

## Department of the Interior Acquisition, Assistance, and Asset Policy (DOI-AAAP)

<b>Title</b>	Conflict of Interest and Mandatory Disclosures for Financial Assistance:Department of the Interior Implementation of 2 CFR Part 200, Sections 200.112 and 200.113
<b>Reference Number</b>	0008
<b>Version Number</b>	01
<b>Function(s)</b>	Acquisition, Financial Assistance
<b>Point of Contact</b>	Hairston, Anita
<b>Source of this Requirement</b>	Omni-Circular
<b>Regulatory Reference</b>	2 CFR 200.110

### Version Detail

This section is completed in the following situations: (1) policies issued with versions greater than 01 or (2) the initial use of the DOI-AAAP to convert previous DOI Acquisition Policy Releases (DIAPR), DOI Property Policy Releases (DIPPR), or DOI Guidance (DIG).

Version Number	Date	Author	Description of update

### Purpose:

The policy memorandum establishes Department of the Interior (DOI) policy for conflict of interest and mandatory disclosures under discretionary Federal financial assistance awards, including grants and cooperative agreements; and implements the Office of Management and Budget (OMB) Final Rule for the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (see 2 CFR. Part 200 et. seq.). Conflicts of interest (actual or potential) may arise in the objective review process or in other activities or phases of the financial assistance process.

### Scope:

This policy sets forth the ethical standards by which DOI bureau and office employees conduct themselves during the proposal evaluation and award selection process, and the award and management of discretionary Federal financial assistance.

### Effective date:

In accordance with 2 CFR 200.110, these requirements are effective December 26, 2014.

### Background:

On December 26, 2013, OMB published its Final Rule for the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, or “Omni-circular,” with guidance for agency implementation (see 2 CFR Part 200 and Federal Register Volume 78,

No. 248). The Omni-circular streamlines the Federal Government's administrative requirements, cost principles, and audit requirements for Federal awards including grants and cooperative agreements. (The Omni-circular supersedes OMB Circulars A-21, A-87, A-110, and A-122; Circulars A-89, A-102, and A-133; and the guidance in Circular A-50 on Single Audit Act follow-up.) The Omni-circular provides a government-wide framework for Federal awards management, and is a key component of a larger Federal effort to more effectively focus Federal resources on improving Federal awards performance and outcomes while ensuring the financial integrity of taxpayer dollars in partnership with non-Federal stakeholders. This OMB guidance reform will reduce administrative burden for non-Federal financial assistance recipients while reducing the risk of waste, fraud and abuse.

The Omni-circular requires the Department to establish policies for conflict of interest and mandatory disclosures for financial assistance. The non-Federal entity must disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy (see 2 CFR § 200.112, Conflict of interest). Additionally, the non-Federal entity or applicant for a Federal award must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award (see 2 CFR § 200.113, Mandatory disclosures).

**Action:**

- A. Proposal evaluators and advisors, including members of evaluation committees, must render impartial, technically sound, and objective assistance and advice to protect the integrity of the proposal evaluation and award selection process. A Federal employee is prohibited from participating in his or her government capacity in any particular matter when the employee, his or her spouse, minor child, outside business associate, or a person or organization with whom the employee is negotiating or has an arrangement for prospective employment, has a financial interest in the particular matter (see 18 USC § 208).
- B. Employees are prohibited from having a direct or indirect financial interest that conflicts substantially or appears to conflict substantially with his or her government duties and responsibilities (see 5 CFR § 2635.402 and 5 CFR § 2635.502). Employees are also prohibited from engaging in, directly or indirectly, a financial transaction resulting from, or primarily relying on, information obtained through his or her government employment (see 5 CFR § 2635.702 and 5 CFR § 2635.703). In addition, 43 CFR § 20.401-403 contains other regulations concerning conflicts of interest involving employees of specific bureaus and offices. Employee Responsibility and Conduct Regulations for the Department of the Interior are contained in 43 CFR Part 20, 5 CFR § 2634, 5 CFR 2635, and 5 CFR § 2640.
- C. With the exception of contracting personnel, proposal evaluators and advisors are not required to file a Statement of Employment and Financial Interest (DI-210) unless they occupy positions identified in 5 CFR § 2634.202 and 5 CFR 2634.904. Therefore, upon receipt of a memorandum of appointment, each proposal evaluator and advisor shall

sign and return the attached Conflict of Interest Certificate to the Grants Officer or official responsible for the review. If an actual or potential conflict of interest exists, the appointee shall not be allowed to evaluate or provide advice on a potential applicant's proposal until the conflict has been resolved with the servicing Ethics Counselor. Signed certificates from all proposal evaluators and advisors must be retained in the master file for the Funding Opportunity Announcement.

