

SCIENCE MISSION DIRECTORATE POLICY

CERTIFICATION AGAINST FINANCIAL CONFLICTS-OF-INTEREST FOR CIVIL SERVANTS WORKING ON SMD PEER REVIEWS

SMD POLICY DOCUMENT SPD-16

Approved by SMD Chief Scientist, November 12, 2008

Presented to SMD Science Management Council, November 13, 2008

Concurred by Ethics Team, Office of General Counsel, December 18, 2008

Effective as of December 19, 2008

Responsible SMD Official: SMD Chief Scientist

1. Background

a. Requirement for civil servants to avoid financial conflicts of interest

The Ethics in Government Act (18 USC 208) requires civil servants (including IPAs) to withdraw from participating in official business that causes a financial conflict of interest for the civil servant. This includes participating in a peer review of proposals whether as a program officer (SMD personnel) or as a peer reviewer (Center personnel). SMD IPAs participating as a program officer should follow the policies in *SPD-05 Preventing Financial Conflicts for IPA Employees*.

b. Demonstrating the absence of financial conflicts of interest

NPR 1900.3B, Ethics Program Management (Section 4.1.3(a)(1)(ii) requires NASA civil servants participating in peer reviews to (i) file a Financial Disclosure Form (usually form OGE-450) and (ii) have that form reviewed by General Counsel against proposing organizations to assure there is no financial conflict of interest.

In 2008, the Office of Government Ethics approved the “NASA Conflicts of Interest and Confidentiality Self Certification for NASA Peer Reviewers who are Federal Government Employees” (hereafter the Self Certification Form; see attachment). The Self Certification Form permits civil servants to certify that they do not have a financial conflict of interest without filing a OGE-450 Financial Disclosure Form.

The NASA Office of General Counsel approves the use of the Self Certification Form in lieu of filing a Financial Disclosure Form.

c. Purpose of this policy document

This policy document describes how SMD will implement the use of the Self Certification Form to certify the absence of financial conflicts of interest for all civil servants participating in peer review.

2. Requirement to file a Financial Disclosure Form

Because their official duties include managing evaluation and selection of grant proposals, NPR 1900.3B, Ethics Program Management, requires that all SMD program officers annually file a Financial Disclosure Form.

3. Process for Cooperative Agreement Notices (CANs) and NASA Research Announcements (NRAs) including ROSES

a. SMD Program Officers

After proposals are received, SMD Program Officers shall review the list of proposing organizations and individuals to determine whether he/she has a financial conflict of interest. If the program officer has no financial conflicts of interest under the standards explained on the Self-Certification Form, he/she shall sign the Self Certification Form.

The signed form shall be filed with the Selection Document from that solicitation. A digital copy of the signed form shall be filed by the peer review contractor with the program peer review files from that solicitation.

b. Peer Reviewers

- (i) Civil servant peer reviewers shall be provided with a copy of the Self Certification Form. If the civil servant peer reviewer has no financial conflicts of interest under the standards explained on the Self-Certification Form, he/she shall sign the Self Certification Form. He/she shall provide a digital copy (scan) of the signed form to the peer review contractor. The peer review contractor will file the digital copy with the program review files.

A civil servant shall not serve as a peer reviewer without signing a Self Certification Form.

- (ii) Currently and prior to modification of NSPIRES, the NSPIRES page where a reviewer self identifies as a civil servant states, "I acknowledge that I have or will file a Confidential Financial Disclosure Report (OGE Form 450)." When a civil servant peer reviewer self identifies as a civil servant through NSPIRES, either the Program Officer or the NRESS Task Lead will provide the civil servant peer reviewer with a copy of the Self Certification Form.

- (iii) After modification of NSPIRES, this page will state, "I acknowledge that I have or will sign a Conflicts-of-Interest and Confidentiality Self Certification." When a civil servant peer reviewer self identifies as a civil servant through NSPIRES, he/she is directed to download a Self Certification Form.

4. Process for Announcements of Opportunity (AOs)

- a. All civil servants participating in the evaluation of proposals submitted in response to the AO, whether serving on the science peer review, the technical/management/cost (TMC) review, or any other review, shall file a Financial Disclosure Form.
- b. The SMD Chief Scientist shall submit to the Office of General Counsel (i) a list of all civil servants participating in the evaluation and selection process for the AO and (ii) a list of all institutions named as a participant on the cover page of any proposal submitted in response to the AO.
- c. The NASA legal community, as assigned by the Office of General Counsel, shall review the Financial Disclosure Form for all participating civil servants against the list of all proposing organizations. No civil servant shall participate in the evaluation or selection process for the AO without clearance by an Agency lawyer.

5. Questions

Questions about this policy shall be directed to the SMD Chief Scientist.

Questions about the Self Certification Form, including any questions as to whether a potential conflict is disqualifying, shall be directed to the questioner's agency ethics official. Program Officers should contact their appropriate Center Agency Ethics Official. At Headquarters, questions should be directed to the HQ Ethics Team at ethicsteam@hq.nasa.gov or 202-358-2465.

Questions about obtaining or filing the Self Certification Form shall be directed to the appropriate Program Officer or NRESS Task Lead.

National Aeronautics and Space Administration
Conflicts-of-Interest and Confidentiality Self-Certification
For NASA Peer Reviewers who are Federal Government Employees

1. Applicability of Form.

This form is applicable to NASA peer reviewers who are government employees of NASA and other Federal agencies, including Special Government Employees and individuals serving under Intergovernmental Personnel Act agreements.

2. Use of Form.

This form is to be used only in conjunction with Broad Agency Announcements (BAA's), Cooperative Agreement Notices (CAN's), and NASA Research Announcements (NRA's). It is not for use with Announcements of Opportunity (AO's) or procurement activities such as Source Evaluation Boards (SEB's) or Source Evaluation Committees (SECs).

