

National Aeronautics and
Space Administration

Headquarters

Washington, DC 20546-0001



February 27, 2007

Reply to Attn of:

Science Mission Directorate

TO: Science Mission Directorate

FROM: Associate Administrator for Science

SUBJECT: Science Mission Directorate (SMD) Policy on
Handling Conflicts-of-Interest for Peer Reviews

The quality of NASA's science program rests on our policy of open, competitive solicitations and on the use of peer review to establish the merit of the proposals that we receive. The issues of conflict-of-interest and confidentiality are of critical importance to ensure the fairness and credibility of the peer review process.

All NASA personnel and all reviewers of NASA proposals must avoid not only actual but also any apparent conflicts-of-interest and must maintain confidentiality about all activities involved in the review process.

I am directing all SMD personnel to follow the enclosed SMD Policy: Handling Conflicts-of Interest for Peer Reviews (SPD-01A) when establishing and managing peer review panels for all SMD solicitations including Announcements of Opportunity, NASA Research Announcements, and Cooperative Agreement Notices. This revision adds policies for handling conflicts-of-interest for non-panel (i.e. mail-in) reviewers.

I am delegating to Paul Hertz, SMD Chief Scientist, the task of ensuring that these policies are followed for SMD's peer reviews. I am also delegating to him the authority to approve waiver requests, as specified in the Policy.

Any questions concerning this Policy should be directed to
Dr. Hertz.

A handwritten signature in cursive script, appearing to read "M. L. Cleave". The signature is written in dark ink and is positioned above the typed name.

Mary L. Cleave

Enclosure

SCIENCE MISSION DIRECTORATE POLICY

HANDLING CONFLICTS-OF-INTEREST FOR PEER REVIEWS

SMD POLICY DOCUMENT 01 REV A (SPD-01A)

Original Version: Only peer review panels

Approved by Mary L. Cleave, AA for SMD, on January 3, 2006

Version A: Addition of non-panel (mail-in) reviewers

Approved by Mary L. Cleave, AA for SMD, on February 28, 2007

Responsible SMD Official: Chief Scientist

All peer reviews managed by the Science Mission Directorate will be conducted in compliance with the following policies regarding the handling of conflicts-of-interest for peer reviewers.

NASA may conduct peer review panel meetings for the purpose of developing consensus evaluations. Reviewers who serve on a peer review panel are termed panel reviewers.

NASA may also solicit proposal reviews from individuals who will not attend the peer review panel meeting; these reviewers are termed non-panel or mail-in reviewers. Non-panel reviewers are referred to as individual reviewers in the *Guidebook for Proposers Responding to a NASA Research Announcement*, Section C.3.

Peer reviewers, as referred to in this document, include both panel reviewers and non-panel reviewers.

Section 1. Guiding Principles

- (a) All peer reviewers must possess appropriate technical expertise to provide knowledgeable expert reviews. The issues of conflict-of-interest and confidentiality are of critical importance to ensure the fairness and credibility of the peer review process. All NASA personnel and all reviewers of NASA proposals are directed to avoid not only actual but also any apparent conflicts-of-interest and to maintain confidentiality about all activities involved in the review process.
- (b) The presiding NASA Program Officer is responsible for assuring that the results of the review are objective and have no elements of bias.
- (c) Review organizers shall make every effort to prevent peer reviewers from being exposed to a proposal with which a conflict-of-interest is known to exist.
- (d) Generally, peer reviewers have potential non-statutory or “scientific ethics” conflicts-of-interest if they are associated with a proposing institution and/or are participating in a proposal under evaluation. Reviewers who are Federal employees or IPA’s are also subject to statutory conflict-of-interest restrictions under criminal statute codified at 18 USC §208 and Office of Government Ethics (OGE) guidelines.

