ENVIRONMENTAL HEALTH AND SAFETY
STANDARD OPERATING PROCEDURES

SAP No. 24.01.01.W135AR Conflict of Interest in the Design, Conduct and Reporting of
Sponsored Research and Educational Activities
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Environmental Health and Safety at WTAMU is composed of three distinct but integrated
environmental safety departments that report to the Vice President of Research and Compliance.
Academic and Research Environmental Health and Safety (AR-EHS) is responsible for research and
academic related compliance, which includes laboratory and academic research and the associated
compliance committees. Fire and Life Safety (FLS-EHS) is responsible for fire related compliance
and conducts fire and life safety inspections of campus buildings and assists with the testing all fire
detection and suppression systems. General Safety (GHS-EHS) promotes safe work and health
practices, to all faculty, staff, students, and visitors. Examples of General Health and Safety
components include: office safety, proper lifting techniques, trip and fall prevention.

Supplements TAMUS Regulation 24.01.01

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1. Purpose and Background

1.1 The System recognizes its responsibilities as a public organization to encourage interaction
between its employees and the public and private sectors as an important component of its research,
instructional and service activities. The System encourages the recruitment, retention and recognition
of individuals with creative abilities who can contribute to technology transfer and interactions with
the business community and public entities consistent with their primary commitment to the System. The System and its employees are also committed to conducting themselves and their activities in a manner consistent with the highest standards of integrity and ethics.

1.2 These guidelines define the general regulations and procedures regarding conflicts of interest in relation to sponsored research. Their purpose is to protect the credibility and integrity of System researchers and staff, as well as component universities and agencies themselves, so that public trust and confidence in their sponsored research activities are maintained. System components have a responsibility to manage, reduce or eliminate any actual or potential conflicts of interest that may arise due to a financial or other personal interest of an investigator. Therefore, the System requires that investigators disclose any significant financial interest that might create a real or potential conflict of interest in relation to a sponsored project.

1.3 These guidelines apply specifically to research conducted under contracts and grants from the National Science Foundation (NSF) and the Public Health Service (PHS); however CEOs may, at their option, extend the application of these guidelines to all sponsored research.

1.4 In addition to issues addressed in these regulations, there may be ethical considerations that are distinct and separate from conflict of interest questions.

2. Definitions

2.1 A potential conflict of interest occurs when an individual's private interests compete with his/her professional obligations to the System to a degree that an independent observer might reasonably question whether the individual's professional actions or decisions are determined by considerations of personal gain, financial or otherwise. This regulation is to address such conflicts when a significant financial interest reasonably appears to affect or bias the design, conduct or reporting of research or educational activities funded or proposed for funding to sponsoring agencies.

2.2 Investigator means the principal investigator/project director, co-principal investigator, and any other person affiliated with the System who has authority and responsibility for the design, conduct or reporting of research or educational activities funded or proposed for funding to sponsoring agencies. In this context, "Investigator" also includes the investigator's spouse and dependent children.

2.3 Significant Financial Interest

2.3.1 Significant Financial Interest means anything of monetary value, including but not limited to, salary or other payments for services (e.g., consulting fees or honoraria from profit-making enterprises); equity interests (e.g., stocks, stock options or other ownership interests); and intellectual property rights (e.g., patents, copyrights and royalties from such rights). These regulations adhere to the definitions put forth in the guidelines of the National Science Foundation and the Department of Health and Human Services, which say that the possibility of a potential conflict of interest exists when financial interests in business enterprises or entities meet the following conditions:
(1) An equity interest that when aggregated for the Investigator and the Investigator's spouse and dependent children, meets both of the following tests: exceeds $10,000 in value as determined through reference to public prices or other reasonable measures of fair market value, and represents more than a five percent ownership interest in any single entity; or

(2) Salary, royalties or other payments that when aggregated for the Investigator and the Investigator's spouse and dependent children over the next twelve months, are expected to exceed $10,000.

2.3.2 The term *does not* include:

(1) Salary, royalties or other remuneration from the System;

(2) Income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities;

(3) Income from service on advisory committees or review panels for public or nonprofit entities.

2.3.3 Examples of Conflict of Interest, include, but are not limited to, the following:

Example 1. Situations where a substantial body of research that could and ordinarily would be conducted by the investigator within a System component is diverted elsewhere.

Example 2. Situations where the investigator occupies a position in an enterprise doing business in the area of the investigator's University.

Example 3. Relationships that might enable investigators to influence a System component's interactions with outside organizations in ways that may lead to personal gain, to the taking of improper advantage by anyone, or the improper diversion of a System component's assets from the primary missions of a System component, including the time and talents of faculty and staff.

