP attorney or consultant fees for drafting and prosecution);
- 4.2.2 Market reviews; Business plans; Due diligence costs; Drafting of research collaboration agreements; Drafting, review and amendment of licensing agreements;
- 4.2.3 Fees incurred for the sale of IP;
- 4.2.4 Costs incurred during litigation and opposition proceedings;
- 4.2.5 IP protection and maintenance costs which have been borne by a party other than the claiming institution (for example, other public funding bodies or other third parties including a licensee);
- 4.2.6 Overhead charges (for example, printing, faxing, telephone etc.) incurred directly by the institution;
- 4.2.7 Value Added Tax (VAT);
- 4.2.8 Fees incurred for the late payment of renewal/maintenance costs;
- 4.2.9 Trade marks and domain names which are not associated with an R&D activity (for example, trade marks or domain names not associated with products resulting from patents/inventions or plant breeder's rights);
- 4.2.10 Infringement and related litigation costs; and
- 4.2.11 Defensive company names.

These lists are not exhaustive. NIPMO reserves the discretion to decide whether a cost falls within either category, namely eligible or non-eligible, bearing in mind the scope and structure of the IP Fund and the mandate of NIPMO as the implementing office of the IPR Act. NIPMO may also request additional information to ascertain whether a cost fits eligible/non-eligible.

## 5. GENERAL TIMELINES FOR REVIEWING OF IP FUND APPLICATIONS

| Date                        | Actions                                                                                                                                                                                                                                                            |
|-----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>by 23:59 on 30 June</b>  | Receipt of <b>electronic IP Fund applications</b> via email or WeTransfer<br><b>Note: No extension is granted for late application</b><br><i>Email to: Director: Funds and Incentives Management and<br/>cc Deputy Directors: Funds and Incentives Managements</i> |
| <b>05 July</b>              | Receipt of <b>hard copy of IP Fund applications</b> , via courier or hand delivered to NIPMO Office<br><i>Address: The National Intellectual Property Management Office (NIPMO)<br/>CSIR Campus, Building 22<br/>Meiring Naude Road, Brummeria, Pretoria, 0001</i> |
| <b>1 to 15 July</b>         | Applications acknowledged through formal acknowledgement letter                                                                                                                                                                                                    |
| <b>16 July to 16 Sept</b>   | First review of IP Fund applications conducted by Deputy Directors: Funds and Incentives Management                                                                                                                                                                |
| <b>16 Aug to 31 October</b> | Second review of IP Fund applications conducted by Director: Funds and Incentives Management                                                                                                                                                                       |

|                          |                                                                                                                                                                                                                                                                                                                                                                                                                          |
|--------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1 to 31 October</b>   | IP Fund clarity letters, summarising findings and (where applicable) requesting additional evidence or supporting documentation sent to institutions                                                                                                                                                                                                                                                                     |
|                          | Institutions required to respond within two weeks (14 calendar days) of date of receipt of IP Fund clarity letter.<br><b>Note: If an institution does not respond within 14 days, NIPMO's findings will be deemed accurate for IP Fund processing. Institutions may appeal finding upon receiving award letter. NIPMO will adjust under- or over-payments with rebates in next financial period (see paragraph 6.1).</b> |
| <b>1 to 7 November</b>   | Institutional responses received, IP Fund findings updated and consolidated into summary report                                                                                                                                                                                                                                                                                                                          |
| <b>7 to 21 November</b>  | Presentation of institutional summary report to IP Fund Allocations Committee for recommendations                                                                                                                                                                                                                                                                                                                        |
| <b>21 to 30 November</b> | In some instances, the IP Fund Allocation Committee may recommend that NIPMO engage with institution again on a specific matter.<br>Institutions required to respond within <b>1 week (7 calendar days)</b> of date of receipt of IP Fund Allocation Committee recommendations                                                                                                                                           |
| <b>December</b>          | Rebate percentage determined based on available funds<br>IP Fund Allocation Committee recommendations routed for DSTI exco approval                                                                                                                                                                                                                                                                                      |
| <b>January to March</b>  | Payments for all qualifying claims are made to the respective institutions,<br>Award letters issued summarising disqualified claims (where applicable)<br>Payment stubs sent to institutions                                                                                                                                                                                                                             |

## 6. GENERAL

### 6.1 Over/Under-payment

NIPMO will inform all institutions of under-payments or over-payments made in the previous financial year (institutions are expected to inform NIPMO if they are aware of such discrepancies). Upon confirming an under-payment or over-payment, NIPMO will reimburse or deduct the relevant amount along with the rebates paid out in the following financial period. If the institution does not apply for rebate in two consecutive years, then the amount due will be settled in the review period in which an application is submitted. NIPMO will confirm and ensure that the under- or -over payments are linked to the rebate percentage used of the review period when the over/under payment took place.