- (e) In accordance with the *Proposal Peer Review Non-Disclosure Agreement and Conflict of Interest Avoidance Statement*, which NASA Science Management policy (NPR 1080.1) requires non Federal employees to sign, peer reviewers shall be personally responsible for immediately identifying any conflicts-of-interest they may encounter when participating in the review process and for notifying the cognizant NASA Program Officer. In addition, reviewers shall be personally responsible for maintaining the confidentiality of each proposal that they handle or to which they may be exposed during the course of the review process.
- (f) NASA expects all peer reviewers to disclose all conflicts of interest including situations which may be actual conflicts of interest or which may give the appearance of a conflict of interest. Peer reviewers are also expected to disclose situations which may give the appearance of bias, or may cause a reasonable observer to question the ability of the reviewer to provide an unbiased evaluation of a proposal. A summary of situations which may constitute conflicts of interest for NASA peer reviewers is given in Appendix E.3 of the *Guidebook for Proposers Responding to a NASA Research Announcement* (reproduced as Attachment 1 of this document).
- (g) Regardless of whether the review process is by mail or by a convened panel, the presiding NASA Program Officer addresses and adjudicates conflicts-of-interest. Questions of interpretation or application of these policies should be brought to the designated Directorate official (i.e., the Chief Scientist). The Office of General Counsel and the Office of Procurement will be consulted whenever necessary to assist in resolving issues.
- (h) Additional guidance is provided in NPR 1080.1, *NASA Science Management*, Section 2.6, and the *Guidebook for Proposers Responding to a NASA Research Announcement*, Section C.4.

Section 2. Policy

- (a) Panel-level Conflicts-of-interest. A panel is a group of reviewers that are collectively reviewing the same proposals in the same room (or on the same telecon) at the same time. A single solicitation may require multiple panels to review all submitted proposals. Some research programs use the term “subpanel” to refer to a panel as defined here. Where proposals are not assigned to panels, then for purposes of determining conflicts-of-interest, all proposals are considered to be assigned to the same panel.
 - (i) Principal Investigators, Co-Investigators, and any other team members that would actively perform an element of the proposed investigation, or benefit financially from the proposed investigation, are considered to have a panel-level conflict-of-interest. Merely providing expert advice to the investigation team does not necessarily create a panel-level conflict.
 - (ii) Individuals with panel-level conflicts-of-interest shall be prohibited from reviewing any proposal that is reviewed by the same panel as their proposal and any proposal that is in direct competition (e.g., similar objectives, similar methodologies) with their proposal. (See exception in Section 2(a)(v).)

- (iii) Individuals shall not serve as panel reviewers on any panel that is considering a proposal with which they have a panel-level conflict-of-interest, unless a waiver is approved (see Section 3).
- (iv) Individuals shall not serve as non-panel reviewers for any proposal that gives rise to a panel-level conflict (see Section 2(a)(i)).
- (v) Individuals shall not serve as non-panel reviewers for any proposal that is assigned to a panel with which they have a panel-level conflict-of-interest, unless a waiver is approved (see Section 3) or a mitigation plan is implemented that includes, at a minimum, the following components:
 - (a) The non-panel reviews will be considered by a peer review panel that is authorized to wholly or partially accept or reject any such non-panel reviews; and
 - (b) The peer review panel members shall be notified of any non-panel reviews from reviewers with panel-level conflicts-of-interest and the nature of the conflict will be identified.

