

FAQ AND GUIDE

SBIR and STTR Grants



RESEARCH
POLICY &
COMPLIANCE

UCLA

Office of
Intellectual Property
& Industry Sponsored
Research

A number of federal agencies, including the Department of Health and Human Services, the National Science Foundation, and the Department of Defense, receive congressionally mandated set-aside funding to support research and development activities under the Small Business Innovation Research (SBIR) and the Small Business Technology Transfer (STTR) programs. Among the goals of SBIR and STTR programs is stimulation of technological innovation and private sector commercialization of technology developed through federally-supported research and development. Only small businesses are eligible to apply for these grants.

UCLA faculty and other members of the campus research community may be interested in participating in SBIR or STTR-funded research. These activities can facilitate the transfer of technology to improve the well-being and productivity of society and provide valuable experience and knowledge. In addition, startup companies formed by campus inventors to help commercialize and bring breakthrough innovations to market often seek SBIR and STTR funding to support further research and development of technologies invented at UCLA. While these activities are encouraged, they may also give rise to conflict of interest and conflict of commitment issues.

The Research Policy and Compliance (RPC) unit of the Office of the Vice Chancellor for Research works collaboratively with the Office of Intellectual Property and Industry Sponsored Research (OIP-ISR) in the difficult and important challenge of balancing support for entrepreneurial activities with compliance requirements. The following Frequently Asked Questions are intended to guide members of the UCLA research community in addressing and, if possible, resolving, the potential conflict issues that may arise when they want to participate in SBIR or STTR grant-funded research.

UCLA employees who are interested in working with a small company that wants to apply for SBIR or STTR funding are encouraged to contact RPC to discuss possible conflict of interest and/or conflict of commitment issues.

Can UCLA submit an application for an SBIR and STTR grant?

No. Although many SBIR and STTR applications include subcontracts to universities, under federal regulations, only small businesses may apply for SBIR and STTR funding. STTR guidelines require the small business applicant to formally collaborate with a University or non-profit research institute. SBIR guidelines indicate that this is optional.

How can UCLA faculty, staff, postdoctoral scholars, and students participate in SBIR and STTR grants?

Typically, this is done by conducting research at UCLA under a subcontract from a small business that has received an SBIR or STTR award. OIP-ISR staff can assist UCLA PIs in completing and submitting paperwork needed to initiate the subaward process.

Plans for proposed research to be conducted at UCLA under an SBIR or STTR subcontract from a small business must be reviewed by the appropriate department chair and academic dean before subcontract proposal materials are forwarded to OIP-ISR. This review is intended to ensure that the proposed work (a) has scientific merit, (b) constitutes a good use of UCLA research facilities, (c) will not compromise the PI's academic responsibilities, (d) is for a unique and specific scope of work distinct from research funded by other outside entities, (e) is for work that does not overlap with the investigator's other research responsibilities, and (f) reflects full cost recovery (direct and indirect), including the PI's time, in the project budget.

Under UC academic personnel policy on outside professional activities, faculty may work with outside companies as consultants. From a conflict of interest and conflict of commitment perspective, it is best for an individual to act either as a consultant to the company on grant-related activities, or as a researcher on a subcontract to UCLA, but not both.

Can a company established by a UCLA employee apply for an SBIR or STTR grant while the founder or an equity holder continues to work at the University?

Yes, however, there are some key points to keep in mind. Faculty may not hold a full-time appointment at UC and concurrently serve as the Principal Investigator (PI) of an SBIR or STTR grant for a company. In general the PI for the small business applicant should not be a UCLA employee. The PI for the company and the PI for the UCLA subcontract must be separate individuals. See additional discussion on next page.

Can a UCLA faculty member hold a management or officer position in the company that applies for SBIR or STTR funding?

Possibly. Acceptance of managerial or salaried positions requires prior approval from the UCLA Vice Chancellor for Academic Personnel. These requests need to be endorsed by the faculty member's chair and dean before being forwarded to the campus Academic Personnel Office for review. For more, please see http://www.ucop.edu/academic-personnel/_files/apm/apm-025-07-01.pdf.

Can the PI of a UCLA subcontract under an SBIR or STTR sit on the scientific advisory board (SAB) or board of directors (BOD) of the company that applied for and received the grant?

Yes. Faculty may engage in these types of activities, subject to the time limits and reporting requirements of the UC Policy on Conflict of Commitment, and the outcome of review by the campus Conflict of Interest Review Committee (applicable to those cases in which the investigator has a financial interest in the company that has applied for and received the grant). For more information, please see http://www.ucop.edu/academic-personnel/_files/apm/apm-025-07-01.pdf.

Can a full-time UCLA employee serve as the PI for the small business applicant on an SBIR or STTR proposal?

In general, no. Under federal SBIR guidelines the small business applicant must be the PI's primary employer by the time an award is made and must remain the PI's primary employer for the duration of the project period. Although STTR program guidelines permit University employees to serve as the applicant company's PI, submission of applications for research support through any organization other than The Regents requires an exception to UC policy. See: <http://www.ucop.edu/ucophome/coordrev/policy/12-15-94att.html>. This policy has also been incorporated into the UC Policy on Conflict of Commitment (http://www.ucop.edu/academic-personnel/_files/apm/apm-025-07-01.pdf). Typically, exceptions have been made when the faculty member agrees to take a temporary leave (part time or full time) from the University to conduct research as the small business's PI. Please note that the conduct of research is generally not considered the kind of outside professional activity allowed under the UC Policy on Conflict of Commitment. These requests for exceptions should be directed to the Vice Chancellor for Research.

Can a UCLA postdoctoral scholar serve as the PI for the small business SBIR or STTR applicant?

