

DEPARTMENT OF ENERGY INTERIM CONFLICT OF INTEREST POLICY FOR FINANCIAL ASSISTANCE¹

Purpose.

This DOE Interim Conflict of Interest Policy for Financial Assistance (“DOE Interim COI Policy” or “Policy”) establishes standards that provide a reasonable expectation that the design, conduct, and reporting of projects wholly or in part funded under Department of Energy (DOE) financial assistance awards (e.g., a grant, cooperative agreement, or technology investment agreement) will be free from bias resulting from financial conflicts of interest or organizational conflicts of interest.

Definitions.

Investigator means the principal Investigator (PI) and any other person, regardless of title or position, who is responsible for the purpose, design, conduct, or reporting of a project funded by DOE or proposed for funding by DOE. DOE program offices have the discretion to expand the definition to include also any person who participates in the purpose, design, conduct, or reporting of a project funded by DOE or proposed for funding by DOE. Such expansion will be specified in the applicable funding opportunity announcement and/or terms and conditions of the financial assistance award.

Significant financial interest means:

(1) A financial interest consisting of one or more of the following interests of the Investigator (and those of the Investigator's spouse and dependent children) that reasonably appears to be related to the Investigator's non-Federal entity responsibilities:

(i) With regard to any foreign or domestic publicly traded entity, a significant financial interest exists if the value of any remuneration received from the entity in the twelve months preceding the disclosure and the value of any equity interest in the entity as of the date of disclosure, when aggregated, exceeds \$5,000. For purposes of this definition, remuneration includes salary and any payment for services not otherwise identified as salary (e.g., consulting fees, honoraria, paid authorship); equity interest includes any stock, stock option, or other ownership interest, as determined through reference to public prices or other reasonable measures of fair market value;

(ii) With regard to any foreign or domestic non-publicly traded entity, a significant financial interest exists if the value of any remuneration, not otherwise disclosed as current, pending, or other support, received from the entity in the twelve months preceding the disclosure, when aggregated, exceeds \$5,000, or when the Investigator

¹ A full copy of this document can be accessed here:

<https://www.energy.gov/sites/default/files/2022-10/Department%20of%20Energy%20Interim%20Conflict%20of%20Interest%20Policy.pdf>

(or the Investigator's spouse or dependent children) holds any equity interest (e.g., stock, stock option, or other ownership interest);

(iii) Intellectual property rights and interests (e.g., patents, copyrights), upon receipt of income related to such rights and interests.

(2) Investigators also must disclose the occurrence of any reimbursed or sponsored travel (i.e., that which is paid on behalf of the Investigator and not reimbursed to the Investigator so that the exact monetary value may not be readily available) related to their institutional responsibilities that is not otherwise disclosed in current and pending or other support disclosures, provided that this disclosure requirement does not apply to travel that is reimbursed or sponsored by a Federal, state, or local government agency of the United States; a domestic Institution of Higher Education; or a domestic research institute that is affiliated with a domestic Institution of Higher Education. The non-Federal entity's FCOI policy will specify the details of this disclosure, which will include, at a minimum, the purpose of the trip, the identity of the sponsor/organizer, the destination, and the duration. In accordance with the non-Federal entity's FCOI policy, the non-Federal entity official(s) will determine if further information is needed, including a determination or disclosure of monetary value, in order to determine whether the travel constitutes a FCOI with the project funded under the DOE award.

(3) The term significant financial interest does not include the following types of financial interests: salary, royalties, or other remuneration paid by the non-Federal entity to the Investigator if the Investigator is currently employed or otherwise appointed by the non-Federal entity, including intellectual property rights assigned to the non-Federal entity and agreements to share in royalties related to such rights; any ownership interest in the non-Federal entity held by the Investigator, if the non-Federal entity is a commercial or for-profit organization; income from investment vehicles, such as mutual funds and retirement accounts, as long as the Investigator does not directly control the investment decisions made in these vehicles; income from seminars, lectures, or teaching engagements sponsored by a Federal, state, or local government agency of the United States, a domestic Institution of Higher Education, or a domestic research institute that is affiliated with a domestic Institution of Higher Education; or income from service on advisory committees or review panels for a Federal, state, or local government agency of the United States, a domestic Institution of Higher Education, or a domestic research institute that is affiliated with a domestic Institution of Higher Education.

