

Guidelines for Faculty, Staff and Students who are affiliated with a Company

Purpose

Consistent with its mission, the University of Connecticut (UConn) encourages translational research, innovation and entrepreneurial activities. However, perceived or real conflicts may arise between University and affiliated company activities. This guidance is intended to assist members of the University community in navigating State ethics law, policies, standards and regulations related to companies in which they have an ownership interest or other significant relationship. Although referred to as “faculty affiliated companies” this guidance generally also applies to any company affiliated with staff or students of the University. In some cases, federal law and regulation will be stricter than State ethics laws and UConn policy, and such applicable portions of federal law will take precedence, while other aspects of State or University policy will remain in force.

This guidance highlights important State ethics laws and UConn requirements, policies and procedures that impact a faculty member, staff or student who has an interest in a FAC.

The federal and state regulations that govern these areas are complicated and this guidance document does not cover every situation that may need to be addressed. Therefore, UConn recommends that faculty, staff and students seek expert guidance in addition to adhering to these guidelines.

Definitions

A faculty affiliated company (FAC) is a non-public company (1) that has licensed intellectual property developed by UConn faculty, staff, or student, and/or (2) in which a UConn faculty, staff or student is an officer, board member or has an ownership interest in the company.

Financial Conflict of Interest in Research Disclosure and Management

As an important first step in navigating these requirements, a faculty member must make full and timely disclosures to UConn of financial interests meeting the disclosure threshold for Significant Financial Interests (See disclosure thresholds [here](#)). This includes disclosure of any and all equity interests in non-publically traded entities, such as faculty affiliated companies, even if the company has no current value or the value is unknown.

These disclosures are reviewed and where required are managed, reduced or eliminated to address potential conflicts in the design, conduct or reporting of research under the University’s Research Financial Conflict of Interest policy. Click [here](#) to access the full policy. A PI may not commence work under a grant until the grant has been reviewed and approved under this process.

In some instances, there may be specific sponsor policies or requirements that are more restrictive than State ethics laws and UConn policy, and such applicable portions of sponsor policies or

requirements will take precedence, while other aspects of State or University policy will remain in force. Investigators should review the terms of all awards and must comply with all terms and conditions to be certain that there are no additional restrictions relating to a company relationship.

For assistance, contact Kristen Tremblay, Research Compliance Monitor, at kristen.tremblay@uconn.edu

State of Connecticut Ethics Laws

Connecticut State ethics laws are designed to prevent a state employee, his/her family and any associated business(es) from benefiting personally from his/her position as a state employee. The sections dealing with Consulting Approval, Purchasing Equipment or Services, the Employment of Students, and Use of University Resources are intended to help the faculty member comply with state ethics laws and University policy. While the University has developed its own policy based upon state ethics laws, The University Guide to the State Code of Ethics, the final authority to interpret and enforce these laws rests with the Office of State of Ethics, an independent regulatory division of the state.

The University Guide to the State Codes of Ethics is available [here](#).

The Office of State Ethics has information available [here](#).

For assistance, contact Kim Fearney, Director of Compliance and Ethics Liaison, at kim.fearney@uconn.edu

Consulting Approval

A faculty member that has an ownership interest in a FAC should request consulting approval from the Provost's Office. This approval is required even if the FAC is not currently paying the faculty member. Click [here](#) to read the policy and request approval.

Faculty must seek approval for the Use of University Resources, including University equipment, while consulting. Faculty must reimburse the University for using University resources beyond minimis amounts.

UCPEA staff should adhere to the provisions in Article 39 of the Collective Bargaining Agreement.

For assistance, contact Ashley Vrabely, Academic Affairs and Policy Specialist ashley.vrabely@uconn.edu.

University Subawards/ Subcontracts to and from Faculty Affiliated Companies

Subaward from FAC to UConn:

The University *may* accept research subcontracts/subawards from faculty affiliated companies in

which the FAC is the sponsor. All of the relevant requirements and policies for subcontracting to the University apply regardless of the fact that the subcontracting entity is a FAC. The UConn Conflict of Interest Committee(s) may place specific requirements on the investigator or others working on the project to manage, reduce or eliminate the conflict.

