

# **The University of Southern Mississippi**

## **Research Policy Series**

### **Conflict of Interest Policies and Procedures**

In recent years, the issue of conflict of interest (COI) has become increasingly important. University faculty and staff members have taken on new and different functions in addition to the traditional roles of teaching, research, and public service. Spin-off companies transferring technology developed in the laboratory, extensive consultative activities, and various types of public service involvement are encouraged by both federal and state agencies, and by the University as necessary for the public good. Governmental agencies, becoming more concerned about the extent and type of these activities as they relate to funded and proposed research and scholarly activities of faculty and staff, have issued regulations which require universities to develop, publish, and enforce institutional policies which comply with certain federal mandates. Key in these policies is the requirement for regular, timely, and full disclosure of actual or potential conflicts of interests as they relate to significant financial interests which could reasonably be seen by an impartial observer as affecting the design, conduct, or reporting of research or educational activities funded or proposed for funding by an external sponsor.

This policy as written defines the general procedures regarding conflicts of interest and the University's responsibility in accordance with federal regulations. This policy is not meant to address the improper use of office as defined in the Mississippi Ethics in Government Law.

## DEFINITIONS

### **Conflict of Interest**

Conflict of interest means any outside activity, commitment or interest that may adversely affect, compromise or be incompatible with the obligations of an employee to the University or to widely recognized professional norms. Conflict of interest refers to situations in which financial or other personal considerations may compromise, or have the appearance of compromising an employee's professional judgment in exercising any University duty or responsibility.

### **Investigator**

An investigator is any person at the University who is responsible for the design, conduct, or reporting of research, educational activities, or service activities funded, or proposed for funding, by any external sponsor.

### **Covered Individual**

This policy includes anyone who is directly connected to the above functions related to the activity or whose work is supported in whole or in part by the grant, cooperative agreement, or contract from the external sponsor, e.g., principal investigator, co-investigator, postdoctoral fellow, student, technician, clerical employee.

### **Immediate family**

Immediate family means the Investigator's spouse and dependent children as defined by the Internal Revenue Code.

### **External Sponsor**

An external sponsor is any agency outside the University who is providing financial support for any research, educational or service activity to be conducted by the University. Both governmental and non-governmental sponsors are included in this definition.

### **Associated Entity**

An associated entity is any trust, organization, or enterprise other than the University over which the investigator, or any member of the investigator's immediate family, exercises a controlling interest.

### **Conflict of Interest Review Committee**

The Conflict of Interest Review Committee (CIRC) is a committee appointed by the Vice President for Research and Planning to review a disclosure when a potential or actual conflict of interest has been identified by the Director of the Office of Research and Sponsored Programs (ORSP). The CIRC shall be charged with the responsibility of determining if an actual or a potential conflict of interest exists and recommending to the Vice President for Research and Planning ways to manage, reduce or eliminate the conflict. The Committee shall be convened by the Vice President for Research and Planning and shall include the Chair or Director of the unit in which the investigator is budgeted, the University Counsel, the Assistant Vice President for Research and Planning, one member of the University Research Council, one faculty member, and other members as deemed necessary and appropriate by the Vice President. The Assistant Vice President for Research and Planning shall chair the CIRC.

### **Significant Financial Interest**

Significant financial interest means anything of monetary value, including but not limited to, salary and other payments for services (e.g., consulting fees or honoraria); equity interests ( e.g., stock, stock options, or other ownership interests); and intellectual property rights (e.g., patents, copyrights and royalties from such rights).

The term does not include:

1. Salary, royalties, or other remuneration from the University;
2. Any ownership rights held by the University, if the University is an applicant or subcontractor under the Small Business Innovation Research (SBIR) Program or the Small Business Technology Transfer (STTR) Program;
3. Income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities;
4. Income from service on advisory committees or review panels for public or nonprofit entities;
5. An equity interest that when aggregated for the investigator and the investigator's spouse and dependent children, meets both of the following tests:
  - (a) Does not exceed \$10,000 in value as determined through reference to public prices, or other reasonable measures of fair market value, and
  - (b) Does not represent more than a five percent ownership interest in any single entity;
6. Salary, royalties or other payments when aggregated for the Investigator and the Investigator's spouse and dependent children over the next twelve months, are not expected to exceed \$10,000.

### **Confidentiality of Records**

To the extent permitted by law, disclosure packets submitted to the Office of Research and Sponsored Programs and marked “Confidential” shall be maintained in a locked cabinet accessible only to the Director or his/her designee and shall be made available to others on a “need to know” basis as required to carry out this policy.

