

OEMR Conflict of Interest Policy for DOE Awards

I. Purpose

This policy's purpose is to identify and manage conflicts of interest for all projects that the Office of Energy and Mineral Resources (OEMR) uses or seeks Department of Energy (DOE) federal financial assistance, as well as ensure appropriate use of property and other assets in connection with any DOE Award. This policy incorporates obligations set forth in the DOE Conflict of Interest Policy (DOE COI Policy). OEMR shall interpret this OEMR policy consistent with the DOE COI policy.

OEMR employees are still required to comply with applicable Idaho state law, including the Idaho Ethics in Government Act (Idaho Code title 74, chapter 4), the Prohibition Against Contracts with Officers Act (Idaho Code title 74, chapter 5), and the Bribery and Corrupt Influence Act (Idaho Code §§ 18-1351 – 18-1362). Employees should review OEMR's Employee Handbook to ensure they comply with this policy, OEMR's adopted statewide Employee Ethics / Conflict of Interest Policy, and state law.

II. Applicability

This policy applies to OEMR as an agency, and to any Investigator who plans to participate in or is participating in a project funded under a DOE financial assistance award. Investigator is defined below.

III. Definitions

"Designated Official" means OEMR's Administrator or the Administrator's designee.

"Financial Conflict of Interest" (FCOI) means a situation in which a Significant Conflict of Interest or financial relationship could directly and significantly affect the design, conduct, reporting, or funding of a DOE Award project.

"Financial interest" means anything of monetary value, whether or not the value is readily ascertainable.

"Investigator" means any OEMR employee or any person under contract with OEMR, regardless of title or position,¹ who is responsible for the purpose, design, conduct, or reporting of a project funded by DOE or proposed for funding by DOE. DOE may expand the definition of Investigator to also include any person who participates in the purpose, design, conduct, or reporting of a project funded by DOE or proposed for funding by DOE. If DOE expands the definition of Investigator to include any person who participates as set forth above, that expansion will be specified in the federal funding opportunity announcement (FOA) or terms and conditions set forth by DOE for the Award.

¹ Collaborators, consultants, or graduate (master's or PhD) students may also be Investigators.

“Senior/ key personnel” means the Principal Investigator,² any other person who significantly influences the design, conduct, or reporting of a project funded under a DOE Award; and any other person identified as senior/key personnel by OEMR in the application for financial assistance, approved budget progress report, or any other report submitted to DOE by OEMR under this policy.

“Significant Financial Interest” (SFI) means both of the following:

1. A Financial Interest consisting of one or more of the following interests of the Investigator or interests of the Investigator’s spouse or dependent children that reasonably appear to be related to the Investigator’s professional responsibilities on behalf of OEMR. This includes research, consultation, analysis, development of program parameters, administration, inspection, monitoring, reporting, review applications, teaching, professional practice, institutional committee memberships, and service on panels.
 - a. With regard to any foreign or domestic publicly traded entity, the value of any remuneration received from the entity in the 12 months preceding the disclosure and the value of any equity interest in the entity as of the date of the 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.
 - b. With regard to any foreign or domestic non-publicly traded entity, 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 holding any equity interest (e.g. stock, stock option, or other ownership interest);
 - c. Intellectual property rights and interests (e.g. patents, copyrights), upon receipt of income related to such rights and interests.
2. Any reimbursed or sponsored travel by the Investigator (i.e that is paid on behalf of the Investigator and not reimbursed to the Investigator, so the exact monetary value may not be readily available) related to the Investigator’s institutional responsibilities that is not otherwise disclosed in current and pending or other support disclosures. This does not apply to travel that is reimbursed or sponsored by OEMR or a federal, state, or local government agency of the United States; a domestic institution of higher education; or a

² The Principal Investigator is typically named in the DOE Financial Assistance Agreement.

domestic research institute that is affiliated with a domestic institution of higher education.

The definition of SFI excludes the following types of financial interests: salary, royalties, or other remuneration paid by OEMR to the Investigator if the Investigator is currently employed or otherwise appointed by OEMR, including intellectual property rights assigned to OEMR and agreements to share in royalties related to such rights; 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 OEMR or 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 high education; or income from service on advisory committees or review panels of OEMR or 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.

“Subrecipient Investigator” means an Investigator employed by or otherwise working with a Subrecipient.

“Subrecipient” means an entity, usually but not limited to non-federal entities, that received a subaward from a pass-through entity to carry out part of a federal award, but does not include an individual that is a beneficiary of such DOE Award. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.

IV. Procedures

A. Roles and Responsibilities of OEMR Personnel

1. Administrator as Designated Official

- a. OEMR’s Administrator or their designee shall serve as the official designated to enforce and maintain this policy (“Designated Official”).³
- b. The Designated Official shall:
 - i. keep this policy up to date, including by checking for a revised or updated DOE COI Policy on a quarterly basis;
 - ii. revise this policy as appropriate;

³ If the Administrator chooses a designee, that designation shall be in writing with such record placed in the policy’s file and sent to all OEMR employees.

- iii. review Investigator disclosures within 60 days of when a disclosure is made, including Subrecipient disclosures; and
- iv. determine whether the disclosure is a Financial Conflict of Interest (FCOI).

c. Designated Official's Review of Investigator Disclosures:

- i. The Designated Official's review of an Investigator's disclosure must answer the following two questions using the standards set forth in the definitions section of this policy:
 - 1. Is there a Significant Financial Interest (SFI) where an Investigator's financial interest reasonably appears to be related to a project funded under a DOE Award?