Subaward from UConn to a FAC:

If the PI is a faculty member who has an interest in a FAC, the University will not subcontract or issue a subaward to any FAC in which the PI has an interest.

If a Co-PI on the grant has an interest in a FAC, specific rules apply if there is a subcontract or a subaward to any FAC in which the Co-PI has an interest. As a state employee, a Co-PI may be prohibited by state ethics law from having the FAC contract with the University. There is an exception that allows a subcontract or subaward if it is intended to support a collaboration to develop and commercialize an invention or discovery. Many subcontracts and subawards may come within this exception. They are permitted, provided that the following additional requirements are also met:

(1) the PI does not have an ownership or other interest in the FAC receiving the subcontract or subaward, (2) the PI does not receive any financial gain from making the award; (3) the PI has made an independent decision based on the merits to select the FAC and the decision is not based on other factors such as personal or professional relations with the Co-PI; (4) the Co-PI did not participate in the decision to make the award to the FAC; (5) the FAC receiving the subaward or subcontract must be qualified to do the work, and the economic and other terms must be commercially reasonable; and (6) the evaluation of the work product and the approval of invoices from the company must be done by the PI independently, without the participation of the Co-PI. In addition, in these situations, UConn will inform the sponsor of the potential conflict and confirm that the sponsor has no objections.

The PI cannot receive a payment from the Co-PI or the company receiving the subaward or subcontract. Nor can there be any agreement to funnel subawards or subcontracts to a company in which the PI has an interest.

As noted elsewhere, this does not address any restrictions that may be imposed by the funding source, whether a federal grant or otherwise. The application of those rules needs to be evaluated in the context of the specific situation.

For assistance, contact Laura Kozma, Director, Sponsored Program Services, at laura.kozma@uconn.edu.

Purchasing Equipment or Services from a FAC

In general, State ethics laws prohibit FACs from selling goods or services to the University unless the FAC is awarded a contract through a public competitive procurement process. A UConn employee with an FAC should contact UConn Procurement Services and SPS if the FAC would like to sell goods or services to UConn. Procurement Services will work with the appropriate

departments to determine whether the sale would comply with State ethics laws and, if applicable, purchasing laws and regulations. If public competitive procurement is required, the UConn employee should play no role in the process (such as writing specifications for the good or service) and should not discuss the process with any UConn employee involved.

In addition, some research sponsors require advance notice or disclosure prior to purchasing goods and services from a FAC. Sponsored Program Services must be contacted if there is a request or intent to purchase equipment or services from a company in which a faculty member on the award has significant financial interests to determine if prior approval from the sponsor or other steps are required.

For assistance, contact Matthew Larson, Associate Vice President and Chief Procurement Officer, University Business Services, at matthew.larson@uconn.edu in Procurement Services or Laura Kozma at laura.kozma@uconn.edu in Sponsored Program Services.

Use of University Resources

UConn facilities and resources may only be used by a company if an appropriate agreement (distinct from the sub-award) is approved and entered into by UConn and the company. Agreements can take different forms depending on the situation and purpose, such as animal testing agreements, materials testing agreements, manufacturing service agreements, and equipment use agreements, among others and will generally involve a payment from the company to UConn. No one with a personal interest (or their subordinate) in the FAC may authorize the use of University facilities and resources on behalf of UConn.

For assistance, contact Lori Hansen at lori.hansen@uconn.edu or Elly Kohl at elly.kohl@uconn.edu

Involvement of Students, Post-Docs and other Trainees in Faculty Start-up Activities

Involving students, postdoctoral fellows and other trainees in faculty start-up company activities can enhance the academic experience and be valuable to the work. However, trainees are in an inherently vulnerable position and care should be taken to ensure that they are engaged voluntarily, that the involvement is beneficial to their development, and that the activity does not interfere with their academic training and/or progress. UConn has adopted a policy to cover the employment of students by faculty members ([Link](#)). In brief, the policy requires that faculty acquire approval from your department head and the Dean of the Graduate School prior to employing students in outside activities. Faculty must provide employed students with a written offer letter, market-rate compensation, and notification of avenues of recourse.