### **Memorandum of Understanding**

A Memorandum of Understanding (MOU) is a document developed and agreed to by the CIRC and the Investigator(s) and approved by the Vice President for Research and Planning which constitutes a plan for the resolution of a potential or actual conflict of interest. This may also be referred to as the Conflict of Interest Resolution Plan.

## **GENERAL PRINCIPLES**

### **Conflict of Interest**

A conflict of interest may take various forms but exists when there is a divergence between an individual's private interests and his or her professional obligations to the University such that an independent observer might reasonably question whether the individual's professional actions or decisions might be influenced by considerations of gain, financial or otherwise, for the individual or his or her family members or for other parties. A conflict of interest depends on the situation, and not on the character or the actions of the individual.

Conflicts of interest are common and practically unavoidable in a modern research university. Conflicts of interest can arise out of the fact that a mission of the University is to promote public good by fostering the transfer of knowledge gained through University research and scholarship to the private sector. Two important means of accomplishing this mission include consulting and the commercialization of technologies derived from University activities. It is appropriate that individuals be rewarded for their participation in these activities through consulting fees, sharing in royalties resulting from the commercialization of their work, ownership and/or other associations with spin-off companies. It is wrong, however, for an individual's actions or decisions, made in the course of his or her University activities, to be determined by considerations of personal financial gain. Such behavior calls into question the professional objectivity and ethics of the individual and reflects negatively on both the institution and the sponsor of the activity.

Investigators are expected to conduct their affairs so as to avoid or minimize conflicts of interest, and must respond appropriately when apparent conflicts of interest arise. To that end, the purposes of this policy are to educate individuals about situations that generate conflicts of interest, to provide means for individuals and the University to manage, reduce, or eliminate actual or potential conflicts of interest, and to describe situations that are prohibited. Every employee has an obligation to become familiar with, and abide by, the provisions of this policy. If a situation arises which raises questions of conflict of interest, employees are urged to discuss the situation with their department chair, college dean, Director of the Office of Research and Sponsored Programs or the Vice President for Research and Planning.

## STATEMENT OF POLICY

Prior to the University entering into any of the arrangements listed below, the involved Investigator(s) must have submitted to the University through the channels described in this document a complete certification and disclosure. This disclosure must include (1) his or her current or pending relationship with the outside enterprise or entity in which the Investigator has a significant financial interest; (2) any current or pending relationship or significant financial interest of his/her immediate family which exists with the outside enterprise or entity; (3) the relationship of the proposed University activity to the enterprise or entity, and (4) the means by which the Investigator proposes to address actual or potential conflicts of interest which arise from his/her dual University and enterprise or entity roles or that of an immediate family member.

### Covered Arrangements

A) Projects where any of the involved Investigators or their immediate family members have employment or consulting arrangements or significant financial interests in an enterprise or entity whose interests might be affected by the outcome of the proposed project;

B) Projects in which any of the involved Investigators or their immediate family members have employment or consulting arrangements or significant financial interests in the proposed sponsor, subcontractor, vendor, or collaborator with the proposed project;

C) Gifts, including cash or property, which will be under the control, or will directly support the teaching or research activities of an Investigator from an enterprise or entity in which that employee or immediate family members have an employment or consulting arrangement or significant financial interest;

D) University technology licensing arrangements with an enterprise or entity for which the Investigator or immediate family members have employment or consulting arrangements, or significant financial interests.

Common sense must prevail in the interpretation of these provisions. That is, if a reasonable, disinterested person would question the relationship, it must be disclosed and approval sought for the proposed arrangement.

#### Certification of Compliance and Disclosure

As part of the University of Southern Mississippi proposal submission process, Investigators must certify on the Conflict of Interest Certification Form (Attachment A) to their knowledge of and compliance with the financial disclosure policy of the University as outlined herein and respond to the questions. The questions on the form are intended to be inclusive of members of the Investigator's immediate family. If the Investigator responds in the affirmative to any of the questions on the Conflict of Interest Certification Form, he/she shall complete a full, narrative disclosure with all supporting documentation which identifies the business enterprise or entity involved and the nature and amount of the interest, and submit it with the Conflict of Interest Certification Form to the Director of the Office of Research and Sponsored Programs in a sealed envelope marked **Confidential Disclosure**.