Example 4. Situations in which an investigator, while serving as a consultant to an external organization, has access to a colleague’s unpublished, privileged information, such as proposals or papers that have potential value, and the investigator seeks to provide that information to the external organization.

Example 5. Situations where an investigator directs students into a research area or other activity from which the investigator intends to realize personal financial gain. A conflict may arise if students are directed to areas of lesser scientific or scholarly merit to enhance the potential for monetary gain or if the financial potential exists only for the investigator.

Example 6. Disclosure or use for personal profit of unpublished information coming from System research or other confidential System sources, or
assisting outside organizations by giving them access to such information except as may be authorized by official System policies.

Example 7. Consultation that imposes obligations that conflict with the System Policy on patents (System Policy 17.02) or with a System component's obligations to research sponsors.

Example 8. Situations in which an investigator can require others to purchase a product in which the investigator has a proprietary interest and from which the investigator will receive income.

3. Guidelines

Each component university and agency of the System that performs research or educational activities funded by grants and contracts shall establish rules and procedures for the disclosure by researchers of financial interests that might reasonably appear to be directly and significantly affected by the research or educational activities funded under the grant or contract. Such rules and procedures shall address the following issues related to the disclosure and review of such interests.

3.1. Disclosure of Financial Interests

The possibility of a potential conflict of interest should be noted and disclosed by the investigator at the earliest possible stage and no later than at the time of proposal submission. If a potential conflict of interest does exist with a proposed or funded project, each investigator is required to disclose the following information about any entity which would reasonably appear to have a financial interest that would be directly and significantly affected by the research or educational activities being funded:

1. the names of affected corporations, both for-profit and not-for-profit, for which the person serves as a member of the governing board in the capacity of a director, advisory director, trustee, or otherwise;

2. the names of affected corporations for which the person serves as an officer;

3. the name of affected partnerships, limited partnerships, proprietorships, or other business associations of which the person is a partner, general or limited partner, joint venturer, or owner;

4. the amount of any compensation received for services related to (1), (2), and (3) above, including any benefits, direct or indirect (reported by range of amounts) and benefits received for intellectual property rights (e.g., patents, copyrights, and royalties from such rights);

5. affected business entities in which the person holds a controlling interest or is the principal shareholder;

6. whether the person is employed by any affected business entities described in (1) through (5) above that have any relationship to the System or any of its components, and a brief description of such relationship.
3.1.1 The information should be provided for investigators, their spouses, and their dependent children.

3.1.2 Questions regarding specific potential conflict of interest situations may be clarified by consulting with an individual or office designated by the CEO. The System Office of General Counsel may be consulted when needed.

3.1.3 Each investigator shall complete separate Significant Financial Interests Disclosure Forms for himself/herself, his/her spouse and his/her dependent children, attaching all required supporting documentation.

3.1.4 All pertinent Significant Financial Interests must be disclosed at the time each proposal with potential conflict of interest is submitted for internal routing. Annual updates must be filed by all investigators by August 31 of each year, by filing a supplemental disclosure form through the Department Head and College Dean to the Director of Sponsored Projects.

3.1.5 Subawardees, contractors, or collaborators included in proposals submitted by the component shall certify that their organization has a Conflict of Interest Policy in compliance with the Federal regulations prior to the submission of the proposal.

3.2. Review of Disclosure

3.2.1 The CEO shall designate an officer who shall conduct an initial review of all financial disclosures to determine if any disclosed Significant Financial Interest could affect the design, conduct or reporting of the proposed sponsored project. If the initial determination is made that there may be a potential for conflict of interest covered by this Regulation, the investigator will be notified and the Disclosure packet will be referred to the component Conflict of Interest Review Committee (CIRC).

3.2.2 Conflict of Interest Review Committee members and chair are appointed by the CEO or designee. The CIRC shall be composed of researchers representing a cross section of disciplines and a research administrator.

3.2.3 The CIRC shall determine what conditions or restrictions, if any, should be imposed by the institution to manage actual or potential conflicts of interest arising from disclosed Significant Financial Interests.

3.2.4 Prior to consideration by the CIRC, the Investigator, in cooperation with the Investigator's supervisor, shall develop and present to the CIRC a Resolution Plan detailing the proposed steps that will be taken to manage, reduce or eliminate any actual or potential conflict of interest presented by the Significant Financial Interest. The Resolution Plan shall include as appropriate:

(1) public disclosure of Significant Financial Interests;

(2) review of research protocol by independent reviewers;

(3) monitoring of research by independent reviewers;
(4) modifying the research plan;

(5) disqualification from participating in all or a portion of the research funded;

(6) divestiture of significant financial interests; and

(7) severance of relationships that create actual or potential conflicts of interest.