For assistance, contact Dean of the Graduate School, Kent Holsinger at kent.holsinger@uconn.edu

Technology Incubation Program

Faculty affiliated companies are eligible to apply to be part of the Technology Incubation Program (TIP). TIP provides lab and office space, access to UConn resources, venture development

programming and support for the growth of the company. Click [here](#) for more information.

For assistance, contact Paul Parker, Director, Technology Incubation Program, at paul.parker@uconn.edu

Special Considerations for SBIRs and STTRs

Various federal agencies provide funding to small businesses to conduct research and development with the goal of commercializing technology. This federal funding occurs via two different award mechanisms:

- (1) Small Business Innovation Research ("SBIR")
- (2) Small Business Technology Transfer ("STTR")

Both SBIR and STTR awards are made directly to a small business concern ("SBC"). A SBC is a for-profit company that is the applicant for a SBIR/STTR award. In this section of the guidance, we use the terms SBC and company interchangeably.

STTRs require that the SBC collaborate with a research institution ("RI") for a certain portion of the award. SBIRs do not require RI involvement, but SBCs often collaborate with RIs on SBIRs. A RI is the research institution partner, such as UConn, that collaborates with an SBC for a SBIR/STTR award through a subcontract/subaward under the SBC.

UConn meets the criteria to serve as a RI for SBIRs and STTRs. UConn's involvement in either a SBIR or a STTR occurs when it is either included in the proposal or the federal sponsor has provided approval to SBC to engage with the university and is awarded via a subcontract/subaward from the SBC to the university. In cases where there is a collaboration/subcontract/subaward between the SBC and the RI, there is an SBC PI and an RI PI (i.e. a PI for each side of the collaboration).

The following chart summarizes various requirements for SBIRs and STTRs:

SBIRs	
Applicability	Eligibility Requirements
SBC	<ul style="list-style-type: none">• Must be an American-owned business• Must be independently operated• Must be a for-profit business• Must have five hundred or fewer employees• <i>If</i> sub-contract with another party, or with multiple parties:<ul style="list-style-type: none">○ SBC must do at least two-thirds of research during Phase I○ SBC must do at least one-half of research during Phase II
SBC PI	<ul style="list-style-type: none">• <u>Must be primarily employed with SBC</u>

RI	<ul style="list-style-type: none"> • Involvement of RI not required • <i>If</i> the SBC sub-contracts with RI: <ul style="list-style-type: none"> ○ RI may conduct up to one-third of research during Phase I ○ RI may do up to one-half of research during Phase II
STTRs	
Applicability	Eligibility Requirements
SBC	Must be an American-owned business Must be independently operated Must be a for-profit business Must have five hundred or fewer employees Not less than 40% of the research/research development must be performed by SBC
SBC PI	<ul style="list-style-type: none"> • <u>Must be primarily employed by either the SBC or the collaborating RI</u>
RI	<ul style="list-style-type: none"> • Research Institution collaborator required • Must be one of the following: <ul style="list-style-type: none"> ○ A non-profit college or university ○ A domestic non-profit research organization ○ A federally funded Research and Development Center • RI required to conduct at least 30% of research and development but may conduct up to 60% of research and development

[Consider deleting this paragraph?] Currently, only 5 agencies have STTR programs (Department of Defense, Department of Energy, the National Aeronautics and Space Administration, the National Institutes of Health and the National Science Foundation) and the PI eligibility requirements differ slightly for NSF. For NSF- funded STTRs, PI eligibility requirements are the same as they are on an SBIR project (i.e. the PI must be primarily employed by the small business). At the other four agencies, the PI can be primarily employed by either the small business applicant or the non-profit organization with which the small firm is collaborating on the STTR project

SBC Use of University Space

Small businesses certify in their SBIR and STTR applications and award documents to the federal government that the SBC research and development will occur in SBC facilities using company employees unless otherwise indicated in the SBIR or STTR application and approved in the funding agreement. Therefore, performing the SBC portion of such research in University space using University resources -- unless specifically approved by the funding agency and allowed by the University – subjects the company to potential criminal, civil, or administrative sanctions.

