

DRAFT RULE
Posted Dec. 3, 2014

R357. Governor, Economic Development.

R357-11. Technology Commercialization and Innovation Program (TCIP).

R357-11-1. Purpose.

(1) The purpose of the Technology Commercialization and Innovation Act is to catalyze and enhance growth of technologies by encouraging interdisciplinary research activity and targeted areas, facilitating the transition of technologies out of the higher education to enhance job creation, and to support the commercialization of technologies developed by small businesses to enhance job creation.

R357-11-2. Authority.

(1) UCA 63M-1-704(2)(b) requires the office to make rules to regulate the Technology Commercialization Innovation Program ("TCIP") grant structure and awards and to recapture awards when a recipient fails to maintain a presence in Utah for at least five years after the award is made, as set forth in these rules.

R357-11-3. Definitions.

- (1) This rule adopts the definitions set forth in 63M-1-703.
- (2) "Board" means the Board of Business Development set forth in 63M-1-301
- (3) "Derivative Technology" means: Incremental advance or new of application of an existing technology.
- (4) "Developmental Research Phase" means: A phase in which the technology is not beyond a basic concept as determined by the office.
- (5) "New technology means" Intellectual property not previously marketed or generated revenue for any entity.
- (6) Qualified Pre-screening entity "means" A University's Technology Transfer Office or the USTAR Technology Outreach Innovation Program. This term only applies to University team applicants.
- (7) Solicitation Cycle Means: A granting cycle from application to grant distribution to be held at least once a year or more depending on availability of funds. All dates for any solicitation may be found on the TCIP website.
- (8) "TCIP" means the Technology Commercialization and Innovation Program as defined in Utah Code Section 63M-1-703(6).

R357-11-4. General Grant Requirements.

- (1) An applicant can only receive a TCIP award totaling an amount defined in policy per new technology. Policy shall be available on the TCIP website.
- (2) An applicant may not submit more than one application in the same solicitation cycle if the applicant has more than one new technology that meets the eligibility requirement for a TCIP grant.
 - (a) Only one new technology project per applicant will be funded in an solicitation cycle.
- (3) An applicant that has generated more than \$500,000 in revenue from the proposed new or derivative technology is not eligible for a TCIP grant.
- (4) An applicant that has raised more than \$3,000,000 in total prior funding, including equity and debt based financing, is not eligible for the TCIP grant.
- (5) An Applicant may apply for a TCIP grant up to three times for a specific new technology. If, after the third application TCIP does not fund the technology, TCIP will reject subsequent applicants for the same new technology without further review.

R357-11-5. Matching Funds.

- (1) Matching funds may be considered in granting an award. If considered a grant recipient must show proof of the matching funds.
- (2) Matching funds may be raised and spent at any time prior to submitting an invoice to the TCIP
 - (a) Grant recipient must submit bank statements (for Licensees) or financial statements (for Universities) demonstrating that the matching funds were available during the match period.
 - (b) Matching funds do not have to be in place at the time of the application, but must be in place before TCIP funds are disbursed within the contract period of one year.

R357-11-6. Applicant Specific Requirements.

- (1) University Teams: In order to apply for a grant or loan under the TCIP program, a University Team must satisfy the following initial criteria:
 - (a) The technology must be organized by faculty led university team;
 - (b) The technology must have completed the developmental research phase; and
 - (c) The applicant must be pre-screened by a qualified pre-screening entity.
 - (d) The qualified pre-screening entity must certify that the technology meets the criteria set forth in (a) and (b) of this section, and the certification must be provided before grant is awarded.

(2) Small Businesses: In order to apply for a grant or loan under the TCIP program, a small business must satisfy the following initial criteria:

(a) The applicant must be a "small business" as defined by the Federal Small Business Administration's definition and meet the criteria set forth in UCA Section 63M-1-703(5).

(3) A University-licensee is also be eligible if it meets the definitions in (a) above.

R357-11-7. Review of Applications and Awards.

(1) Applicants who successfully meet the eligibility requirements set forth in R357-11-4 and R357-11-5 and R357-11-6 may submit their application for the TCIP grant through the online registration portal.

(2) The Executive Director of GOED or the director's designee will evaluate the applications received in each solicitation cycle. The Executive Director or the designee may use the following criteria, as defined by the Executive Director or the designee, to evaluate applications for TCIP grants:

(a) Quality, diversity, and number of jobs created in Utah.

(b) Quality of Management and Leadership, including experience with commercialization of new technologies as demonstrated by grant applicant's application and proposal;

(c) Strength of the new technology and potential for commercialization;

(d) Size and Growth of the market of the proposed technology

(e) Applicant's ability to market the technology and the credibility of their "go-to-market" strategy.

(f) Availability of matching funds and the source and relevance of those funds as set forth in R357-11-5

(g) Whether the project combines or coordinates related research at two or more institutions of higher education;

(h) Any other criteria deemed necessary or valuable to the selection process.

