



National Oceanic and
Atmospheric Administration
U.S. Department of Commerce

NOAA Conflict of Interest Policy for Non- Government Peer Reviewers of Influential Scientific Information

Introduction

In December 2004, the White House Office of Management and Budget (OMB) issued a Final Information Quality Bulletin for Peer Review (Bulletin) establishing minimum peer review standards, a transparent process for public disclosure of peer review planning, and opportunities for public participation. The OMB Bulletin, implemented under the Information Quality Act (Public Law 106-554), is intended to enhance the quality and credibility of the federal government's scientific information, and applies to influential scientific information disseminated on or after June 16, 2005.

The Bulletin directs federal agencies to adopt or adapt the National Academy of Sciences' (NAS) policy for committee selection with respect to evaluating conflicts of interest when [\[Note 1\]](#) selecting peer reviewers who are not federal

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government employees.[[Note 2](#)] The National Oceanic and Atmospheric Administration (NOAA) has adapted the NAS conflict of interest policy as set forth below.

Conflict of Interest Policy

It is essential that individuals serving as peer reviewers of influential scientific information or highly influential scientific assessments that NOAA intends to disseminate not be compromised by any significant conflict of interest. For this purpose, **the term "conflict of interest" means any financial or other interest which conflicts with the service of the individual on the review panel because it (1) could significantly impair the individual's objectivity or (2) could create an unfair competitive advantage for any person or organization.** Except for those situations in which NOAA determines that a conflict of interest is unavoidable and promptly and publicly discloses the conflict of interest, no individual can be appointed to review documents subject to the OMB Bulletin if that individual has a conflict of interest that is relevant to the functions to be performed.

General Principles

Involves an Interest

The term "conflict of interest" means something more than individual bias. There must be an interest, ordinarily financial, that could be directly affected by the work of the peer reviewers.

Conflict of interest requirements are objective and preventive. They are not an assessment of one's actual behavior or character, one's ability to act objectively despite the conflicting interest, or one's relative insensitivity to particular dollar amounts of specific assets because of one's personal wealth. Conflict of interest requirements are objective standards designed to eliminate certain specific, potentially compromising situations from arising, and thereby protect the individual, other peer reviewers, NOAA, and the public interest. The individual,

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the other peer reviewers, and NOAA should not be placed in a situation where the findings and conclusions of a review could be reasonably questioned, and perhaps discounted or dismissed, simply because of the existence of conflicting interests.

Applies Only to Current Interests

The term "conflict of interest" applies only to current interests. It does not apply to past interests that have expired, no longer exist, and cannot reasonably affect current behavior. Nor does it apply to possible interests that may arise in the future but do not currently exist, because such future interests are inherently speculative and uncertain. For example, a pending formal or informal application for a particular job is a current interest, but the mere possibility that one might apply for such a job in the future is not a current interest.

Potentially Affects the Interests of Others

The term "conflict of interest" applies not only to the personal financial interests of the individual but also to the interests of others with whom the individual has substantial common financial interests if these interests are relevant to the functions to be performed. Thus, in assessing an individual's potential conflicts of interest, consideration must be given not only to the interests of the individual but also to the interests of the individual's spouse and minor children, the individual's employer, the individual's business partners, and others with whom the individual has substantial common financial interests. Consideration must also be given to the interests of those for whom one is acting in a fiduciary or similar capacity (e.g., being an officer or director of a corporation, whether profit or nonprofit, or serving as a trustee).

Covers a Broad Range of Financial Interests

The term "conflict of interest" as used herein ordinarily refers to financial conflicts of interest. In assessing potential conflicts of interest in connection with an individual's service as a peer reviewer, particular attention will be given to the following kinds of financial interests if they are relevant to the functions to be performed:

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- Employment relationships (including private and public sector employment and self-employment).
- Consulting relationships (including commercial and professional consulting and service arrangements, scientific and technical advisory board memberships, and serving as an expert witness in litigation).
- Stocks, bonds, and other financial instruments and investments including partnerships.
- Real estate investments; patents, copyrights, and other intellectual property interests.
- Commercial business ownership and investment interests.
- Service provided in exchange for honorariums and travel expense reimbursements.
- Research funding and other forms of research support.
- Financial ties to entities regulated by NOAA, other stakeholders and NOAA itself.

Limits Access to Confidential Information

During the course of peer review activity for NOAA, the opportunity to have access to confidential information, if abused or misused, may confer an unfair competitive advantage. If an individual during the course of participating in a peer review for NOAA obtains and uses, or intends to use, confidential information not reasonably available to the public for the individual's own direct and substantial economic benefit, such conduct constitutes a conflict of interest. The same rule applies if the individual discloses, or intends to disclose, such information (albeit lawfully) to other individuals or to organizations in such a manner that a direct and substantial economic benefit may be conferred on such individuals or organizations. These restrictions do not apply to information once it has entered the public domain.

