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Laboratory-wide Procedure

Conflict of Interest Compliance Plan

The INL is a U.S. Department of Energy National Laboratory
operated by Battelle Energy Alliance.

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1. PURPOSE

Battelle Energy Alliance, LLC's (BEA) contract[1] with the U.S. Department of Energy (DOE) to manage and operate the Idaho National Laboratory[2] (INL) is a special legal relationship which requires that the INL (i) be operated in the public interest with objectivity and independence, (ii) be free from organizational conflicts of interest, and (iii) have full disclosure of its affairs to DOE. As a result, it is essential that **potential conflicts of interest**[3] be identified as early as possible and avoided or mitigated.

2. SCOPE

This procedure provides the framework within which to identify and avoid or mitigate any **conflict of interest** (COI) or **organizational conflict of interest** (OCI). This procedure applies to all employees of BEA,[4] including those few employees who are seconded or leased from Teaming Subcontractors or from Battelle Memorial Institute or any of its affiliated companies. The scope of this procedure is dynamic and may impact relationships with, among others, subcontractors of BEA and others with whom BEA may form business relationships.

In general, this procedure includes only principles that have general company-wide application. For unique INL activities with special conflict of interest challenges, such as technology transfer, mission development, or procurement-related conflicts, specific guidance is maintained by the applicable BEA business function.

The key to effective management of actual or potential COI and OCI is the timely disclosure of all facts which might be pertinent to the conflict. Raising timely issues benefits both INL and the government. If desired, confidentiality of reported OCI concerns will be maintained to the extent possible. In addition, an employee's failure to comply with this procedure may result in disciplinary action.

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[1] Contract No. DE-AC07-05ID14517, referred to in this procedure as "INL Contract."

[2] The INL is a federally funded research and development center established under FAR Part 35.

[3] Terms that are defined in the Definitions section are highlighted in bold the first time they appear in this procedure.

[4] In addition to its obvious meaning, this term applies to those few employees who are leased from Battelle Memorial Institute or Teaming Subcontractors of BEA. The leasing agreements provide, among other things, that BEA has the right to control and manage leased employees. The term "Teaming Subcontractors" means: BWXT Services, Inc., Washington Group International, Electric Power Research Institute, Massachusetts Institute of Technology, the Idaho University Collaborators universities: University of Idaho, Idaho State University, and Boise State University, the National University Consortium universities: North Carolina State University, University of New Mexico, Ohio State University, and Oregon State University; British Nuclear Fuels Limited, AREVA, Universities Space Research Association, General Atomics, Studsvik, Burns and Roes, and EDS. BEA has flowed down into these subcontracts 952.209-72 *Organization Conflicts of Interest*, which is included in the INL Contract at Sections I.1 and I.9.

3. RESPONSIBILITIES/PREREQUISITES

3.1 Responsibilities

Performer	Responsibilities
INL Department Managers	Review, thoroughly and impartially, the potential for COI in areas of departmental responsibility and report the results to the INL COI Coordinator (526-1477). Discuss with the INL COI Coordinator (526-1477) the resolution of potential COIs found in any task or project within the department as a result of the review.
INL Management	BEA's Leadership Management Team, Division Directors, and Department Managers (Management) are required to monitor employees' activities for instances of a Conflict of Interest and take all necessary steps to resolve any conflict. Identify and avoid or mitigate actual or potential organizational conflicts of interest. Comply with the nondisclosure requirements of section I.9 of the DOE Acquisition Regulation (DEAR) 952.209-72, Organizational Conflicts of Interest. Identify potential or actual organizational conflicts of interest that cannot be resolved upon review by the INL COI Review Committee for assistance in formulating appropriate alternative actions. Ensure that employees understand and can apply conflict of interest policies and procedures that may relate to their duties. Contact the INL COI Coordinator (526-1477) or General Counsel (526-4715) for assistance or further resources in resolving organizational or personal conflict of interest concerns.

