RESEARCH ADMINISTRATION POLICIES

RA06 Small Business Innovation Research (SBIR) Collaboration

Policy Status: Active

Policy Steward: Vice President for Research and Corporate Controller

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PURPOSE:
To establish policies and guidelines for participation in the Small Business Innovation Research (SBIR) program by Penn State and its employees.

BACKGROUND:
The U.S. Government funds various scientific research and development projects through its Small Business Innovation Research (SBIR) program. The purpose of the program is to promote research by U.S. companies engaged in innovation and commercialization of technology. Small companies can partner with universities to facilitate innovative research and technology development.

Only small for-profit businesses are eligible to apply for these Federal awards. Although not required, small businesses receiving SBIR grants often choose to collaborate with universities and other non-profit research institutions. The Federal Government, however, places strict limits on subcontracting under SBIR awards—specifically, the Principal Investigator for the small business must be a full-time employee (at least 51%) of the small business; for Phase I awards, no more than thirty-three percent (33%) of the SBIR award can be performed by any research institution; and for Phase II awards, no more than fifty percent (50%) can be performed by any research institution.
As a non-profit research institution, the University is not permitted to apply for SBIR grants on its own. The University does, however, collaborate as a subcontractor with small businesses and receives funds through SBIR subawards. University faculty and other members of the campus research community are encouraged to participate in SBIR-funded research. Startup companies formed by University inventors routinely seek SBIR funding.

While small business-related research is encouraged, it can give rise to specific conflict of interest and conflict of commitment concerns. The University's Policy on Disclosure and Management of Significant Financial Interests (Policy RP06 (/policies/rp06), Formerly RA20, hereafter as the "University's Conflict of Interest Policy"), addresses conflicts of interest in research. Additional conflicts and issues surrounding the use of University resources in connection with the performance of an SBIR award can also arise where the University Personnel and/or their immediate family are a co-founder and/or have an ownership interest in the small business awardee. The purpose of this policy is to assure compliance with federal regulations and the University's policies.

DEFINITIONS:

Unless otherwise defined herein, all terms in this Policy should have the same meaning as defined in the University's Conflict of Interest Policy (/policies/rp06) and the University's STTR Collaboration Policy (/policies/ra07).

"Immediate Family" means a spouse, domestic partner, or dependent children.

"Subcontract" means "Any agreement, other than one involving an employer-employee relationship, entered into by an awardee of a funding agreement calling for supplies or services for the performance of the original funding agreement" (SBIR Policy Directive (https://www.sbir.gov/sites/default/files/sbir_pd_with_1-8-14_amendments_2-24-14.pdf), p. 7).

"University Personnel" means any faculty, investigator, employee, staff, and/or any researcher, whether paid or unpaid, and including temporary or "visiting" researcher or scientist appointments.

SCOPE:

This Policy applies to all University Personnel, whether as a University employee or otherwise, in any research funded under a SBIR award.

POLICY:

All University Personnel who intend to participate in an SBIR subaward in any way with any small business must comply with this Policy, and all other applicable laws and University policies.

DISCLOSURE AND REPORTING REQUIREMENT:

All faculty members, employees, staff, investigators, and researchers are responsible for disclosing financial interests in accordance with the University's Conflict of Interest Policy. In addition, faculty members, employees, investigators, and researchers are obligated to seek advice from the Office for
Research Protections to discuss any possible conflict of interest prior to the University's acceptance of any SBIR subaward. Faculty members, employees, investigators, and researchers must also consult with the Office of Technology Management regarding any potential licensing or intellectual property issues prior to the University's acceptance of any SBIR award.

GENERAL PRINCIPLES:

Participation in the SBIR program requires observing the following principles:

1. All work performed for, or in connection with, any small business using University facilities, equipment, materials, employees, and/or students related to an SBIR must be performed under a fully negotiated and executed: (a) sponsored research agreement or (b) other agreement approved by the Office of Sponsored Programs, that is in compliance with the University's Policy on the Use of University Tangible Assets, Equipment, Supplies, and Services (FN14 (/policies/fn14)); the University's Policy on Fees and Charges For Facilities and Services (AD15 (/policies/ad15)); and the University's Policy on Private Consulting Practice (AC80 (https://policy.psu.edu/policies/ac80)).

