

INTERNAL DOCUMENT

University of South Alabama Guidelines: Use of Space by External Entities for Research Purposes

These guidelines supplement the University policy “Use of University Research Facilities and Equipment by External Entities”

It is, from time to time, beneficial to the University of South Alabama (the “University” or “USA”) to allow use of non-clinical research facilities and/or equipment by non-University entities and/or individuals (an “External Entity”). An External Entity includes, but is not limited to, companies external to the University and/or individuals who are employed by the University but would be operating independently from the University in their use of the requested facilities or equipment. Use by an External Entity would generally be allowed for start-up operations that do not fit into the University’s Coastal Innovation Hub, the Technology and Research Park or local commercial space. It is the policy of the University that each situation or request to use facilities or equipment will be addressed on a case-by-case basis to determine if, in fact, the specific situation is beneficial to USA and consistent with its mission.

An assessment must be made to determine if the benefit to the University is specific, reasonably quantifiable and sufficient to justify allowing an External Entity to use the University facilities or equipment requested. It is generally expected that every allowed use of the facilities or equipment will enhance the operations of the University beyond the revenue from the use. A statement regarding benefit to the University must be included in the justification. Further, other benefits may be present as well, and those should also be documented.

In order to initiate the request to use University facilities or equipment, a “*Request Use of Research Facility/Equipment*” form must be completed by the External Entity, which should address the following areas:

Development of the Agreement

- Rates for the facility and/or equipment to be used must be calculated and documented completely by the Grants and Contracts Accounting Office. It must be demonstrated that steps were taken to ensure that all federal dollars used to construct the facility or purchase the equipment have been removed from the calculation. It must also be demonstrated that all appropriate costs (e.g., interest expense, depreciation, utilities, janitorial and other normal and reasonable operating costs) have been identified, captured and included in the calculation. It must be determined whether or not the facility is currently covered by a government-issued bond. Once all adjustments to the

calculated rate have been made, an assessment must be made as to whether, given the resulting calculated rate, proceeding with the agreement is appropriate. If specialized instrumentation is to be used, this should be calculated on an “as used” basis or incorporated into the agreement with specifics as to the time and amount of use included in the rate.

- It is the policy of the University not to subsidize the actual rate charged. Any subsidy must be documented as to why such subsidy is necessary and how utilizing University funds as a subsidy benefits the University. Any subsidy must be approved by the Vice President for Finance and Administration and the divisional head and must be fully documented in the justification.
- At a minimum, the value of benefits received by the University (e.g., rent and other specific, quantifiable benefits, including potential future revenue streams) should be at least equal to the fair market value of what is being used by the External Entity.
- The intended use of the revenue received by the University must be documented. The allocation of those revenues must be determined prior to the finalization of the agreement. A portion of such revenue must accrue to both the University and to the specific unit where the facility and/or equipment is located.
- The agreement must comply with the University’s real property sale/lease policy.
- All agreements will be generated by the Office of Real Estate and Asset Management utilizing the approved Research Facility and Equipment Request to be provided by the Office of Research Compliance and Assurance.
- All agreements must be approved by the General Counsel Office and signed by an authorized contract officer for the University.
- The term of the proposed agreement and the allocable square footage must be specified. In general, such agreements should not be for periods longer than twenty-four (24) months without prior approval from the Vice President for Research and Economic Development and Vice President for Finance and Administration. The University has rights to terminate the lease if it needs the space for its own use.

Conflicts of Interest

- All potential conflicts, expected to occur or not, must be disclosed via COI Risk Manager online reporting system.
- Once identified, a plan to manage potential conflicts must be developed. Issues which must be addressed include:
 - Procedures must be developed and documented to protect University-owned assets, including facilities, supplies, and especially intellectual property. Those procedures must be fully communicated to the External Entity using facilities or equipment in a USA research area. A review and determination should be periodically performed and documented which provides assurance that University assets (purchased with

University funds or federal funds) are only being used for University projects. Any potential conflict of interest will be handled in accordance with existing University conflict of interest policies and processes.