Requirements.

(1) Each Investigator who is planning to participate in the DOE award disclose to the non-Federal entity's designated official(s) the Investigator's significant financial interests (and those of the Investigator's spouse and dependent children) no later than the time of application for the DOE award. In the event a non-Federal entity seeks to add an Investigator after the time of application, the non-Federal entity must require the Investigator make such disclosures prior to participating in a project funded under a DOE award.

(2) Each Investigator who is participating in the DOE award to submit an updated disclosure of significant financial interests at least annually.

(3) Each Investigator who is participating in the DOE award to submit an updated disclosure of significant financial interests within thirty days of discovering or acquiring (e.g., through purchase, marriage, or inheritance) a new significant financial interest.

(4) Each disclosure and updated disclosure be signed and dated by the Investigator and include a certification statement that reads:

I understand that this Disclosure is required to obtain funding from the U.S. Government. I, [Full Name and Title], certify to the best of my knowledge and belief that the information contained in this Disclosure Statement is true, complete, and accurate. I understand that any false, fictitious, or fraudulent information, misrepresentations, half-truths, or omissions of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims, or otherwise. (18 U.S.C. §§ 1001 and 287, and 31 U.S.C. 3729-3730 and 3801-3812). I further understand and agree that (1) the statements and representations made herein are material to U.S. Government's funding decision, and (2) I have a responsibility to update the disclosures during the period of performance of the award should circumstances change which impact the responses provided above.

Management of financial conflicts of interest.

(1) Prior to the non-Federal entity's expenditure of any funds under a DOE award, the designated official(s) of a non-Federal entity shall, consistent with Section IV(f): review all Investigator disclosures of significant financial interests; determine whether any of the disclosures relate to the project funded under the DOE award; determine whether a financial conflict of interest exists; and, if so, develop and implement a management plan that shall specify the actions that have been, and shall be, taken to manage such financial conflict of interest. A nonexclusive list of conditions or restrictions, one or more of which might be imposed to manage a financial conflict of interest, includes:

(i) Public disclosure of the financial conflict of interest (e.g., when presenting or publishing the project);

(ii) For projects involving human subjects, disclosure of financial conflicts of interest directly to participants;

(iii) Appointment of an independent monitor or oversight committee capable of taking measures to protect the purpose, design, conduct, and reporting of the project against bias resulting from the financial conflict of interest;

(iv) Modification of the project plan;

(v) Change of personnel or personnel responsibilities, or disqualification of personnel from participation in all or a portion of the project;

(vi) Reduction or elimination of the financial interest (e.g., sale of an equity interest); or

(vii) Severance of relationship(s) that create financial conflicts of interest.

(2) Whenever a non-Federal entity identifies a significant financial interest that was not disclosed timely by an Investigator or, for whatever reason, was not previously reviewed by the non-Federal entity during an ongoing project funded under a DOE award (e.g., was not timely reviewed or reported by a subrecipient) , the designated official(s) shall, within sixty days: review the significant financial interest; determine whether it is related to the project funded under a DOE award; determine whether a financial conflict of interest exists; and, if so:

(i) Implement, on at least an interim basis, a management plan that shall specify the actions that have been and will be taken to manage such financial conflict of interest going forward;

(ii) In addition, whenever a financial conflict of interest is not identified or managed in a timely manner, including failure by the Investigator to disclose a significant financial interest that is determined by the non-Federal entity to constitute a financial conflict of interest; failure Federal entity to review or manage such a financial conflict of interest; or failure by the Investigator to comply with a financial conflict of interest management plan, the non-Federal entity shall, within 120 days of the non-Federal entity's determination of noncompliance, complete a retrospective review of the Investigator's activities and the project funded under the DOE award to determine whether any project activity , or portion thereof, conducted during the time period of the noncompliance, was biased in the purpose, design, conduct, or reporting of such project.