(b) Proposal-level Conflicts-of-interest

- (i) The conflicts-of-interest identified in Section 2(a)(i) and Section 2(a)(ii) are also applicable to proposal-level conflicts-of-interest.
- (ii) Individuals from the same institution as the proposing organization, as the Principal Investigator, or as any Co-Investigator have a proposal-level conflict-of-interest with that proposal. Individuals from separate and distinct campuses within the same institution are not normally considered as having a proposal-level conflict-of-interest (e.g., UCLA and UCSD are typically considered to be separate proposing institutions).
- (iii) In addition, an individual has a proposal-level conflict-of-interest if any of the personnel identified in the proposal are closely related to the reviewer (e.g., household or family members, partners, or professional associates); or if the individual has a financial interest in a proposing organization (e.g., ownership of stock or securities, employment, or arrangements for prospective employment).
- (iv) Individuals with proposal-level conflicts-of-interest shall not review any proposal with which they are conflicted, and individual panel reviewers shall be excused from panel discussions of proposals for which a conflict exists, unless a waiver is approved (see Section 3).
- (v) In some cases, the individual may also have proposal-level conflicts-of-interest with proposals other than those giving rise to the conflicts-of-interest if these proposals are in direct competition (similar objectives, similar methodologies, etc.) with those proposals giving rise to the conflict.

- (c) Bias. The Program Officer should make every effort to avoid using reviewers with possible biases such as having a close personal or professional relationship with a proposing individual, being a recent advisor or student of a proposing individual, and participating in a directly competing investigation to a proposed investigation. Such biases may lead to unnecessary perceptions of an unfair review process, which would be detrimental to the Agency's science program.

Section 3. Waivers

In rare cases, NASA may require the use of conflicted reviewers despite their having a potential or actual conflict-of-interest.

- (a) Under such circumstances, the NASA Program Officer shall submit a waiver request containing, at a minimum, identification of the potential reviewer, identification of the conflicted proposal(s), nature of the conflict, justification for needing the participation of the conflicted reviewer, and the mitigations that will be used to ensure impartiality in the evaluation process.
- (b) In such cases a waiver must be requested in writing and approved by the designated Directorate official (i.e., the Chief Scientist). This waiver shall be concurred in by the Headquarters Office of General Counsel and the Office of Procurement. The Selecting Official shall be notified of all waivers.
- (c) If a mitigation plan is implemented that meets the requirements set forth in Section 2(a)(v) for the use of non-panel reviewers for any proposal that is assigned to a panel with which they have a panel-level conflict-of-interest, then no waiver is required.

Section 4. Documentation

- (a) A written log must be kept of all actual and potential conflicts-of-interest that are raised during a panel review. The written log is a required work product of the panel. It will be maintained with other records of the panel meeting.
- (b) The NASA Program Officer must ensure that an individual is assigned the responsibility for maintaining the log. Appropriate individuals include, but are not limited to, the NASA official leading the panel, the community-based chair or co-chair of the panel, another panel member, or the panel's executive secretary.
- (c) The written log must contain, at a minimum, all actual and potential conflicts-of-interest that are raised during the panel meeting, the disposition of the issue, and any mitigation that is undertaken.

Attachment 1
Conflicts-of-Interest for NASA Peer Reviewers
(Appendix E.3, *Guidebook for Proposers Responding to a NRA*)

1. YOUR AFFILIATIONS WITH A PROPOSING OR APPLICANT INSTITUTION.

You may have a conflict if you have/hold/are:

- 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 consulting or an advisory arrangement).
- Formal or informal employment arrangement with the proposing organization.
- A financial interest in the proposing organization (e.g. ownership of securities).
- Any office, governing board membership, or other 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. (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 including any award or payment received. [Only applies to civil servants.]
- Seeking or negotiating employment with the proposing organization. [Only applies to civil servants.]

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

- Known family relationship as spouse, child, sibling, or parent.
- Business or professional partnership. (An ordinary scientific collaboration is not considered a partnership).
- Association as thesis advisor (major professor) or thesis student within the past 36 months.
- Professional or personal relationship which may preclude you from being impartial.

3. YOUR OTHER AFFILIATIONS OR RELATIONSHIPS.

- Interests of the following persons are to be treated as if they were yours: Any affiliation or relationship of your spouse, of your minor child, of a relative living in your immediate household, or of anyone who is legally your partner. (E.g., if your spouse is employed by a proposing organization, then this creates a conflict of interest 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.

If you identify a potential conflict of interest at the beginning of 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. Civil servants who have questions about their specific circumstance should consult with their Agency legal counsel or ethics official.