Should you have any enquiries regarding any matter relating to this Guideline, please do not hesitate to contact the NIPMO team:

Director: Funds and Incentives Management: Paballo Masite: [Paballo.Masite@nipmo.org.za](mailto:Paballo.Masite@nipmo.org.za)

Deputy Directors: Funds and Incentives Management:

Mantwa Tshabalala: [Mantwa.Tshabalala@nipmo.org.za](mailto:Mantwa.Tshabalala@nipmo.org.za)

Lindiwe Mashimbye: [Lindiwe.Mashimbye@nipmo.org.za](mailto:Lindiwe.Mashimbye@nipmo.org.za)



Jetane Charsley

Head: NIPMO

Department of Science, Technology and Innovation

Date: 31 March 2025

## APPENDIX B: THE APPLICATION

- a) One consolidated application must be submitted to NIPMO.
- b) Application must be submitted either manually through hand delivery/courier to the NIPMO Office or electronically by 30 June.
- c) Where an application is submitted through email or WeTransfer etc; NIPMO will allow up to 5 working days from the closing date to submit the hard copies and only upon receipt of the hard copies will NIPMO acknowledge the submission.
- d) The claims for which the rebate is applied for must be populated on the IPF1 form (**see Appendix C**); a hard copy version must be signed by the CFO or equivalent and submitted manually with the supporting documents on/or before closing date. The signed IPF1 form is deemed a complete application, and no additions would be allowed once the application has been received by NIPMO.
- e) An excel version of the IPF1 form must be sent to NIPMO as part of the consolidated application.
- f) The following supporting documents must accompany the manual application/ signed IPF1 form to be hand delivered or couriered:

### A copy of the invoice for which a rebate is claimed

The invoices indicating clear service for which the claim is for. The invoices must furthermore be clearly marked to correspond with the claim number(s) in the IPF1 form. Where the IPR are co- owned by two or more institutions, the invoice must clearly show whether the amount payable represents:

- The full invoice amount that was due to the service provider; or
- The full invoice amount relates to the institution's share in the IPR (for example, the invoice may include the words "Your 50% share")

*(where the invoice is silent on whether the payment is the full invoice amount or just the institution's share, the institution may provide the explanation under General comments on the IPF1 form)*

### A supplier payment history report

This report is a financial system printout reflecting the payment for the claim and the exact date for which an eligible payment was made to the service provider (for example, a portable document format ("pdf") print out with the institution's logo or official stamp signed off by the relevant financial authority with the appropriate delegated accountability should be provided. Alternatively, NIPMO will also accept the following to verify the date on which payment was made:

- i. Bank statements – institutions may supply copies of the bank statements indicating the date on which payment was made (in addition the claim number corresponding with each payment must be clearly indicated on the copy of the statement); or
- ii. Accept/Reject reports – this report indicates the date on which the electronic payment transfer was made by an institution's finance department for a specific claim.

This payment history/proof of payment must align with the review period (meaning the actual payment date must be within the review period), *no claims outside the review period will be considered for a rebate.*

Private Bag X727, PRETORIA, 0001 • Building 22, CSIR Campus, Meiring Naude Road, <https://nipmo.dst.gov.za>

## APPENDIX C

### IPF1 Form format

| Claim No. | Applicant/ Assignee/ Patentee | Invoice Reference Number | IP7 (CR) Ref number | Invoice Amount | Amount paid (ex VAT) | Payment Date | If IPR is under name of spin-out: Share in Spin-out company (%) | If IPR is co-owned: Co-applicant/ co-assignee/ co-patentee | If IPR is co-owned: Indicate co-ownership share (%) | If IPR is co-owned: Invoice represent: Full invoice amount or Institutions share only | Optional: General Comments |
|-----------|-------------------------------|--------------------------|---------------------|----------------|----------------------|--------------|-----------------------------------------------------------------|------------------------------------------------------------|-----------------------------------------------------|---------------------------------------------------------------------------------------|----------------------------|
| 1         |                               |                          |                     |                |                      |              |                                                                 |                                                            |                                                     |                                                                                       |                            |
| 2         |                               |                          |                     |                |                      |              |                                                                 |                                                            |                                                     |                                                                                       |                            |
| 3         |                               |                          |                     |                |                      |              |                                                                 |                                                            |                                                     |                                                                                       |                            |