Performer	Responsibilities
INL COI Coordinator	Assist INL personnel in recognition and disposition of COI issues. Disposition personal COI issues. Establish appropriate performance indicators to track company-wide COI issues and review these quarterly with the COI Review Committee. A meeting is not necessary unless a Committee member calls it. Establish and maintain all records, documentation, and data in accordance with provisions of this procedure. Ensure that effective orientation, training, and communications programs are established to impart and maintain the commitment of all employees to the highest standards of conflict of interest avoidance. Ensure all representations and certifications required by DOE are made and updated as required. As a minimum, all representations are to be reviewed annually and changes prepared for submittal.
INL Office of General Counsel	Advise INL management and all other INL personnel with responsibility for COI identification and resolution concerning legal obligations and risks. Act as single point of contact for INL to DOE-ID and corporate entities and affiliates of BEA on COI policy. Review and assist in the disposition of Requests for Approval of Outside Activity if requested by the COI Coordinator. Inform INL management and personnel involved in COI resolution of the status of relevant law. Act as a resource for INL employees who have questions concerning COI. Maintain the INL COI Compliance Plan. Annually (at least) review the plan to assure it meets all current requirements and is achieving its objectives. Advise management on intellectual property and technology transfer activities related to COI.

Performer	Responsibilities
Director, INL Human Resources	Provide a packet to each prospective employee that includes materials deemed appropriate to assist new employees to gain an understanding of COI. The new employee is to read and acknowledge receipt and understanding of this material prior to or during new employee orientation. Review with new employees form 480.08 and form 480.06, as applicable. Forward any positive responses to the COI Coordinator for review and evaluation. Ensure each employee's file contains the original or a copy of any confidentiality agreements and acknowledgments. Conduct an annual program audit to ensure that all employees complete the required COI training, as well as other documents applicable to their work assignment. Ensure that implementation of the COI program is taken into account in evaluating the performance of company supervision and management.
Director of Supply Chain	Ensure appropriate organizational conflict of interest provisions are incorporated into procurement actions. Ensure confidentiality agreements are executed by employees of subcontractors who will have access to agency sensitive information, including agency planning information and information that DOE, INL, or the subcontractor is under an obligation to protect from disclosure.

Performer	Responsibilities
Individual Employees	Complete form 480.05 prior to engaging in any "outside activity." Complete form 480.08 and form 480.06, if necessary, upon initial employment and when changed circumstances warrant. Complete the required ethics training. Be alert to, and avoid, the appearance as well as the occurrence of any conflict between personal interests, corporate interests, and recommendations being made by, or action being taken by, the employee. Avoid any situation that might reflect unfavorably on the corporation or on those with whom it does business. Be familiar and comply with restrictions that may exist with respect to intellectual property and/or proprietary information of which the employee is aware, including, but not limited to, commercial software and documentation, information disclosed by third parties in confidence, and copyrighted material. Submit a written, detailed description of prospective outside activity to their immediate manager on form 480.05. The form must be approved before an employee may commence the outside activity. Outside activities include: accept secondary employment with another employer; engage in self-employment; initiate plans for spinout business, technology transfer, licensing agreements, and other similar activities; or participate in any other compensated or uncompensated outside activity (excluding normal activities such as religious, recreational, or political unless running for or holding office) that could impact work performance or present potential COI. **NOTE:** *The reports of inquiries and requests are NOT required when the inquiries or requests come from other DOE laboratories unless operated by an Affiliate.* Report facts that are, or may potentially be, inconsistent with Company conflict of interest policies, including, but not limited to, communications, actions, or events involving employees of INL and related companies. Reports may be made to any level of management, the INL COI Coordinator or the INL Office of General Counsel. Read the supplementary COI requirements when working for specific programs including technology transfer, Cooperative Research and Development Agreement (CRADA) negotiations, work on CRADA projects, privatization, mission development, new business development, mixed waste focus area, and other similar activities.

3.2 Prerequisites

None.

4. INSTRUCTIONS

4.1 Personal Conflicts of Interest

4.1.1 Introduction

All employees have a continuing responsibility (i) to conduct themselves in accordance with the highest standards of integrity and ethics, including, without limitation, compliance with BEA's *Standards of Conduct and Business Ethics*, and (ii) to avoid COI, even the appearance of conflicts of interest, between his/her personal interests and those of the INL. A conflict of interest occurs when an employee has a relationship with a third party (e.g. a business activity, organization, relational interest or other individual) or other personal interest that creates or potentially creates a conflict between his or her duty of loyalty to BEA and the employee's self-interest or obligation to such third party.