2. No University Personnel with an ownership interest, or whose Immediate Family has an ownership interest, in a small business entity may participate in research at the University related to an SBIR award involving that same small business.

3. University Personnel compensated under an SBIR subcontract cannot receive any compensation for the same SBIR-funded research from the small business. For example, University Personnel cannot concurrently have a consulting role with the company paid under the SBIR award and participate in a University portion of that same SBIR subaward.

4. The Principal Investigator for the University's subaward may not personally submit any proposals for any work to be performed using University facilities, equipment, materials, employees, and/or students to be included in any submission by the small business to a funding agency for an SBIR application. Only University personnel with delegated signature authority to submit proposals on the University's behalf may submit such proposals. (See RA20 (/policies/rp06) “Proposal Submission”).

5. No faculty member is permitted to hold a full-time appointment at the University and concurrently serve as the Principal Investigator of an SBIR award for a small business entity.

6. The Principal Investigator for a small business and the Principal Investigator for the University subaward must be separate individuals, and may not be immediate family members.

7. No University Personnel are permitted to hold a management or officer position, a position as a member of the Board of Directors or the Scientific Advisory Board, or undertake any responsibilities with a small business having received SBIR grants absent prior approval as required by University Policy AC80 (https://policy.psu.edu/policies/ac80). Any such position or responsibilities must also be consistent with all other University policies, including the University’s Policy on Engaging in Outside Professional Activities (Conflict of Commitment) (Policy AD77 (/policies/ad77)), and the University's Conflict of Interest Policy.

8. No University student, staff member, or visiting researcher or visiting scientist may perform research related to the University's portion of a small business' SBIR award, and concurrently serve as an employee or intern of that small business.

9. If a small business applicant for an SBIR award might require a license from the University for intellectual property prior to commencing research under the SBIR award, the University requires that the small business promptly contact the University's Office of Technology Management
sufficiently in advance of submitting its proposal to the sponsoring agency, in order to discuss the availability of relevant intellectual property and whether a license is needed.

10. No University Personnel may utilize their position at the University to influence or participate on behalf of a small business in making business decisions, or negotiating agreements, between that outside entity and the University.

11. Should any violation or potential violation of these principles arise or be discovered at any time after the application for and/or award of SBIR-funded research, it is the obligation of the Investigator who discovers or becomes aware of such violation or potential violation to notify immediately the Office for Research Protections so that appropriate remedial action, if necessary, can be taken.

FURTHER INFORMATION:

For questions, additional detail, or to request changes to this policy, please contact the Office of the Vice President for Research, or the Office of the Corporate Controller.

CROSS REFERENCES:

Other Policies may also apply, especially:

AC80 ([https://policy.psu.edu/policies/ac80](https://policy.psu.edu/policies/ac80)) - Private Consulting Practice

AD15 ([policies/ad15](https://policies/ad15)) - Fees and Rates for Facilities and Services

AD77 ([policies/ad77](https://policies/ad77)) - Engaging in Outside Professional Activities (Conflict of Commitment)

AD83 ([policies/ad83](https://policies/ad83)) - Institutional Financial Conflict of Interest

FN14 ([policies/fn14](https://policies/fn14)) - Use of Tangible Assets, Equipment, Supplies and Services

HR91 ([policies/hr91](https://policies/hr91)) - Conflict of Interest

RA07 ([policies/ra07](https://policies/ra07)) - Small Business Technology Transfer (STTR) Collaboration

RA20 ([policies/ra20](https://policies/ra20)) - Proposal Submission

RP03 ([policies/rp03](https://policies/rp03)) - The Use of Human Participants in Research

RP06 ([policies/rp06](https://policies/rp06)) – Disclosure and Management of Significant Financial Interests

Revision History:

- October 5, 2018 - Added definition of subcontract
- April 26, 2017 - New policy

Date Approved: April 26, 2017

Date Published: April 26, 2017

Effective Date: April 26, 2017