

Guidelines on Private Use of University Research Facilities

Cornell's policy on use of University research facilities, which was most recently amended by the Board of Trustees in 1986¹, expresses that University research facilities exist primarily to further free and open inquiry by Cornell faculty, students and staff. Other uses are of secondary importance, and no use is permitted that interferes with the conduct of the University's research and other scholarly or instructional activities, or that is inconsistent with the University's status as a tax-exempt educational institution. Cornell's research facilities include laboratory space, bench space, storage, equipment, offices and support space, testing and processing instrumentation and supporting space/facilities, and any other spaces in which research is or will be conducted.

As a corporation that is exempt from income tax under IRS Code Section 501(c)(3), Cornell must ensure that its resources are used in furtherance of its exempt research and educational purpose and must avoid activities that benefit private interests. Similarly, Cornell's facilities must be used for educational purposes in order to remain exempt from real property taxes under New York state law. Further, buildings that have been financed through tax-exempt bonds – a category that includes the majority of University facilities -- are subject to strict limitations on the amount of allowable "private use" activities. As used in these Guidelines, "private use" means use of Cornell facilities (by Cornell staff or external entities) for non-University purposes. Common examples of private use include use of facilities by Cornell faculty, staff, or students to conduct start-up related activities and granting access to space or equipment to an external entity to conduct its own research or testing.

In addition to tax considerations, private use activities pose other potential risks, including conflicts of interest problems; risk to University and inventor intellectual property rights and commercialization opportunities; liability and compliance risk; and community relations risk when the private use activity places the University in competition with for-profit entities. As a result, private use of University research facilities is generally not allowed unless it falls into one of the five exception categories listed below.

Exceptions:

1. The limited and temporary use, at full cost recovery or commercially comparable rates, of the specialized equipment and support space of university research centers and facilities that are approved by the Senior Vice Provost for Research (SVPR) for allowing such use by outside entities, where such use is available to public, and where use is granted under the terms of a facility use agreement approved by the SVPR and University Counsel.
2. Participation in trainings and workshops open to the public and offered by a college's formal extension program where (1) use of specialized equipment is necessary for that training; (2) the facilities used for such training are segregated from Cornell research activities; and (3) the training is conducted under the terms of a participation agreement approved by SVPR and University Counsel.
3. The limited and temporary use, at full cost recovery or commercially comparable rates, of the specialized equipment and support space of university processing or pilot plants where such use is open to the public, segregated from Cornell research activities, and where there is a facility use agreement

¹ See "Use of University Facilities" in the Cornell University Faculty Handbook, Chapter 5.0 (Academic Policies and Responsibilities), pp. 111-113, available at:

<https://blogs.cornell.edu/deanoffaculty/files/2015/12/Chapter5-1Irdm5s.pdf>

approved by SVPR and University Counsel.

4. Occupancy and use by approved client startup companies of the McGovern Center incubator facilities, under standard McGovern Center agreements that have been previously approved by SVPR and University Counsel.

Any private use of research facilities that does not fall into one of these five exceptions must be individually approved by SVPR, per University policy. Requests for authorization are made via petition from the unit that administers the affected facility and must be endorsed by the unit's Dean prior to submittal to SVPR for decision.

Petitions must include the following:

- A detailed description of the private use activity, including scope of work (if applicable), the facilities, including equipment, proposed for use, the duration of the use (including total days/hours) and identification of any personnel who will be conducting the private activity.
- Description of the involvement of Cornell employees/students.
- Identification of how the equipment, if any, was funded (federal grant, NYS grant, etc.).
- Documentation of the need for the work to be carried out at Cornell, which must establish that the resources requested are not reasonably available elsewhere.
- An explanation of how the private use will directly benefit Cornell.
- Proposed fair market facility use fees, with supporting documentation. Rates must cover fully loaded costs for use of university equipment and facilities, including the indirect costs of such use, and any required training provided by University personnel. If not pre-determined, fees will be set after a private use petition is granted but before work begins.
- A current copy of the company's certificate of insurance.

Petitions will not be approved if the private use:

- Will take precedence over use of university equipment/facilities by Cornell employees/students, or interferes in any way with the ability of Cornell employees/students to conduct research or perform their job duties.
- Involves Cornell employees/students in the private use activity other than to provide limited training on equipment use.
- Would be in conflict with any applicable conflict of interest management plan.
- Involves classified information or imposes confidentiality requirements on Cornell employees/students.
- Places the University in competition with for-profit businesses.
- Can be accommodated in an established University research center.
- Is otherwise determined to pose unacceptable administrative burdens or liability/reputational risks to Cornell.

Approved private use arrangements will be documented by formal agreement approved by SVPR and University Counsel.

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