This duty of loyalty requires all covered employees to (1) act in a fair and impartial manner in all business dealings; (2) place the interests of the INL over personal interests in matters relating to the INL business; (3) avoid financial, business, or other transactions or situations in which personal interests might conflict, or be construed to conflict, with the interests of the INL; and (4) avoid using either (i) INL-derived information that is not publicly available or (ii) resources for personal gain. These responsibilities also extend to those who are within the employee's **relational interests. Examples of COI for organizational and personnel are discussed in Appendix A.** Employees may find that the potential for conflicts exists in various aspects of conducting company business. Employees are required to disclose any outside interest that may create an actual or apparent COI, including, without limitation, the following:

A. Executive appointments (such as officer or director) in professional organizations (such as American Nuclear Society), non-profit organizations, or businesses of family, friends, or acquaintances;

B. Any employment by or consulting arrangements with a third party, particularly organizations that may seek to do business with the INL, other DOE contractors, or DOE;

C. Human resources and employee exchanges (including, without limitation, entrepreneurial leave, other leaves of absence, and joint appointment arrangements).

INL employees who should be particularly aware of potential COI include: (a) executive and senior management; (b) INL employees involved with technical services or new opportunities to achieve INL programmatic missions; (c) INL employees involved with negotiating agreements with third parties or participating in the selection or awarding of any type of agreement to a third party; and (d) employees leased to BEA (particularly from a Teaming Subcontractor) may require an OCI mitigation plan.

4.1.2 Required Action

4.1.2.1 All INL employees who propose to establish an outside interest or relationship with a third-party organization identified in Step 4.1 must complete form 480.05 "Request for Approval of Outside Activities." Form 480.06 "Disclosure of Potential Conflict of Interest" may be required to be completed, if deemed necessary.

4.1.2.2 All information required by form 480.05, including the prescribed signatures, must be provided/obtained.

4.1.2.3 Employee completes form 480.08 "New Employee Potential Conflict of Interest Disclosure" upon initial employment or when changed circumstances warrant and submits to his/her immediate manager.

4.1.2.4 COI Coordinator reviews the completed form 480.08 that has an affirmative determination and makes an initial determination of any actual or potential conflict of interest. COI Coordinator and Manager will work with the employee to resolve any conflict of interest situations. Such resolution may include any of the following steps:

- Remove the parties involved in the COI from the situation that creates the COI. For example, reassign personnel to alternative work or curtail the relationship with the other entity.

- Revise the work scope to eliminate those portions that create the COI.

- Decline to perform the specific work scope that creates the COI situation.

- Establishment of a conflict screen, if possible, that insulates the employee from the actual or potential conflict.

- The COI Coordinator may convene the **COI Review Committee** if circumstances warrant the Committee's review of the situation.

For situations in which INL employee(s) have an unresolvable COI in doing the work, but in which INL is the only facility that can provide the work or services, then the DOE may determine that assignment of the work to INL is in the best interests of the United States. When BEA management anticipates such a unique situation, written justification with proposed findings and determinations shall be prepared by BEA for submission to the DOE-ID contracting officer.

4.2 Organizational Conflicts of Interest

4.2.1 Introduction

BEA must perform the work under the INL Contract without bias due to past, present or planned interests. This procedure requires all covered employees to bring suspected OCI to the attention of management, help determine if it exists, and, if so, help develop a resolution of the situation in consultation with the COI Coordinator and Legal. In addition to complying with the requirements of this procedure, all covered employees shall comply with the requirements of Section I.9 DEAR 952.209-72 – *Organizational Conflicts of Interest. (JUN 1997) Alternate I (JAN 1997)* of the INL Contract.

4.2.2 Examples of Organizational Conflicts of Interest

An organizational conflict of interest may result when factors create an actual or potential conflict of interest, or when the nature of the work to be performed creates an actual or potential conflict of interest on future work performed by the INL. In the latter case, some restrictions on future activities of the contractor may be required.

Organizational conflicts of interest may arise in situations not expressly covered in this Plan. Each individual situation should be examined on the basis of its particular facts and the nature of the proposed contract. The exercise of common sense, good judgment, and sound discretion is required in both the decision on whether a significant potential conflict exists and, if it does, the development of an appropriate means for resolving it. The two underlying principles are as follows:

A. Preventing the existence of conflicting roles that might bias the judgment or an employee or vendor; and

B. Preventing unfair competitive advantage.

An organizational conflict of interest may occur in situations where BEA is:

A. Negotiating non-standard terms and conditions of a Requisition Form or Work for Others Agreement with a BEA-related entity.