As indicated in the preceding information, permission to submit applications for funding through any organization other than The Regents requires an exception to UC policy from the UCLA Vice Chancellor for Research. Exceptions for postdoctoral scholars are typically considered only when an individual's training is virtually finished and he/she is in the job market. Approval is subject to the postdoctoral scholar's agreement to sever his/her UCLA appointment to become an employee of the small business when the SBIR or STTR grant is awarded.

Please note: Exceptions cannot be made for individuals on H1-B visas because changes in work conditions are not permitted.

Can students work for a company in which their UCLA supervisor or professor has a financial interest while they are enrolled at UCLA?

Possibly. The potential benefits of involvement in a faculty member's outside activities should be weighed against other considerations such as the student's ability to concurrently work and go to school. While there are no express policies that prohibit a student from working outside the University, student employment should not eclipse educational activities or hinder progress toward a degree. Additionally, under the UC Policy on Conflict of Commitment (section 50) faculty must obtain prior approval from their department chair before involving students in companies in which they have financial interests. In this context, involvement means any substantive activity, whether compensated or not. For more, please see http://www.ucop.edu/academic-personnel/_files/apm/apm-025-07-01.pdf.

Students who are also UCLA employees should refer to the question below regarding staff employees who wish to take on outside responsibilities for an SBIR or STTR applicant.

Can UCLA staff or non-faculty academic appointees take on outside responsibilities for a small business SBIR or STTR applicant?

Per UC policies and principles, including Personnel Policies for Staff Members, number 82 (Conflict of Interest), non-faculty employees (such as staff and appointees in the research series) are not permitted to engage in activities which create a conflict of interest between their University responsibilities and other interests or obligations, nor should outside employment interfere with the performance of their University duties. See: http://atyourservice.ucop.edu/employees/policies_employee_labor_relations/personnel_policies/spp82.html.

This policy has been interpreted to mean that an employee should

not devote any of his/her UCLA working time or use any University resources—including his/her office or office equipment—to conduct company (i.e., non-University) business. A number of factors, including the employee's UCLA responsibilities and proposed company responsibilities, the nature of the company, and the company's relationship to the University, need to be considered.

Staff employees (including students who also hold staff titles), and non-faculty academic employees who (a) are considering involvement in outside responsibilities for a small business SBIR or STTR applicant or (b) are already involved in a small business that wants to apply for an SBIR or STTR grant should contact the Conflict of Interest Review Committee (CIRC) or Campus Counsel for guidance. Seeking guidance can help to ensure that these outside activities conform to UC policy.

Does a small business that is applying for an SBIR/STTR grant need a license from UCLA to intellectual property that will be used in the research?

The small business should contact UCLA's Office of Intellectual Property and Industry Sponsored Research (OIP-ISR) before submitting its grant proposal to discuss the availability of the intellectual property and whether an option or license is needed. Doing so may prevent potential claims of intellectual property infringement resulting from the company's use of University-owned intellectual property under the SBIR-STTR grant.

Can UCLA accept a subcontract in situations where the research will take place in the lab of a University employee who has a management role, an equity stake, or who is otherwise compensated by the company receiving the SBIR or STTR grant?

Probably. However, these situations are subject to review by the faculty Conflict of Interest Review Committee (CIRC) before the University can accept the research support. If the CIRC determines that the situation creates a conflict of interest, it will try to find ways of managing the conflicts. The Assistant Vice Chancellor—Research and the CIRC Chair are available to confer about specific situations prior to formal committee review.

Can the small business's portion of the research be conducted at UCLA?

Unless this program eligibility requirement is expressly waived in writing by the federal government, the company must conduct some of the research in facilities that it owns or controls. The company must conduct at least 67% of the work under an SBIR Phase I grant, at least 50% under an SBIR Phase II grant, and at least 40% under an STTR grant (Phase I or II).

By the time of award, the company must either have its own facilities or control research facilities that will be used to conduct its portion of the proposed research. The small business's portion of the research under an SBIR or STTR grant may not be conducted in a UCLA laboratory unless the space is in an officially designated UCLA incubator such as the CNSI Technology Incubator. Leasing of space in an official incubator provides the company with research facilities that it controls.

Faculty may use their UCLA laboratory to conduct the portion of the work that is subcontracted to The Regents. As indicated above, review by the faculty Conflict of Interest Review Committee (CIRC) is required before the University can accept such research support when the PI or other investigator(s) have financial interests in the small company that has received the SBIR or STTR grant. If CIRC determines that the situation creates a conflict of interest, it will make recommendations for managing or eliminating the conflict so that the research support can be accepted.

UCLA recharge facilities (sales and service activities) that have established rates for external users can provide goods and services to small businesses conducting research under SBIR and STTR grants per the facility's standard operating procedures. The exception is a recharge unit which operates under the supervision of a UCLA employee who has a financial interest in the small business that wants to access the facility. Questions about exceptions should be referred to the Assistant Vice Chancellor—Research or the CIRC.

Can UCLA faculty or staff represent the company in subcontract negotiations with UCLA?

No. To avoid possible violation of the California Political Reform Act, no one with a UCLA appointment (including faculty, staff, students who also hold staff or academic appointments, and non-faculty academic appointees) may influence or participate in making business decisions between that outside entity and The Regents.

This guidance has been developed to minimize potential conflict of interest and conflict of commitment issues that may arise from participating in SBIR and STTR grants. The Assistant Vice Chancellor—Research, and the CIRC Chair are available to confer with faculty and other members of the UCLA research community about their plans and their interest in participating in SBIR and STTR grants. Please do not hesitate to contact RPC staff with questions.

Research Policy and Compliance

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For contact information see:

<http://rpc.research.ucla.edu/RPC/Pages/Contact.aspx>