3.2.5 The CIRC shall review the Resolution Plan and approve it, or where appropriate, add or delete conditions or restrictions.

3.2.6 If the CIRC determines that imposing the above-referenced conditions or restrictions would be inequitable, or 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, the CIRC may recommend that the research go forward without imposing such conditions or restrictions but managed with appropriate monitoring of the research to ensure that the financial interest does not bias the project. In cases where the Investigator feels that the CIRC decision was unfair, the case may be appealed to the CEO who shall make the final decision regarding resolution. All non-resolved conflicts will be immediately reported to the funding agency or agencies.

3.2.7 The approved Resolution Plan shall be incorporated into a Memorandum of Understanding (MOU) that details the conditions or restrictions imposed upon the Investigator in the conduct of the project or in the relationship with the Business Enterprise or Entity. The Memorandum of Understanding shall be signed by the Investigator, the Investigator's supervisor and the Chairperson of the CIRC. Actual or potential conflicts of interests will be satisfactorily managed, reduced or eliminated in accordance with these Guidelines prior to the expenditure of any funds under the award, or these actual or potential conflicts of interest will be disclosed to the sponsoring agency for action.

3.2.8 A CEO may establish a plan for review that does not involve a standing CIRC, provided all elements of disclosure and review are observed and that an ad hoc committee is named to handle unresolved questions of financial conflict.

3.3 Enforcement

3.4.1 Apparent oversights or violations of this regulation and applicable university or agency rules shall be brought to the attention of the Investigator, who will be afforded an opportunity to comply. The Investigator shall present the proposed correction to the CIRC for review and action within 30 calendar days of the notification. Failure to comply will constitute an intentional violation, as discussed in the following paragraph.

3.4.2 Repeated or intentional violations of this regulation may be reported to the funding agency and the CEO by the CIRC if not corrected. Sanctions may be imposed by the CEO and may range from a letter of reprimand to the removal of an Investigator from
an ongoing project.

3.4.3 Cases that involve investigators affiliated with a System component and which include the possibility of scientific or academic misconduct shall be processed in a manner consistent with System Regulation 15.99.03, "Ethics in Research and Scholarship.

3.4.4 Cases that involve investigators not affiliated with a System component and which include the possibility of scientific or academic misconduct shall be processed in a manner consistent with their home institution's or organization's policies and procedures.

3.4.5 Appeals of impending sanctions for investigators shall follow normal System or component procedures. These may include a request for a hearing by the Committee on Academic Freedom, Responsibility and Tenure, as provided in the System Policy 12.01, Academic Freedom, Responsibility and Tenure.

Research conducted under contracts and grants from the National Science Foundation (NSF) and the Public Health Service (PHS), as well as such other sponsored research as CEOs may designate, is subject to System Regulation 15.01.03.

3.4.6 Equity or Business Ownership and Participation by Faculty in Entities Doing Business With The Texas A&M University System.

The mere fact of ownership by a faculty member of an equity interest or participation in a business entity having an agreement with the System or any component thereof is not per se a violation of law.

3.4.7 Certain additional requirements exist in state law regarding the obligations of a faculty member who conceives, creates, discovers, invents or develops intellectual property that is the subject of an agreement with the System relating to the research, development, licensing, or exploitation of that intellectual property.

1) If the faculty member owns an interest in a business entity having such an agreement, the faculty member must report the name of the business entity to the appropriate CEO on an annual basis.

2) The faculty member may not serve as a member of the board of directors or other governing board or as an officer or employee of a business entity having such an agreement without approval of the Board of Regents. The faculty member must report the name of the business entity for which the person serves as a director, officer or employee to the appropriate CEO on an annual basis.

3.4.8 Ownership of a Substantial Interest

If a faculty member or a member of his or her immediate family holds a substantial interest in, or participates in the management or the conduct of affairs of a business entity having a contract with the System or a component, or if any work of the System and its faculty is being funded by the entity, the potential for a conflict of
interest may arise. A faculty member has a "substantial interest" in a business entity if any of the following conditions exist:

1. the faculty member or immediate family member or any combination thereof has controlling interest in the business entity;

2. the faculty member or immediate family member has ownership in excess of ten percent of the voting interest in the business entity or in excess of $25,000 of the fair market value of the business entity;

3. the faculty member or immediate family member has any participating interest, either direct or indirect, by shares, stock, or otherwise, whether or not voting rights are included, in the profits, proceeds, or capital gains of the business entity in excess of ten percent;

4. the faculty member or immediate family member holds the position of a member of the board of directors or other governing board of the business entity; or

5. the faculty member or immediate family member serves as an elected officer of the business entity, or is an employee of the business entity.