B. Conducting any activity that involves assigning work to the INL or buying services outside the scope of the DOE Contracting Office approved levels.

C. Providing information gained from work under the INL Contract which is not publicly available or would not be released to the general public without prior contracting officer approval. This would include information relating to a future DOE or Federal Agency procurement, cost estimate, statement of work or specifications. This information may not be released without compliance with all terms of the BEA Contract.

D. Requested to or proposing to perform work for others in the following situations:

- Involves advice and recommendations in the same technical area as work performed for another Sponsor; or
- Involves advice and recommendations on the same or similar matters as performed for another work for others sponsor; or
- Involves the evaluation of the INL’s own products or services.

4.2.3 Required Action

If any INL employee suspects the existence of an OCI, the following steps must be followed:

***Step 1*.** Employee identifies possible OCI situation and requests review by the COI Coordinator.

***Step 2*.** The COI Coordinator collects information and determines if a review by the COI Review Committee is required. If the COI Coordinator determines, in consultation with Legal, that an OCI does not exist, he informs the employee.

***Step 3*.** The COI Review Committee reviews the situation, determines (based on input from the members) whether an OCI exists, and documents the meeting and determination.

***Step 4*.** When an OCI is determined to exist, the COI Review Committee identifies possible approaches to mitigate (including managing the actual or perceived conflict of interest) or avoid the OCI as appropriate.

***Step 5*.** The COI Review Committee develops a mitigation plan based on the suggested approaches.

***Step 6*.** The COI Review Committee approves the mitigation plan and is responsible for its implementation.

NOTE: *The COI Coordinator is responsible for maintaining the records for the COI Review Committee.*

The success of the BEA OCI program depends in large part upon the early identification of potential COI issues and timely communication between BEA and its Teaming or Industry Subcontractors or Affiliates. Failure to properly screen new business opportunities could result in the disqualification of BEA or a Teaming or Industrial Subcontractor or Affiliate from such opportunities and a subsequent loss of business. Proactive screening and resolution of potential OCI issues ensures BEA's continued participation in new business opportunities and reinforces the entity's stated intention to conduct its business operations in accordance with the highest standards of ethics and integrity.

5. RECORDS

Form 480.05, INL Request for Approval of Outside Activities

Form 480.06, INL Disclosure of Potential Conflict of Interest

Form 480.07, BEA Organizational Conflicts of Interest Visit/Information Release and Review and Approval

Form 480.08, INL New Employee Potential Conflict of Interest Disclosure

6. DEFINITIONS

COCI. Corporate Organizational Conflict of Interest.

COI. Conflict of Interest.

COI Review Committee. This Committee consists of the OCI Coordinator, a representative from (i) the Office of General Counsel, (ii) Supply Chain Management, and (iii) any potentially affected business organization. Other BEA employees who have critical knowledge or skills may be invited to participate. The purpose of the Committee is to review and resolve, consistent with the provisions of this procedure or sound business principles, COI or OCI issues that arise within or relate to BEA's performance of the INL contract.

Conflict of Interest. A conflict of interest occurs when an employee has a relationship with a third party (i.e., a business activity, organization, relational interest or other individual) that creates or potentially creates a conflict between his or her duty of loyalty to BEA and the employee's self-interest or obligation to such third party.

CRADA: Cooperative Research and Development Agreement. An agreement between one or more Federal facilities and one or more non-Federal parties (commercial entity) for conduct of specified research and development efforts which are consistent with the mission of the facility.

Department of Energy Acquisition Regulation (DEAR): All covered employees shall comply with the requirements of Section I.9 DEAR 952.209-72 – *Organizational Conflicts of Interest. (JUN 1997) Alternate I (JAN 1997)* of the INL Contract.

Financial Interest. A financial interest occurs when there is a direct or indirect ownership by the employee and immediate family [employee, members of employee's immediate household, and any relatives of employee by blood or marriage (excluding blood relations beyond first cousins and in-laws beyond spouse's immediate family)] of any stock, bond, option or right to purchase stock, share in profits, investment partnership interest or other profit participation or equity interest whatsoever.