- D. During the evaluation process, each proposal evaluator and advisor is responsible for assuring that there are no financial or employment interests which conflict or give the appearance of conflicting with his or her duty to evaluate proposals impartially and objectively. Examples of situations which may be prohibited or represent a potential conflict of interest may include, but are not limited to:
1. Financial interest, including ownership of stocks and bonds, in a firm which submits, or is expected to submit, an application in response to the funding opportunity;
  2. Outstanding financial commitments to any applicant or potential applicant;
  3. Employment in any capacity, even if otherwise permissible, by any applicant or potential applicant;
  4. Employment within the last 12 months by any applicant or potential applicant;
  5. Any non-vested pension or reemployment rights, or interest in profit sharing or stock bonus plan, arising out of the previous employment by an applicant or potential applicant;
  6. Employment of any member of the immediate family by any applicant or potential applicant;
  7. Positions of trust that may include employment, past or present, as an officer, director, trustee, general partner, agent, attorney, consultant, or contractor;
  8. A close personal relationship that may include a childhood or other friend, sibling, or other family relations that may compromise or impair the fairness and impartiality of the proposal evaluator or advisor and grants officer during the proposal evaluation and award selection process, and the management of an award; and
  9. Negotiation of outside employment with any applicant or potential applicant.
- E. Each proposal evaluator and advisor must immediately disclose in writing to the Grants Officer or the individual responsible for the review as soon as it becomes known that an actual or potential conflict of interest exists. The grants officer must obtain the assistance of the servicing Ethics Counselor in order to reach an opinion or resolution. A record of the disposition of all conflict of interest situations must be included in the award file.
- F. All DOI financial assistance awards must include the following term and condition prohibiting Recipient, Recipient employee, and Subrecipient conflicts of interest:

#### Conflict of Interest

The Recipient must establish safeguards to prohibit its employees and Subrecipients from using their positions for purposes that constitute or present the appearance of a

personal or organizational conflict of interest. The Recipient is responsible for notifying the Grants Officer in writing of any actual or potential conflicts of interest that may arise during the life of this award. Conflicts of interest include any relationship or matter which might place the Recipient or its employees in a position of conflict, real or apparent, between their responsibilities under the agreement and any other outside interests. Conflicts of interest may also include, but are not limited to, direct or indirect financial interests, close personal relationships, positions of trust in outside organizations, consideration of future employment arrangements with a different organization, or decision-making affecting the award that would cause a reasonable person with knowledge of the relevant facts to question the impartiality of the Recipient and/or Recipient's employees and Sub-recipients in the matter.

The Grants Officer and the servicing Ethics Counselor will determine if a conflict of interest exists. If a conflict of interest exists, the Grants Officer will determine whether a mitigation plan is feasible. Mitigation plans must be approved by the Grants Officer in writing. Failure to resolve conflicts of interest in a manner that satisfies the government may be cause for termination of the award.

Failure to make required disclosures may result in any of the remedies described in 2 CFR § 200.338, Remedies for Noncompliance, including suspension or debarment (see also 2 CFR Part 180).

#### **Definitions:**

This section incorporates by reference 2 CFR Part 200, Subpart A, Acronyms and Definitions including, but not limited to the following additional terms:

- A. Conflict of Interest is defined as any relationship or matter which might place the Recipient, its employees, and/or its Subrecipients in a position of conflict, real or apparent, between their responsibilities under the agreement and any other outside interests. Conflicts of interest may also include, but are not limited to, direct or indirect financial interests, close personal relationships, positions of trust in outside organizations, consideration of future employment arrangements with a different organization, or decision-making affecting the award that would cause a reasonable person with knowledge of the relevant facts to question the impartiality of the Recipient and/or Recipient's employees and Subrecipients in the matter.
- B. Close Personal Relationship means a Federal award program employee's childhood or other friend, sibling, or other family relations that may compromise or impair the fairness and impartiality of the Proposal Evaluator and Advisor and Grants Officer in the review, selection, award, and management of a financial assistance award.
- C. Discretionary Federal Financial Assistance means Federal awards including grants and agreements that are awarded at the discretion of the agency.
- D. Employment means:
  - 1. In any capacity, even if otherwise permissible, by any applicant or potential applicant for a Federal financial assistance award;

2. Employment within the last 12 months with a different organization applying for some portion of the award's approved project activities and funding to complete them OR expected to apply for and to receive some portion of the award; and/or
  3. Employment with a different organization of any member of the organization employee's household or a relative with whom the organization's employee has a close personal relationship who is applying for some portion of the award's approved project activities and funding to complete them OR expected to apply for and to receive some portion of the award.
- E. Non-Federal entity means a State, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a Federal award as a Recipient or Subrecipient.
- F. Recipient means a non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term Recipient does not include Subrecipients.
- G. Subrecipient means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program, but does not include an individual who is a beneficiary of such program. A Subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

**Attachments:**

The official policy memorandum was issued on December 22, 2014 and can be found by clicking on the following link: [Conflict of Interest Mandatory Disclosures for Financial Assistance](#)

[Attachment A - Conflict of Interest Certificate](#)