(3) Additionally, each applicant's application will be compared against and with the strength of all other applicants' applications and proposals within the same solicitation cycle.

(4) The Executive Director may assemble an outside review team to review the criteria set forth above and to make recommendations regarding the application.

(5) The Executive Director or his designee shall propose funding allocations to the Board.

(6) After the Board provides its advice, the Executive Director or the designee shall determine which applications should be prioritized for funding.

(7) Applications will be prioritized and funded based on the criteria set forth in (1)-(3). Award letters will be provided setting forth the terms of the grant offer.

R357-11-8. Requirements for Grant Recipients.

(1) Contract

(a) An applicant who is awarded a TCIP grant must sign a contract with the State of Utah prior to receiving any funds

(2) Sub-Contracts

(a) Grant Recipients are prohibited from subcontracting with another entity to administer the new technology funded by the Grant.

(3) Time in State

(a) Grant recipients will be expected to retain their company, and supported technology, and exploit the technology in the State of Utah for a minimum period of five years from the date of their agreement with the State.

(b) Any applicant who fails to maintain a manufacturing or service location in the state or who fails to exploit the new technology from a location in the state will be subject to recapture of the grant funding, subject to the provisions of Utah Code Section 63M-1-704(2)(d) and R357-11-8..

(4) Authorization to disclose tax information

(a) Licensee grant recipients will be required to sign an authorization to disclose tax records for up to five years from the date of their agreement with the State.

(5) Mentoring Program

(a) Grant awardees may be required to participate in the TCIP Mentoring Program in order to secure funding.

(b) If a grant award is contingent on participation in the TCIP Mentoring Program, an awardee will be required to show active participation in the program prior to receiving any or part of the grant funding as outlined in recipient's contract.

R357-11-9. Funding.

(1) TCIP funding is for developing existing research to the point of commercialization, bridging the "funding gap" between research dollars and manufacturing dollars.

(2) TCIP funding may be used to:

(a) Purchase equipment;

(b) Purchase supplies;

(c) Fund graduate/undergraduate students for time directly applicable to center commercialization activities related to the new technology;

(d) Fund faculty salaries directly applicable to center commercialization and related to the new technology;

(e) Fund product development activities (prototypes, models, simulations);

(f) Fund technology transfer activities (trade shows, brochures, etc.);

(g) Fund market analysis;
(h) Pay for consulting fees directly applicable to center commercialization;
(i) Pay for business manager or marketing manager salaries directly applicable to center commercialization activities;
or

(j) Other purposes approved by GOED in writing.

(3) Carryover Funds

(a) The budget described in the contract is designated for the particular fiscal year and is an integral part of the contract. Upon the expiration of the contract, residual funds under the contract can only be accessed by amending the contract as described above.

(4) Invoicing Requirement

(a) Funds are disbursed on a reimbursement basis. To receive funds from the program, an invoice of actual expenses of the funded center should be submitted by the awardee at least quarterly.

(b) Every invoice must include:

(i) Contract Number;

(ii) Name of entity and Principal Investigator.;

(iii) Billing Period; and

(iv) Current and Cumulative Amounts.

R357-11-10. Reporting Requirements.

(1) Reporting and Monitoring

(a) Grant awardees or mentor will be required to submit a report of activities, achievements and expenses, etc. as specified in the awardees contract.

(b) Grant awardees or mentor will be required to comply with the State's request for information pertaining to the economic impact to the State, at least annually for up to five years from date of the agreement.

(c) Grant awardees or mentor will also be required to respond to additional periodic reporting to the TCIP Director, Governor's Office of Economic Development and GOED Board, and the Legislature, at any time during the agreement period and thereafter for two additional years.

(d) Universities and Small Businesses should also expect periodic site visits from TCIP Director or board members. Such visits will be scheduled at mutually convenient times.

R357-11-11. Recapture.

(1) In order to receive grant funding under these provisions, an applicant must commit to maintain a manufacturing location or service location in the State of Utah for at least five years from the date that the grant award letter is issued.

(2) Maintaining a manufacturing and service location means that the applicant will perform at least X percent of the grant activities listed above in the State of Utah, will exploit the technology into a commercial project in Utah and will maintain working operations in the State for at least five years from the date the grant award letter is issued.

(3) If the applicant fails to maintain a manufacturing a service location in Utah for at least five years from the date the grant award letter is issued, the entire grant amount may be subject to recapture.

(4) A repayment by an applicant shall be prorated based on the number of full ears the applicant operated in the state from the date of the awarded grant.

(5) Should an applicant fail to comply with the requirements to maintain an manufacturing and service location in Utah for the purpose of exploiting the new technology that is the subject of the grant, the Office will issue a Notice of Agency Action for Recapture.

(6) The Notice of Agency Action shall contain the grounds for recapture, and the prorated amount of the recapture, if any.

KEY: technology, innovation, commercialization, small business

Date of Enactment or Last Substantive Amendment: 2015

Authorizing, and Implementing or Interpreted Law: Subsection 63M-1-704(2)

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