



RESEARCH POLICY 8 (RP-8)

RESEARCH AGREEMENTS
Sponsored grant or a
sponsoring entities may give rise to private business use.

2. Policy Statement

Certain facilities owned by Duquesne University may be financed in whole or in part with proceeds of tax-exempt or other tax-advantaged bonds (a “financed facility”). Federal tax law places limits on the private business use (“PBU”) of such financed facilities. PBU may arise from leases, management contracts, research agreements, and other contracts with the federal government, corporations, and other private or non-profit entities depending on the nature and the duration of the agreement, the identity of the parties, and other factors.

In order to comply with federal tax law and accurately report PBU, Duquesne must determine PBU in every financed facility. No more than 5% of the direct or indirect use of that property may be PBU. A change in use that creates excessive PBU requires timely refinancing of a debt issuance or other action such as voluntary settlement with the IRS. Excessive PBU can result in significant monetary penalties from the IRS. For these reasons, PBU requires periodic review and monitoring by Duquesne. The Treasurer’s Office will provide information sessions on PBU to relevant departments on a periodic basis and conduct an annual survey on research agreements and PBU.

3. Policy Scope

This Policy applies to all University employees who are engaged in submitting, receiving, and administering sponsored grants and awards.

4. Definition of Terms

Certain terms are used in this document with specific meanings, as defined in this section. These definitions may not necessarily conform to customary usage.

not considered basic research.

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Private business use (PBU)

An actual or beneficial use of tax-exempt financed

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- The University controls the design and performance of the study;
 - The University retains title to any patent or product incidentally resulting from the basic research; and
 - The sponsor receives no more than a nonexclusive royalty-free license (NERF).
3. A Sponsored Research Agreement with a federal sponsoring entity, will not create private business use so long as:
- The University controls the design and performance of the study; and
 - The University retains title to any patent or product incidentally resulting from the basic research; and
 - The sponsor receives no more than a NERF.

If a contract or agreement meets every requirement of a “safe harbor,” it is deemed not to create private business use.

Note on Corporate vs. Industry Sponsors: The distinction between a “corporate” and “industry” sponsoring entity is inconsequential as a practical matter as Sponsored Research Agreements generally can qualify under either safe harbor described above. Most corporate sponsoring entities may prefer to qualify under the first, because it provides them with greater control over the product of the research.

7. The Bayh-Dole Act

The Bayh-Dole Act (The Patent and Trademark Law Amendments Act of 1980, as amended, 35 U.S.C. § 200 et seq. (2006)) generally applies to any contract, grant, or cooperative agreement with any federal agency for the performance of research funded by the federal government. The policies and objectives

Innovation, including an investigation and analysis, the memo is forwarded for approval by the Dean of the school in which the PI/PD is located. If approved by the Dean, the memo is forwarded for approval by the Bond Compliance Committee. Finally, if approved by the Bond Compliance Committee, the memo is forwarded for approval by the Vice Provost for Research for final approval.

Under the tax code there are broad record retention requirements applicable to documentation evidencing use of facilities financed with tax-exempt debt (e.g., copies of management contracts, research agreements, etc.). Applicable records must generally be retained for the life of the debt plus three years, including any refinancing.

10. Exceptions

Exceptions to this Research policy and procedures require approval from the Vice Provost for Research and normally will be made with the agreement of those involved in the Bond Compliance Committee and the administrators having supervisory responsibility for the employee.

11. Related Documents

This Research Policy works in conjunction with the following Research and University Policies, which are fully applicable. To the extent there is any conflict between this Research Policy and any of the Research or University Policies listed below, the University retains the sole discretion to determine which takes precedent.

Research Policy	Title	Web Address
RP-1	Procedure for Submitting External Sponsored Grants and Awards	https://www.duq.edu/research/research-conduct
RP-2	The Use of Human Subjects in Research	https://www.duq.edu/research/research-conduct
RP-3	Effort Reporting on Sponsored Grants and Awards	https://www.duq.edu/research/research-conduct
RP-4	Faculty Research Proposals to Governmental, Corporate, Foundation and Private Sources	https://www.duq.edu/research/research-conduct
RP-5	Intellectual Property	https://www.duq.edu/research/research-conduct
RP-6	Research Integrity	https://www.duq.edu/research/research-conduct
RP-7	Conflicts of Interest in Sponsored Grants and Awards	https://www.duq.edu/research/research-conduct

TAP-33	Conflict of Interest	https://www.duq.edu/work-at-du/human-resources-home/the-administrative-policies-(taps)/33-conflict-of-interest
TAP-46	Commercial Entities—Faculty, Staff and Student Participation	https://www.duq.edu/work-at-du/human-resources-home/the-administrative-policies-(taps)/46-commercial-entities%E2%80%94faculty-staff-and-student-participation

12. Contacts

Office	Telephone Number	Email Address and/or URL
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