

## Vermont Department of Public Service

<b>Financial Process:</b>	<b>Conflict of Interest Policy</b>	<b>Number:</b>	<b>001</b>
<b>Topic:</b>	<b>Internal Control</b>	<b>Effective Date:</b>	<b>4/28/2023</b>
<b>Applicable To:</b>	<b>Department-wide</b>	<b>Pages:</b>	<b>7</b>
<b>Prepared by:</b>	<b>Carol Flint and Louise Porter</b>	<b>Revision Date:</b>	<b>n/a</b>

**Policy Objective and Purpose**

The Conflict of Interest policy establishes standards that provide a reasonable expectation that the design, conduct and reporting of projects wholly or in part funded under federal financial assistance awards (e.g., grant, cooperative agreement, or technology investment agreement) will be free of bias resulting from financial conflicts of interest or organizational conflicts of interest.

The purpose of this policy is to meet the requirements of federal awarding agencies for non-federal entities to disclose in writing any potential conflicts of interest in accordance with applicable Federal awarding agency policy. 2 CFR 200.112 The Department of Public Service's cognizant agency is the U.S. Department of Energy which has established an interim conflict of interest policy.

**Applicability**


This policy applies to the Department of Public Service management and staff working on DOE funded programs and projects.

**Revision History**

This policy supersedes any Department policies and practices in existence prior to its effective date. All earlier revisions of this document are superseded by this revision.

<b>Date</b>	<b>Revision #</b>	<b>Modification</b>

**Authorizing Authority:**

  
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 June E. Tierney, Commissioner

4/27/2023

Date

## Definitions

As used in this Policy:

1. Award, financial assistance award or Federal award means the same as the definition provided in 2 CFR 200.1 for the Federal award.
2. Contracting Activity means an organizational element that has the authority to award and administer contracting and financial assistance instruments.
3. Disclosure of significant financial interests means an individual's disclosure of significant financial interests to a non-Federal entity.
4. Financial conflict of interest (FCOI) means a situation in which an Investigator or the Investigator's spouse or dependent children has a significant financial interest or financial relationship that could directly and significantly affect the design, conduct, reporting or funding of a project.
5. FCOI report means a non-Federal entity's report of a financial conflict of interest to the DOE program office.
6. Financial interest means anything of monetary value, whether or not the value is readily ascertainable.
7. 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 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. Such expansion will be specified in the applicable funding opportunity announcement and/or terms and conditions of the financial assistance award.
8. Investigator's non-Federal entity responsibilities means an Investigator's professional responsibilities on behalf of the non-Federal entity, and as defined by the non-Federal entity in its policy on financial conflicts of interest, which may include: activities such as research, research consultation, teaching, professional practice, institutional committee memberships, and service on panels such as Institutional Review Boards or Data and Safety Monitoring Boards.
9. Manage means taking action to address a financial conflict of interest, which can 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.
10. Non-Federal entity means a State, local government, Indian tribe, Institution of Higher Education, nonprofit organization, or for-profit organization that carries out a DOE award as a recipient or subrecipient.

11. Non-Federal entity's designated official means the individual designated by the non-Federal entity with the authority and responsibility to act on behalf of the non-Federal entity to ensure compliance with the DOE Interim COI Policy.
12. Organizational conflict of interest means a situation where because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization. 2 CFR 200.318(c)(2).
13. Potential conflict of interest exists when an impartial observer reasonably believes that actual or apparent past, present, or currently planned interests could constitute a conflict of interest with a project funded under a DOE award.
14. Principal Investigator (PI) means a principal investigator of a project funded under a DOE financial assistance award; PI is included in the definitions of senior/key personnel and Investigator.
15. Project means the interdependent activities funded wholly or in part under the DOE financial assistance award. A project has a defined start and end point with objectives described in an application or in an approved scope that, when attained, signify completion and achievement of a specific goal, and creation of a unique product, service, or result. For awards that include recipient cost share as part of the approved budget, activities funded with that recipient cost share are included.
16. Recipient means an entity, usually but not limited to non-Federal entities, that receives a Federal award directly from a Federal awarding agency. The term recipient does not include subrecipients or individuals that are beneficiaries of the award.
17. Senior/key personnel means the PI; 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 the non-Federal entity in the application for financial assistance, approved budget, progress report, or any other report submitted to the DOE by the non-Federal entity under this Policy.
18. Significant financial interest means:
  - 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, no) 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 (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.

b. 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.

c. 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.

19. Small Business Innovation Research (SBIR) Program and Small Business Technology Transfer (STTR) Program mean the extramural research programs for small businesses that are run by the DOE Office of Science and the Advanced Research Projects Agency-Energy and certain other Federal agencies under Public Law 97-219, the Small Business Innovation Development Act, as amended, and Public Law 102-564.
20. Subrecipient means an entity, usually but not limited to non-Federal entities, that receives 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 award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

## **Standards**

**Policy** Maintain an up-to-date, written, enforced policy on financial conflicts of interest that complies with the DOE Interim COI Policy, and make such policy available via a publicly accessible website.

**Inform Staff** Inform each Investigator of the non-Federal entity's policy on financial conflicts of interest, the Investigator's responsibilities regarding disclosure of significant financial interests, and of DOE's Interim COI Policy.