Accompanying the disclosure shall be a proposed Conflict of Interest Resolution Plan (CIRP) developed by the Investigator. The CIRP should detail the proposed steps that would be taken to manage, reduce, or eliminate any actual or potential conflict of interest. Investigators must also disclose in writing to the Director of the Office of Research and Sponsored Programs on an ad hoc basis new situations in which significant financial interests are obtained and which may raise questions of conflict of interest in regard to proposals submitted or funded projects as soon as such situations arise.

The Director of the Office of Research and Sponsored Programs will conduct an initial review of the financial disclosure to determine whether there may be a potential conflict of interest. If the initial determination is made that there may be a potential or actual conflict of interest the disclosure packet shall be forwarded to the Vice President for Research and Planning for action.

The Vice President will review the financial disclosure and appoint a CIRC to review the disclosure and recommend action(s) or restrictions that might be imposed to manage, reduce, or eliminate actual or potential conflicts of interest. Such actions or restrictions may include but are not limited to:

- ◆ public disclosure of significant financial interests;
- ◆ monitoring of research by independent reviewers;
- ◆ modification of the research plan;
- ◆ disqualification from participation in that portion of the research that would be affected by the significant financial interests;

- ◆ divestiture of the significant financial interests; or
- ◆ severance of relationships that create actual or potential conflicts.

If the CIRC determines that imposing conditions or restrictions would be either ineffective or inequitable, and that the potential negative impacts that may arise from a significant financial interest are outweighed by interests of scientific progress, technology transfer, or the public health and welfare, then it may recommend to the Vice President for Research and Planning, that, to the extent permitted by federal regulations, the research go forward without imposing such conditions or restrictions.

Upon completion of its review, the CIRC shall present its findings and recommendations regarding the Resolution Plan in writing to the Vice President for Research and Planning. After final review by the Vice President for Research and Planning, the Vice President shall notify in writing the Investigator and the Director of the Office of Research and Sponsored Programs of his/her final decision regarding the matter. A Memorandum of Understanding detailing the Resolution Plan shall be signed by the Investigator, the department chair/director of the involved unit, and the Vice President. Actual or potential conflicts of interest will be satisfactorily managed, reduced, or eliminated in accordance with this Policy prior to accepting any award, or they will be disclosed to the sponsoring agency for action.

If the Investigator disagrees with the Resolution Plan approved by the Vice President, he/she may appeal to the President of the University. Such appeal must be in writing and must be presented to the President within five (5) working days of receipt of the decision from the Vice President.

Records of all financial disclosures and of all actions taken to resolve actual or potential conflicts of interest will be maintained by the Office of Research and Sponsored Programs until at least three years beyond the termination or completion of the sponsored project award to which they relate, or the resolution of any government action involving those records, whichever is longer. All actions will be reported by the Vice President as required by the funding agency.

Failure of any Investigator to comply with this policy shall constitute grounds for disciplinary action as outlined in the University's policy on Ethics in Research, Scholarly and Creative Activities.

## **PROCEDURAL SUMMARY**

### Pre-Award Procedures

- (1) The University Internal Approval Form and the accompanying Conflict of Interest Certification Form, which includes conflict of interest certification statements, must be completed and processed with the proposal using normal University procedures.
- (2) Key personnel and the principal investigator(s) will be required to sign the Conflict of Interest Certification Form containing the COI statements certifying that the information is true to the best of their knowledge and agree to abide by University policies and procedures.
- (3) An answer of "YES" to any of the conflict of interest statements requires a

disclosure form and a proposed Resolution Plan to be submitted to the Director of the Office of Research and Sponsored Programs marked **Confidential Disclosure** at the time the Internal Approval Form and proposal are processed by the Office of Research and Sponsored Programs.

That is, the disclosure is made prior to the time a proposal is submitted to an agency.

- (4) Where a conflict of interest is found to exist and a Resolution Plan is imposed, a Memorandum of Understanding detailing the conditions under which the project is to be carried out will be executed and signed by the Investigator, the Chair/Director of the unit, and the Vice President for Research and Planning.
- (5) Projects, that require some of the work to be performed by collaborators or subcontractors, must contain one of the following:
  - ◆ a letter assuring the University that there is a policy in place at their institution and that their employees will comply with its regulations; or
  - ◆ a letter certifying that employees from their institution will comply with the University of Southern Mississippi's Conflict of Interest Policy.