Consulting for a FAC

As a general rule, if the FAC is sponsoring research at UConn under an SBIR or STTR, the faculty member should not be paid as a consultant under the award.

The Same Individual Serving as University PI and SBC PI

For SBIR awards, the SBC PI must be primarily employed by the company. Most faculty members are fully employed by UConn and therefore cannot serve as the PI for an SBC. To serve as PI for a SBC, the faculty member cannot have a University position or appointment of greater than 49%.

For STTR awards, the PI named on the award may be primarily employed by either the company or the University. The exception is for NSF STTR awards, in which the PI named on the award must be primarily employed by the SBC.

For the work conducted for both SBIR and STTR awards, the SBC PI and the RI PI may not be the same individual. While not explicitly stated, the STTR/SBIR policy, instructions, and project percentage requirements make clear that establishing a separation of entities and roles is important. Having the same person on both sides of the collaboration blurs the respective parties' project roles, responsibilities and effort/time commitments.

Specific sponsor policies or requirements may differ and be more restrictive. For example, the NSF guidance states that no person who is an equity holder, employee, or officer of the proposing small business may (1) be paid as a consultant, or (2) be paid through a subaward budget, in either case, unless recommended and approved by the NSF.

Faculty members that have an interest in an SBC must read all sponsor requirements for SBIR/STTR proposals and awards carefully and note what situations may be prohibited or that may require advance sponsor approval. **It is strongly recommended that the SBC engage counsel to review and advice on the grant awards, and hire accountants with specific expertise in SBIRs and STTRs.**

Federal and Sponsor Specific Guidance

The US Small Business Administration provides guidance to small businesses wishing to pursue SBIR or STTR funding opportunities. Their website includes general information as well as links to individual federal sponsor programs. Sponsors may have additional guidelines or restrictions and those small businesses seeking to pursue a SBIR or STTR project should be careful to thoroughly review guidelines and restrictions.

Small Business Administration Guidance Links:

- [Small Business Administration Information on SBIR and STTR programs](#)
- [Small Business Administration Information: 2013 Guide to SBIR/STTR Program eligibility](#)
- [Federal SBIR Policy Directive](#)

- [Federal STTR Program](#)
- [Federal STTR Policy Directive](#)
- [Small Business Administration: Small Business Guide, Size and Affiliation](#)
- [Federal Online Tutorial](#)

Sponsor Specific Links:

(Each agency administers its own individual program within guidelines established by Congress. These agencies designate R&D topics in their solicitations and accept proposals from small businesses. Awards are made on a competitive basis after proposal evaluation.)

- [Department of Agriculture](#)
- [Department of Commerce](#)
- [Department of Defense](#)
- [Department of Education](#)
- [Department of Energy](#)
- [Department of Health and Human Services](#)
- [Department of Homeland Security](#)
- [Department of Transportation](#)
- [Environmental Protection Agency](#)
- [National Aeronautics and Space Administration](#)
- [National Science Foundation](#)

Other Federal Links of interest to SBIR/STTR programs:

- [Official Government Portal](#)
- [SBIR Gateway](#)
- [SBIR Alert](#)
- [System Award management site](#)
- [Grant.gov site](#)

University Policies and Procedures Related to this guidance:

- [University's Research Financial Conflict of Interest Policy](#)
- [Use of Students in Outside Employment](#)
- [Consulting Policy](#)
- [Code of Conduct](#)
- [State Code of Ethics](#)