- A periodic review must be performed and documented to ensure that only facilities or equipment covered by the agreement with the External Entity are being used and that such use is only for the purposes described in the formal request and agreement. For example, if an External Entity has agreed to use 250 square feet of a facility, then it must be documented that departmental personnel have determined that the External Entity is only using 250 square feet.
- All employees of the External Entity shall, at the discretion of the University, be subject to criminal background checks. USA, if it so chooses to proceed with the background checks, will incur the costs associated with them.

Environmental Health and Safety

- Prior to entering into any agreement for use, it must be determined whether or not the External Entity will generate hazardous material or waste. External entities cannot utilize Safety and Environmental Compliance for hazardous waste disposal. Lessees must establish contracts for waste disposal with permitted and insured service providers. The External Entity will be responsible for cost of handling and disposal of hazardous or controlled waste or substances.
- Proof of insurance (liability, property, worker's compensation and others, as appropriate) for the External Entity and its employees must be provided to USA and approved by the University Risk Management Department.
- All lessees must provide a lab safety plan to be reviewed and approved by the University's Office of Safety and Environmental Compliance.

Private use issues related to tax exempt financing

Frequently, specific facilities and/or equipment being used was acquired by the University using tax-exempt financing. Certain procedures must be followed to ensure that the use (i.e., the "private use" component of public financing) does not threaten the tax-exempt status of the debt. The determination is made on an individual bond issue basis.

- In order to determine the impact, if any, on the bond issue, the specific facilities and equipment being used must be identified.
- Once identified, the original funding source for those assets must be identified, along with total projected revenue to be generated from the use agreement.
- These amounts must be presented to the University Director of Tax for his/her review and approval.

- If the use is at a level sufficient to impact the tax status of the debt, the requested use will not be allowed.

Impact on the University's Facilities and Administration rate

- An analysis should be performed, in conjunction with the Director, Tax Accounting and the Director, Grants and Contracts Accounting Office, to determine and quantify the impact of the use on the University's calculated facilities and administration (F&A) rate.
- Where possible, the use agreement should be structured to minimize the F&A impact; however, in all cases, the documentation of the impact must be reviewed and approved by the Grants and Contracts Accounting Office.

Other considerations

- Prior to occupying any space in any of the University's facilities, the employees of the External Entity must sign a valid confidentiality agreement (NDA) regarding research being carried out by other researchers at the University. Any such NDA or release must be reviewed and approved by the Office of Commercialization and Industry Collaboration.
- The University, in its discretion, may request an audit or review of the External Entity's financial statements. If deemed necessary, such review will be at the expense of the University.

Information to be submitted by the External Entity

The information listed below will be collected through completion of the "Request for Use of Research Facility / Equipment" form.

- External Entity information
 - Legal name and state of incorporation
 - Company physical and mailing address
 - Contact information for an authorized representative
 - Proposed start date and duration of the requested use
 - List of employees that will potentially use the requested facilities and/or equipment
 - A notice of award or financial statements indicating that the company has sufficient funds to cover operating costs and payments for the proposed use of the facilities and/or equipment

- External Entity business plan, including:
 - Corporate structure and additional operating locations, if applicable
 - Management team, investors and advisors
 - Description of the work to be performed in the facility or with the equipment requested and the services and/or products the External Entity is seeking to develop
 - Documentation of intent to sub-contract any sponsored research to the University
 - Summary of goals the External Entity expects to accomplish during its use of the facility and/or equipment
 - Summary of the funds needed to achieve the External Entity's goals during its use of the facility and/or equipment
 - A detailed list of the specific space, equipment and resources that the External Entity has requested to use
 - Documentation of any hazardous material and waste that the External Entity anticipates will be used or discarded by the External Entity in the course of its work in the facility
 - The agreed upon use rates

- Intellectual property
 - Indicate the ownership source of the intellectual property the External Entity is using to develop products or services
 - Indicate the status of any license or option agreement with the University, if applicable. If license has been completed, indicate if the External Entity is in compliance with its payment obligations under the license with the University.
 - Provisions for jointly developed intellectual property will be included in the use agreement