3.4.9 Disclosure by Faculty Member

It is the responsibility of the faculty member to fully disclose ownership of a substantial interest in a business entity doing business with TAMUS or a component to his or her department head or equivalent supervisor whether or not the substantial interest was owned prior to or acquired after the date on which the contractual relationship between the System and the business entity commenced. The department head or equivalent supervisor shall forward such information through administrative channels to the CEO or his or her designee who will make a determination as to whether a conflict of interest exists.

3.5.0 Service at Request of Board of Regents

Upon request of the Board of Regents, an employee may legally serve as a member of the board of directors or other governing board of a business entity having an agreement with the System or any component.

4. Finding of Violation of Standards of Conduct

If a principle of ethical conduct, conflict of interest or a conflict due to equity ownership and business participation of a faculty member is found, the System may require that the faculty member take steps to minimize and/or eliminate such conflict. The System reserves the right to cancel or require modification of the terms of any agreement whenever in its opinion a conflict of interest exists.

5. Requesting Permission of External Professional Employment

5.1. Responsibility of Faculty Members
It is the obligation of faculty to inform their department heads or other immediate supervisors of all new and continuing external employment prior to entering into any agreement, including those dealing with intellectual property.

5.2 The Chancellor’s authority to approve external employment that is permanent or semi-permanent in character, as specified in System Policy 31.05, is hereby delegated to the presidents and agency directors.

5.3 Component approval of external employment on an ongoing basis will be for no more than one year in duration.

5.4 Process for Approval

5.4.1 Each System component shall establish internal rules for the approval of external employment. a) Rules must ensure uniformly fair treatment among all classes of faculty members within the System component. b) The rules shall include the governance of release time. c) CEOs of each System component (or the CEOs jointly for joint employees) may establish limits on the amount of release time for external employment.

5.4.2 Requests for approval must certify that the requested release time for consulting/outside employment will not interfere with the performance of the faculty member's assigned duties and responsibilities within the System.

5.4.3 Request for approval of external employment must be made using a component Faculty External Employment Application and Approval form.

5.4.4 For faculty with joint appointments in a university or HSC and one or more component agencies, the president (or designee) must approve or disapprove such requests in consultation with the CEO (or designee) of the other System component. If the joint appointment involves two agencies, then the CEOs of the agencies must jointly approve or disapprove the request.

5.4.5 The faculty member’s supervisor or department head will keep a record, if required by the rule, of individual absences from the employee's official place of duty for external employment activities. Requests for release time must be submitted for advance approval using the component form mentioned in section 6.4.2 above.

6. Training

West Texas A & M University Environmental Health and Safety will follow the Texas A & M University System Policy 33.05.02 Required Employee Training. Staff and faculty whose required training is delinquent more than 90 days will have their access to the Internet terminated until all trainings are completed. Only Blackboard and Single Sign-on will be accessible. Internet access will be restored once training has been completed. Student workers whose required training is delinquent more than 90 days will need to be terminated by their manager through Student Employment.
7. **Record Retention**

All records related to Investigators’ Financial Disclosure Statements and any FCOI determinations and/or Management Plans in a central location. These records shall be kept for the longer of three years from the date of the last expenditure submitted in the case of sponsored research or as required by applicable federal law, see, e.g., 45 C.F.R. §§74.53(b), 92.42(b).

No official state records may be destroyed without permission from the Texas State Library as outlined in Texas Government Code, Section 441.187 and 13 Texas Administrative Code, Title 13, Part 1, Chapter 6, Subchapter A, Rule 6.7. The Texas State Library certifies Agency retention schedules as a means of granting permission to destroy official state records.

West Texas A & M University Records Retention Schedule is certified by the Texas State Library and Archives Commission. West Texas A & M University Environmental Health and Safety will follow Texas A & M University Records Retention Schedule as stated in the Standard Operating Procedure 61.99.01.W0.01 Records Management. All official state records (paper, microform, electronic, or any other media) must be retained for the minimum period designated.

8. **Part-Time Faculty**

Part-time faculty are subject to all provisions of this regulation.

9. **Approved External Employment Forms**

Each CEO of the System shall maintain a file of all approved external employment requests for the fiscal year which shall be retained for the fiscal year plus three years.

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**Related Statutes, Policies, or Requirements**

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**Contact Office**

WTAMU Environmental Health and Safety  
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