

Innovative TT Mechanisms: NIH Expedited Start-Up License

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www.ott.nih.gov/startup



Background

- ◎ 50% of NIH's 1300 active licenses start with small businesses
- ◎ NIH has worked effectively with start-ups offering more flexibility in license terms
 - > Back-end loading financials
 - > Milestones for raising financing
 - > Evaluation Licenses
 - > Granting broader FOU with pull-back language after company focuses on particular product line

Small Business Innovative Research- Technology Transfer

- Awards only available to US small businesses—contracts and grants
- Novel type of contract SBIR - envisioned commercial product incorporates technology from NIH
- Analogous to spin-off with gap funding

Inspiration and Example

- Administration goals to enhance entrepreneurial activity
- Need to go another step further to facilitate licensing to start-ups
- Examples of other institutions structuring licenses to start-ups
 - > Universities: NC, HI, NV
 - > DOE GOCOs' option license
- Survey of practices to encourage faculty start-up entrepreneurial activity

NIH Start-Up Licenses: 1 Oct 2011

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- Scope: drugs, vaccines & therapeutics for at least the US market
- IP: Patents managed by NIH OTT (NIH and FDA intramural labs)
- Start-ups 5:5:50
 - < 5 yrs old
 - < \$5M capital raised
 - < 50 employees
- Exclusive Option License: 1 Year , \$2k fee
- Patent Commercialization License with deferred fees

Start-Up Patent Commercialization License

- Licensees can “amend” Option License to Commercialization License or start with CL
- Fees deferred for 3 years or liquidation event
 - 0.75% of Fair Market Value (FMV) if NIH provided only in vitro data
 - 1.5% of FMV if NIH provided animal data
 - 3.0% of FMV if NIH provided clinical data
- Defer prior patent costs but reimburse for 50% of new ones
- All patent costs reimbursed after 3 years or any earlier cash infusion event
- Milestones with no fees

Start-Up Patent Commercialization License

- ◉ Minimal Annual Royalties
 - ◉ \$15k after year 3
 - ◉ \$30k after year 6
 - ◉ \$150k after year 9
- ◉ 1.5% royalties on sales; 15% sublicense rate
- ◉ Available during FY12 with possible further extension

NIH Collaborations

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