3. Your Potential Conflicts of Interest.

Your designation as a NASA peer reviewer requires that you be aware of circumstances under which a potential conflict of interest or appearance of a conflict of interest may arise. Read the examples of potentially biasing affiliations or relationships listed on the next page of this form. As a NASA peer reviewer, you will be asked to review applicant proposals. You might have a conflict based on your financial interest in one or more of the applicants. Should you identify a conflict at any time during your term, you must immediately bring the matter to the attention of the NASA program officer who asked you to serve as a peer reviewer and contact your local NASA Legal Office for guidance.

4. No Use of "Insider" Information.

If your designation gives you access to information not generally available to the public, you must not use that information for your personal benefit or make it available for the personal benefit of any other individual or organization.

5. Your Obligation to Maintain the Confidentiality of Proposals and Applicants.

NASA receives proposals in confidence and protects the confidentiality of their contents. For this reason, you must not copy, quote, or otherwise use or disclose to anyone, including your graduate students or post-doctoral or research associates, any material from any proposal you are asked to review. If you believe a colleague can make a substantial contribution to the review, please obtain permission from the NASA program officer *before* disclosing either the contents of the proposal or the name of any applicant or principal investigator.

6. Confidentiality of the Review Process and Reviewer Names.

NASA keeps proposal reviews and your identity as a reviewer of specific proposals confidential to the maximum extent possible. Please respect the confidentiality of all principal investigators and of other reviewers. Do not disclose their identities, the relative assessments or rankings of proposals by a peer review panel, or other details about the peer review of proposals.

YOUR CERTIFICATION

Your Potential Conflicts.

I have reviewed the list of individuals and institutions who have submitted proposals to the project for which I am serving as a peer reviewer. I have also reviewed the list entitled "Conflicts of Interest for NASA Peer Reviewers," which lists the affiliations and relationships that could prevent my participation in matters involving such individuals or institutions. I understand that this conflicts list is an illustrative list and not an exhaustive list of disqualifying affiliations and relationships. I understand that I must contact the NASA program officer and my local NASA Legal Office immediately if there is a conflict or appearance of a conflict between the proposals submitted and my affiliations and relationships, or if such conflict arises at any time during my service as a peer reviewer. I further understand that **I must sign this Conflict Statement before I may review any proposals.**

Maintaining the Confidentiality.

I will not divulge or use any confidential information that I may become aware of during my service as a peer reviewer.

Penalties

I understand that I could be subject to criminal penalties and/or disciplinary action if I participate while I have a conflict of interest or an appearance of a conflict of interest, or otherwise do not comply with the standards set forth here.

CERTIFICATION: I certify that I have no affiliation or relationship that would constitute a conflict or potential conflict or an appearance of a conflict that would prevent me from performing my duties on this peer review.

Peer Reviewer's Name (Please print) _____

Peer Reviewer's Signature _____ Date _____

Government Agency: _____ Directorate/Division: _____

Phone Number: _____ Email: _____

Name of Peer Review Panel: _____

Conflicts of Interest for NASA Peer Reviewers

(This is a list of examples and not an exhaustive list of disqualifying affiliations and relationships.)

You may have a disqualifying conflict of interest or appearance of a conflict of interest if you have a relationship or affiliation identified in any of the three categories listed below:

1. YOUR AFFILIATIONS WITH A PROPOSING OR APPLICANT INSTITUTION OR COMPANY

- Current employment at the proposing organization as a professor, adjunct professor, visiting professor, employee, or similar position.
- Other current employment with the proposing organization (such as a consulting or advisory arrangement)
- Seeking or negotiating for employment with the proposing organization.
- Formal or informal arrangement for future employment with the proposing organization.
- A financial interest in the proposing organization (e.g. ownership of securities).
- Serving as an officer, director, trustee, general partner, or in another role of authority in the proposing organization. (Ordinary membership in a professional society or association is not considered an office.)
- Current enrollment as a student with a proposing organization. (Only a conflict for proposals or applications that originate from the department or school in which one is a student.)
- Previous employment with the proposing organization within the last 12 months.
- Any award, honoraria, or other payment received from a proposing organization within the last 12 months.

2. YOUR RELATIONSHIP WITH AN INVESTIGATOR, PROJECT DIRECTOR, OR OTHER PERSON WHO IS A PARTICIPANT IN THE PROPOSAL OR OTHER APPLICATION

- Family relationship as spouse, child, sibling, or parent.
- Business or professional general partnership (An ordinary scientific collaboration is not considered a partnership).
- Association as thesis advisor (major professor) or thesis student, or acting in a similar role, within the past 12 months.
- Professional or personal relationship which may preclude you from being impartial.

3. YOUR OTHER AFFILIATIONS OR RELATIONSHIPS

- The following interests may create a conflict or the appearance of a conflict for you: Any financial interest or professional affiliation or relationship of your spouse, your minor child, anyone living in your immediate household, or anyone who is legally your general partner. (E.g., if your spouse is employed by a proposing organization, this may create an actual conflict or the appearance of a conflict for you.)
- Other relationship, such as close personal friendship, that you think might tend to affect your judgment or be seen as doing so by a reasonable person familiar with the relationship.
- Other financial interests and relationships, such as those related to persons or organizations in competition with a proposing organization, which you think might tend to affect your judgment or be seen as doing so by a reasonable person familiar with the relationship.

If you identify a potential conflict of interest or appearance of a conflict of interest at the beginning or at any time during your tenure as a NASA peer reviewer, bring it immediately to the attention of the NASA Program Officer who asked you to serve as a peer reviewer. This official will determine how the matter should be handled and will tell you what steps, if any, to take. You should also consult with your local legal counsel or ethics official at any time during the process for legal advice.