A SFI is related when the Designated Official reasonably determines that the Investigator's SFI:

 - could be affected by the project;
 - could affect the project;
 - is in an entity whose financial interest could affect the project; or
 - is in an entity whose financial interest could be affected by the project.⁴
 - 2. If yes to question #1, then is the SFI a FCOI?

An interest is a FCOI when:

The Designated Official reasonably determines that the SFI could directly and significantly affect the purpose, design, conduct, or reporting of the project funded under a DOE Award.⁵

- ii. The Designated Official may involve the Investigator in the determination.
- iii. The Designated Official must explain the determination in writing and place in a file.

⁴ See DOE COI Policy p. 8, Section IV(f).

⁵ See DOE COI Policy pp. 8-9, Section IV(f).

- d. After the Designated Official determines there is a FCOI:
 - i. Designated Official must take actions necessary to manage the FCOI. This includes any FCOI of a Subrecipient Investigator.
 - ii. OEMR must develop and implement a management plan for the FCOI and, if necessary, a retrospective review and mitigation report. See DOE COI Policy, Section V, pp. 9-15. Management plans may include mitigating or eliminating the conflict of interest to ensure, to the extent possible, that the purpose, design, conduct, and reporting of a project will be free from bias. Management may also include, but is not limited to:
 - 1. Public disclosure of a FCOI (e.g. when presenting or publishing the project);
 - 2. Appoint 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 FCOI;
 - 3. Modify the project plan;
 - 4. Change personnel or personnel responsibilities, or disqualify personell from participating in all or part of the project;
 - 5. Reduce or eliminate the FCOI (e.g. sell equity interest); or
 - 6. Sever relationship(s) that create the FCOI.⁶
 - iii. The Designated Official shall maintain records relating to:
 - 1. Investigator disclosures;
 - 2. OEMR response to disclosures (even when disclosure does not result in FCOI); and
 - 3. All actions under this policy / any retrospective reviews.
- The Designated Official shall maintain these for whichever of the following is the longest time period: (1) 2 CFR 200.334; (2) dates specified in DOE Award's terms and conditions; (3) applicable Idaho law.
- iv. When a SFI is not timely disclosed by an Investigator or not timely reviewed by OEMR:

⁶ See DOE COI Policy pp. 9-10, Section V(a)(1).

1. Designated Official shall, within 60 days and follow the procedure in this policy's Section IV.A.1.c. (review the SFI; determine whether it is related to the project funded under the DOE Award; determine whether a FCOI exists).
2. If such a FCOI exists, then OEMR shall:
 - Implement (at least on an interim basis) a management plan that specifies the actions that have or will be taken to manage such FCOI going forward; and
 - Complete a retrospective review of the Investigator's activities and the project funded to determine whether any project activity, or portion thereof, conducted during the noncompliant period, was biased in the purpose, design, conduct, or reporting of the project. This must occur within 120 days of OEMR's determination of noncompliance. This action also includes any failure of an Investigator to comply with a FCOI management plan.
 - Document the retrospective review. See DOE COI Policy, Section V (a)(3)(ii)(B), p. 11.
 - Update previously submitted FCOI reports to DOE, specifying actions that will be taken to the FCOI going forward.
 - (1) If bias is found, OEMR must notify DOE promptly and submit a mitigation report to DOE.
 - (2) Items that must be included in the mitigation report are found in DOE COI Policy, Section V (a)(3)(iii), p. 11.
- e. Monitor Investigator compliance with management plan until DOE Award is complete.

2. *Training Officer*

- a. OEMR's Financial Specialist shall serve as the Training Officer for this Policy. The Training Officer shall inform each Investigator of this policy by the date that OEMR first certifies that it is in full compliance with this Policy.

- b. The Training Officer shall require each Investigator to complete training on this policy at the following times:
 - i. Prior to an Investigator participating in projects related to any DOE Award, and at least every 4 years thereafter, as long as engagement is ongoing;
 - ii. When this policy is substantively revised;
 - iii. When an Investigator becomes an Investigator for the first time; and
 - iv. When the Designated Official finds that an Investigator is not complying with this Policy.

B. Publication

OEMR shall make this policy available via a publicly accessible website.

C. Public Accessibility

1. OEMR shall respond to any person that requests information concerning SFI disclosed to OEMR that meets the following three criteria:
 - a. the SFI is still held by the senior/key personnel as defined by this policy;
 - b. OEMR determined that the SFI is related to the project funded by the DOE Award; and
 - c. OEMR determined that the SFI is a FCOI.
2. OEMR must respond to such person within five (5) business days.
 - a. If the request meets the three criteria above, the response shall include the information in DOE COI Policy, Section V (a)(5)(C)(ii).
 - b. OEMR will note in its written response that the information provided is current as of the date of correspondence and is subject to updates on at least an annual basis and within 60 days of OEMR's identification of a new FCOI.

D. Duties of Investigators

An Investigator shall disclose any SFI to the Designated Official no later than the time of application for the Award or prior to participating in a project funded under a DOE award, whichever occurs first. The Investigator shall use the Disclosure Form attached to this policy as Appendix A.

E. DOE Reporting

OEMR shall provide reports to DOE on FCOI as required by the DOE COI Policy and any DOE Award terms.

V. Asset Management

If OEMR receives any assets or property in connection with a DOE Award, the Designated Official shall ensure that those assets and property are subject to the same safeguards as state property.

VI. Compliance

Any OEMR employee that fails to comply with this policy will be subject to disciplinary action as determined based on the severity of incident(s), up to and including removal, in addition to any applicable federal penalties.