

# CONFLICT OF INTEREST (COI)/ETHICS PROCEDURES AND REQUIREMENTS for SPECIAL GOVERNMENT EMPLOYEES (SGEs) AND PEER REVIEWERS

## COI/ETHICS PROCEDURES

### SGEs

#### NACs/PACs/BSCs

- New SGE completes and returns OGE 450 and HHS 697
- CMO and Ex Sec review HHS 697 and advise accordingly (form is completed yearly)
- CMO reviews OGE 450 and prepares Recusal List
- CMO and Ex Sec review OGE 450 and Recusal List; CMO prepares COI Waiver/Authorization when necessary
- IC DEC reviews and signs original OGE 450 and COI Waiver
- SGE reviews most recent Recusal List and completes a COI Verification update 30 working days prior to each meeting
- CMO and Ex Sec review, update, and prepare new COI Waiver/Authorization or Addendum and/or Recusal List as necessary
- IC DEC signs Waiver/Authorization or Addendum
- CMO sends copy of signed COI Waiver/Addendum to NIH Ethics Counsel
- CMO retains original OGE 450 and COI Waiver/Addendum/Authorization/Recusal List

### PEER REVIEWERS

#### SRGs/SEPs

All Pre-meeting and Post-meeting COI documents are generated in the Peer Review Module of the IMPAC II

- All Peer Reviewers are sent Pre-meeting COI forms to complete and sign prior to application assignment
- SRA reviews completed forms and assigns applications accordingly
- NIH Post-meeting COI forms are signed by reviewers
- Original COI documents are retained in the IC's Official File

### *Items to be considered when determining Actual and Appearance of Conflicts of Interest for SGEs and Peer Reviewers*

- Employment – Self, Spouse, Significant Other, Dependent Children, and Professional Associates
- Investments – Financial Interests of Self, Spouse, Domestic Partner, and Dependent Children
- Memberships - Professional Associations
- Adjunct Appointments
- Affiliations
- Collaborations
- Honorariums/Sponsored Travel
- Mentorships

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**COI/ETHICS FORMS**

<i>Committees</i>	<b>NACs</b>			<b>PACs</b>		<b>BSCs</b>	
<i>Forms</i>	<b>SGE</b>	<b>Fed Empl/ Ex Officio</b>	<b>Non- Member</b>	<b>SGE</b>	<b>Fed Empl/ Ex Officio</b>	<b>SGEs</b>	<b>Fed Empl</b>
OGE 450	X	X <i>or</i>		X	X <i>or</i>	X	X <i>or</i>
SF 278		X			X		X
Recusal List	X			X		X	
Verification of Review of Financial Interests	X	X		X	X	X	X
Verification Form (SF278 Filers)		X			X		X <i>or</i>
Clearance Process to Identify and Resolve Potential Conflicts of Interest	X	X		X	X	X	X
COI Certification for Non-Member			X				
Post Meeting Certification	X	X					
Post Meeting Certification for Ex Officio and Alternates		X			X (when applicable)		
HHS 697 Foreign Activities Questionnaire	X			X		X	
Conflict of Interest and Confidentiality Certification for Individuals Evaluating All NIH Intramural Programs						X	X

<i>Committees</i>	<b>SRGs</b>				<b>SEPs</b>		
<i>Forms</i>	<b>Non-Fed</b>	<b>Fed Empl</b>	<b>Temporary</b>	<b>Non- Member</b>	<b>Non-Fed</b>	<b>Fed Empl</b>	<b>Non- Member</b>
Pre-Review Certification for Non-Federal Reviewers	X		X		X		
Pre-Review Certification for Federal Reviewers		X	X			X	
Post Review Certification for Non- Federal and Federal Reviewers	X	X	X		X	X	

# CONFLICT OF INTEREST (COI)/ETHICS PROCEDURES AND REQUIREMENTS for SPECIAL GOVERNMENT EMPLOYEES (SGEs) AND PEER REVIEWERS

## EMOLUMENTS CLAUSE OF THE U. S. CONSTITUTION

### SGEs

*The Emoluments Clause applies at all times during an SGE's appointment.*

- SGE cannot be an employee of a foreign government entity, including certain public universities or commercial enterprises owned or operated by a foreign government.
- SGE cannot receive any present, emolument, office or title from a foreign state.
  - An emolument includes salary, honoraria, transportation, per diem, household goods, shipment costs, and housing allowances.