#### Post Award Procedures

- (1) Upon receipt of an award document but prior to expenditure of any funds, all individuals employed by the funded project must complete a **Conflict**

**of Interest Certification Form.** These forms may be obtained through ORSP.

- (2) All financial certifications and disclosures must be updated during the period of the award as new reportable significant financial interests are obtained.
- (3) If a potential conflict of interest is determined to exist for an individual to be employed on a sponsored project by the Director of the Office of Research and Sponsored Programs, the Vice President for Research and Planning shall reconvene a CIRC, prior to the expenditure of funds under the award. The CIRC shall recommend to the Vice President for Research and Planning how to manage, reduce or eliminate conflicting interests arising from disclosed significant financial interests.
- (4) A Memorandum of Understanding between the University and the employee will detail the conditions or restrictions imposed upon the employee in the conduct of the project. This Memorandum of Understanding will be signed by the employee, the chair/director of the unit, and on behalf of the University, the Vice President for Research and Planning.
- (5) Actual or potential conflicts of interest will be satisfactorily managed, reduced or eliminated in accordance with University policy and procedures and all required reports regarding the conflict of interest will be submitted to the funding agency prior to the expenditure of funds under an award.
- (6) Appeals of decisions made by the Vice President for Research and Planning may be presented to the President. The appeal must be made

prior to the expenditure of funds under the award.

- (7) Records of employee financial disclosures and of actions taken to manage actual or potential conflicts of interests, shall be retained by the Office of Research and Sponsored Programs.
- (8) Whenever an employee has violated this policy or the terms of the Memorandum of Understanding, the Vice President for Research and Planning shall recommend sanctions which may include disciplinary action as outlined in the University's policy on Ethics in Research, Scholarly and Creative Activities. In addition, the Vice President for Research and Planning will follow federal regulations regarding the notification of the funding agency in the event an employee has failed to comply with this policy. The funding agency may take its own action as it deems appropriate.

### Implementation

This policy as written defines the general procedures regarding conflicts of interest and the University's responsibility in accordance with federal regulations as published in 60 Federal Register 35810, July 11, 1995 and 60 Federal Register 39076, July 31, 1995. Modifications may be required as other federal funding agencies adopt conflict of interest regulations.

# **ATTACHMENT A**

## The University of Southern Mississippi Conflict of Interest Certification Form

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Department(s): \_\_\_\_\_ Date: \_\_\_\_\_

The following questions apply to your situation as it currently exists. If you answer yes to any of the questions below, the employee must provide in writing detail regarding the potential or actual conflict of interest. Please contact the Office of Research and Sponsored Programs for details regarding Disclosure procedures.

1. Do you currently have sponsored research or are you supported by a grant or contract the outcome of which could affect the interests of an enterprise or entity in which you (or members of your immediate family, i.e., spouse or dependent children as defined by the Internal Revenue Code) have employment or consulting arrangements and/or significant financial interests. Yes \_\_\_\_\_ No \_\_\_\_\_.
  
2. Do you currently have sponsored research or are you supported by a grant or contract where you (or members of your immediate family, i.e., spouse or dependent children as defined by the Internal Revenue Code) have employment or consulting arrangements and/or significant financial interests with the sponsor of the research, a subcontractor to the grant, a vendor, or a research collaborator. Yes \_\_\_\_\_ No \_\_\_\_\_.
  
3. Do you currently have gifts or cash or property which are under your control, or which directly support your teaching or research activities from an enterprise or entity in which you (or your immediate family members) have an employment or consulting arrangement and/or significant financial interests. Yes \_\_\_\_\_ No \_\_\_\_\_.
  
4. Does the University currently have a technology licensing arrangement with an enterprise or entity for which you (or your immediate family members) have employment or consulting arrangements and/or significant financial interests. Yes \_\_\_\_\_ No \_\_\_\_\_.

**CERTIFICATION**

In submitting this form, I certify that the above information is true to the best of my knowledge. I supply this information for confidential review by the University and I do not authorize release of any of it for any other use.

**Employee Signature:**

\_\_\_\_\_ **Date:** \_\_\_\_\_

**REQUIRED SIGNATURES:**

**Chair/Director**

\_\_\_\_\_ **Date:** \_\_\_\_\_

**Dean**

\_\_\_\_\_ **Date:** \_\_\_\_\_

**Director, Office of Research and Sponsored Programs**

\_\_\_\_\_ **Date:** \_\_\_\_\_

**Vice President for Research and Planning**

\_\_\_\_\_ **Date:** \_\_\_\_\_