**Train Staff** Require each Investigator to complete training regarding the same prior to engaging in projects related to any DOE financial assistance award and at least every four years, and immediately when any of the following circumstances apply: (1) The non-Federal entity revises its financial conflict of interest policies or procedures in any manner that affects the requirements of Investigators; (2) An Investigator is new to a non-Federal entity; or (3) A non-Federal entity finds that an Investigator is not in compliance with the non-Federal entity's financial conflict of interest policy or management plan.

**Subrecipients.** If the non-Federal entity carries out the DOE award through or with the assistance of one or more subrecipient, the recipient non-Federal entity must take reasonable steps to ensure that each subrecipient Investigator complies with this Policy by incorporating as part of a written agreement with the subrecipient terms that establish whether the financial conflict of interest policy of the recipient non-Federal entity or that of the subrecipient will apply to the subrecipient's Investigators.

- (i) If the subrecipient's Investigators must comply with the subrecipient's financial conflict of interest policy, the subrecipient shall certify as part of the agreement referenced above that its policy complies with this DOE Interim COI Policy and the subrecipient shall make such policy available via a publicly accessible website. If the subrecipient does not have any current presence on a publicly accessible website (and only in those cases), the subrecipient shall make its written policy available to any requestor within five business days of a request. If the subrecipient cannot provide such certification, the agreement shall state that subrecipient Investigators are subject to the financial conflict of interest policy of the recipient non-Federal entity for disclosing financial conflicts of interest;

(ii) Additionally, if the subrecipient's Investigators must comply with the subrecipient's financial conflict of interest policy, the agreement referenced above shall specify time period(s) for the subrecipient to report all identified financial conflicts of interest to the recipient non-Federal entity. Such time period(s) shall be sufficient to enable the recipient non-Federal entity to provide timely FCOI reports, as necessary, to DOE, as required by this DOE Interim COI Policy;

(iii) Alternatively, if the subrecipient's Investigators must comply with the recipient non-Federal entity's financial conflict of interest policy, the agreement referenced above shall specify time period(s) for the subrecipient to submit all Investigator disclosures of significant financial interests to the recipient non-Federal entity. Such time period(s) shall be sufficient to enable the recipient non-Federal entity to comply timely with its review, management, and reporting obligations under this DOE Interim COI Policy.

**Disclose** Require that: (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, in accordance with the specific time-period prescribed by the non-Federal entity, during the period of the award. Such disclosure shall include any information that was not disclosed initially to the non-Federal entity (e.g., transfer of a grant from another non-Federal entity) and shall include updated information regarding any previously disclosed significant financial interest (e.g., the updated value of a previously disclosed equity interest). (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.

**Report** Providing FCOI reports to the DOE program office regarding all financial conflict of interest of all subrecipient Investigators consistent with this Policy, i.e., prior to the expenditure of funds and within sixty days of any subsequently identified FCOI.

**Monitor/Review** Designate a non-Federal entity official(s) to solicit and review disclosures of significant financial interests from each Investigator who is planning to participate in, or is participating in, the project funded under a DOE award, including disclosures of subrecipient investigators.

### **Management Plan**

**Determine** The appointing authority or designee will make a determination as to whether an Investigator's significant financial interest is related to a project funded under a DOE award and, if so related, whether the significant financial interest is a financial conflict of interest. A financial conflict of interest exists when the non-Federal entity, through its designated official(s), reasonably determines that the significant financial interest could directly and significantly affect the purpose, design, conduct, or reporting of the project funded under a DOE award.

**Manage** A management plan will be created that shall specify the actions that have been and will be taken to manage such financial conflict of interest going forward. Take such actions as necessary to manage financial conflicts of interest, including looking into any past filings and mitigating any concerns. Mitigating or managing a financial conflict of interest could include public disclosure, appointment of an independent monitor or oversight committee, disclosure of financial conflicts of interest to participants or beneficiaries, modification of the project plan, reduction or elimination of the financial interest, and/or severance of the relationship the created the conflict of interest, among other conditions or restrictions. File a mitigation report with the DOE.

**Report** Provide initial and ongoing FCOI reports to DOE, as required. For any financial conflict of interest previously reported by the non-Federal entity with regard to an ongoing project funded under a DOE award, the non-Federal entity shall provide DOE with an annual FCOI report that addresses the status of the financial conflict of interest and, if applicable, any changes to the management plan for the duration of the DOE award. The annual FCOI report shall specify whether the financial conflict is still being managed or if it remains unmanaged/unmanageable. Alternatively, the annual FCOI report shall explain why the financial conflict no longer exists. The non-Federal entity shall provide annual FCOI reports to DOE for the duration of the project period (including extensions with or without funds) in the time and manner required by term and condition of award.

**Recordkeeping** Maintain records relating to all Investigator disclosures of financial interests and the non-Federal entity's review of and response to such disclosures (whether or not a disclosure resulted in the non-Federal entity's determination of a financial conflict of interest) and all actions under the non-Federal entity's policy or retrospective review, if applicable, for the time period specified in 2 CFR 200.334 or, where applicable, from other dates specified in the individual award terms and conditions.

**Enforcement and Sanctions** If warranted, the Department of Public Service will report concerns to Human Resources and/or take other administrative actions to ensure Investigator compliance as appropriate.

## **Resources**

[Department of Energy Interim Conflict of Interest Policy](#)

## **References:**

- 2 CFR part 910, Department of Energy (DOE) Financial Assistance Regulations
- 2 CFR part 200, e.g., 200.112, 200.318