*SGE must complete Form HHS 697, Foreign Activities Questionnaire, as required by HHS Office of General Counsel, Ethics Division.*

- New members receive form with appointment package.
- Current members receive form yearly. CMO sends form prior to first committee meeting of each year, with OGE 450 update/verification.

For a list of foreign entities that are and are not governed by the Emoluments Clause, please see <http://ethics.od.nih.gov/Topics/foreign.htm> . This list is noninclusive.

### PEER REVIEWERS

The Emoluments Clause does not apply to Peer Reviewers.

## COI TRAINING REQUIREMENTS

### SGEs

- Annual ethics training is required each calendar year by the Office of Government Ethics
- Training materials determined by Office of General Counsel, Ethics Division
- IC CMO retains ethics training documentation
- Annual ethics training report required by DHHS

### PEER REVIEWERS

- SRAs provide Peer Reviewers with an orientation of NIH Policy and Procedures upon initial committee appointment and prior to each IRG meeting
- SRAs provide orientation to SEP members prior to each SEP meeting

# CONFLICT OF INTEREST (COI)/ETHICS PROCEDURES AND REQUIREMENTS for SPECIAL GOVERNMENT EMPLOYEES (SGEs) AND PEER REVIEWERS

## COI for STATE MULTI-CAMPUS SYSTEMS and PRIVATE INSTITUTIONS and AFFILIATES

### SGEs

#### State Multi-campus Institutions

A member employed at one campus of a State multi-university system may review applications from a separate university of the same system, provided they have no multi-campus responsibilities.

For example,

- An SGE member from California (Cal) State Fullerton may review grants from another university of the Cal State University system.
- A member of the Board of Regents of Cal State University system may not review applications from any of the campuses of Cal State unless a waiver is granted under 18 U.S.C. (b)(1) or (b)(3).

#### Private Institutions and Affiliates

Members may review applications submitted by an affiliate of their private institution if they:

- do not hold a joint appointment with that affiliate,
- do not have affiliate-wide responsibilities, and
- have a waiver to participate.

For example, a Professor at Harvard may review applications from Beth Israel, if above criteria is met.

For additional information see  
**OFACP Policy Announcement 2001-04:  
Conflict of Interest for Special Government Employees  
(SGEs) from State-Multi-Campus Systems and Private  
Institutions and Affiliates**

<http://www3.od.nih.gov/cm0/laws-rp-rt/index.html>

### PEER REVIEWERS

#### Multi-Component Institutions

A non-Federal member employed by one component of a multi-component academic institution, hospital, health center, or research institute may review an application/proposal from another component of that organization if they are considered sufficiently independent.

For example,

- The separate campuses of the California State system are separate components in the same way as the separate campuses of the University of California system.
- The separate campuses of the Harvard system are considered separate components.
- The Johns Hopkins Bayview Medical Center and the School of Arts and Sciences, Homewood Campus, are separate components.
- The Johns Hopkins School of Arts and Sciences and of Engineering, Homewood Campus, are separate components.
- For purposes of this blanket waiver, the Departments of Biology and Chemistry within the School of Arts and Sciences are NOT separate components.

For additional information see  
**OER Policy Announcement 1999-02:  
Blanket Waiver of Conflict of Interest for Peer Review  
Consultants - Multi-Component Institutions**

[http://odoerdb2-1.od.nih.gov/oer/policies/oer\\_announce\\_1999\\_02.htm](http://odoerdb2-1.od.nih.gov/oer/policies/oer_announce_1999_02.htm)

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<b>ATTENDANCE AT CLOSED SESSIONS</b>
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	<b>NACs</b>	<b>SRGs</b>	<b>SEPs</b>	
SGE Committee Members	X			
Peer Review Committee Members (including Temporary Members)	X <sup>*</sup>	X		
Peer Reviewers Designated to Serve on SEPs			X	
Federal Officials (operational)	X	X	X	
Federal Officials (need to know)	X	X	X	
Non-Member Attendees (ad hoc consultants), with approved COI Certification	X <sup>**</sup>			
Other:				
Newly appointed Council members, with approved OGE 450 form	X <sup>***</sup>	X <sup>***</sup>	X <sup>***</sup>	
Council nominees, with approved OGE 450 form	X <sup>***</sup>	X <sup>***</sup>	X <sup>***</sup>	
Individuals assisting members with disabilities	X	X	X	

\* May attend only for the discussion of general peer review issues or SRG operations.

\*\* May attend as a reviewer, presenter, or discussant.

\*\*\* May attend for training/orientation.