In some situations – for example, access to confidential or proprietary information, – special limitations on access to and use of such information will be imposed. Substantial legal penalties may apply for noncompliance. In addition, an

individual employed by or associated with a particular organization or enterprise should not be given access to proprietary information of a competitor or potential competitor unless appropriate safeguards have been established that reasonably protect the interests of all parties. Otherwise, such access may create an unfair competitive advantage, as well as possible liability for improper disclosure and use. For further guidance regarding access to confidential information, contact the NOAA Office of the General Counsel.

Limits Reviews of One's Own Work

It is not uncommon for individuals serving as peer reviewers to find that their own published and professional work, in common with others in the field, is part of the technical basis and literature for the information being reviewed. This ordinarily would not constitute a conflict of interest. However, an individual should not serve as a peer reviewer when a critical review and evaluation of the individual's own work, or that of his or her immediate employer, is a central purpose of the review, because that would constitute a conflict of interest, although such an individual may provide relevant information to the peer reviewers.

Public Statements and Positions

An individual may have become committed to a fixed position on a particular issue through public statements (e.g., testimony, speeches, interviews), through publications (e.g., articles, books), through close identification or association with the positions or perspectives of a particular group, or through other personal or professional activities. This would ordinarily constitute a potential source of bias but not a conflict of interest. However, in situations where there is some significant, directly related interest or duty of the individual – e.g., where the individual is currently president of a professional society that espouses the same fixed position on the issue – the situation may constitute a conflict of interest.

Implementation of this Conflict of Interest Policy

Requires Background Information and Confidential Conflict of Interest

Disclosures

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To address questions of conflict of interest, individuals selected to perform peer review of scientific information subject to the OMB Bulletin are required to submit certain background information and information regarding conflicts of interest to NOAA (or the entity commissioned by NOAA to manage the peer review process) for review. NOAA has developed a “Background Information and Confidential Conflict of Interest Disclosure” form for this purpose.

The disclosure of relevant information is a continuing obligation for the duration of the peer review process for which the “Background Information and Confidential Conflict of Interest Disclosure” form was prepared. If during an individual’s period of service as a peer reviewer it becomes apparent to the individual that there has been a change in the information disclosed, or that there is new information that needs to be disclosed, such information must be reported promptly to NOAA or the entity commissioned by NOAA to manage the peer review process.

Except as otherwise provided herein, specific conflict of interest information obtained by NOAA, or the entity commissioned by NOAA to manage the peer review process, from the “Background Information and Confidential Conflict of Interest Disclosure” form, from amended disclosures, and from the public and other sources will be held in confidence by NOAA. Access to such information within NOAA will be limited to those offices whose proper business requires access to that information. Such information will not be released by NOAA, or the entity commissioned by NOAA to manage the peer review process, except with the approval of the individual to whom the information pertains, unless release is required by law.

Requires Public Notice

For peer reviews of information subject to the OMB Bulletin, NOAA will disclose the names of the reviewers and their affiliation in a report of findings and conclusions prepared by the peer reviewers. The report will be posted on the Department of Commerce Information Quality web site (http://www.osec.doc.gov/cio/oipr/info_qual.html). For peer review of highly

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influential scientific assessments, the report will also include the credentials and relevant experiences of each peer reviewer. Reviewers shall be notified in advance regarding the extent of disclosure and attribution planned by the agency.

Uses Background Information to Make Determinations on Conflicts of Interest

Information obtained from the “Background Information and Confidential Conflict of Interest Disclosure” forms and from other sources, including the public, will be used by NOAA in addressing and resolving questions of conflict of interest.

Except for those situations in which the agency determines that a conflict of interest is unavoidable and promptly and publicly discloses the conflict of interest, no individual can be appointed to serve (or continue to serve) as a peer reviewer for NOAA of information subject to the OMB Bulletin if the individual has a conflict of interest that is relevant to the peer review to be performed.

A particular individual’s conflict of interest may be determined to be unavoidable if, for example, the individual’s qualifications, knowledge, and experience are particularly valuable to the peer review in question and the agency is unable to identify another individual with comparable qualifications, knowledge, and experience who does not also have a conflict of interest. Determinations that a conflict of interest exists and that a conflict of interest is unavoidable are made jointly by the NOAA office managing the peer review (or commissioning the entity to manage the peer review) and the NOAA General Counsel’s office.

Notes:

Note 1: The NAS Policy on Committee Composition and Balance and Conflicts of Interest can be found at: <http://www.nationalacademies.org/coi/index.html>. Back to text.

Note 2: Peer reviewers who are federal employees must comply with applicable federal ethics requirements. Back to text.

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