> *DISREGARD MUTUAL INVESTMENT TRUSTS AND PUBLICLY OWNED CORPORATIONS WHOSE SECURITIES ARE TRADED PUBLICLY, IN WHICH EMPLOYEE AND IMMEDIATE FAMILY OWN LESS THAN 1% OF THE ISSUED AND OUTSTANDING SECURITIES THEREOF.*

INL COI Compliance Plan. This is the contract-based document that sets forth the policy whereby INL will avoid or mitigate COI in the performance of DOE work.

OCI. Organizational Conflict of Interest.

Organizational Conflict of Interest. Because of other activities or relationships with other persons:

- An individual (or group of individuals) employed by BEA or BEA as a company, is unable or potentially unable to render impartial assistance or advice to the government (or non-federal work for others sponsor), or to maintain objectivity in performing government contract work, or

- BEA has an unfair competitive advantage.

Organization Manager. The organization manager is the work product manager or the manager of the organization responsible for specific work being performed.

Personal COI. This occurs when an employee's outside financial, business, or personal relationships are to appear to be inconsistent with the interests of INL or the government and, as a result, that employee's independent judgment related to INL matters might potentially be compromised.

Potential COI. This occurs when circumstances or relationships which, if not removed or mitigated, could become an actual or perceived COI.

Relational Interest. Relational interests include the employee's parents (and in-laws), spouse, children (including adopted, step-children and in-laws), and brothers and sisters (and in-laws) and members of the employee's household.

Responsible Element. The responsible element is the INL Member company developing/proposing new business which has the potential to cause corporate organizational conflict of interest issues.

Work for Others. This is work performed by INL for an entity other than DOE. Such work is generally performed under INL's prime contract pursuant to an arrangement between the work-for-others sponsor and DOE.

Work for Others Sponsor. The work for others sponsor is the outside agency or private entity that provides funding for a work for others project.

7. REFERENCES

None

8. APPENDIXES

Appendix A, Examples of Conflict of Interests

Appendix A

Examples of Conflicts of Interest

This procedure can assist in determining whether a conflict of interest does, in fact, exist. However, the ultimate determination of whether or not there may be a conflict of interest is, basically, the exercise of common sense and application of good business judgment to a given situation. The following examples of situations where COI may arise may be helpful in that effort.

A. Organizational

1. BEA provides engineering and technical direction for the Air Force in a work for others project and later is requested by the Air Force to evaluate that same engineering and technical direction. BEA would have an organizational conflict of interest if it attempted to evaluate its own previous work.

2. BEA develops a comprehensive plan for waste minimization, including detailed contract performance and evaluation criteria. BEA could not then share information about the plan with a teaming subcontractor that might want to bid on that waste minimization project unless that information is also readily available to other prospective bidders.

3. BEA performs technical assistance, advice and/or recommendations for the nuclear industry, including a commercial nuclear power facility or other organization that is regulated by the Nuclear Regulatory Commission (NRC). BEA may not:

   A. provide advice and recommendations to NRC in the same technical area;

   B. provide advice and recommendations to the NRC on the same or similar matter;

   C. evaluate its own products or services or the product or services of another entity for which BEA has been substantially involved in the development or marketing, in performance of project work for NRC;

   D. perform work for the NRC that would place BEA in a conflicting role in which its judgment may be biased in relation to its work for the NRC, or would result in an unfair competitive advantage for BEA; or

   E. perform concurrent work for the NRC in the same technical area at the same licensee or applicant site as the commercial work that BEA is performing for an NRC applicant of licensee.

B. Personal

1. The spouse of a BEA project manager has a financial interest in a company that provides products to BEA. The project manager may not then participate either in writing the product description in a procurement requisition for such products or in a technical evaluation of the offeror's proposals since s/he might stand to gain financially if the subcontract is awarded to a particular company.

2. In general, BEA may not award a subcontract to one of its own employees since the employee may have, or may appear to have, "inside" information which gives him/her a competitive advantage.

3. A current employee of BEA who has responsibility to oversee subcontracts may not explore future employment with one of the subcontractors for which s/he is responsible without proper disclosures and approvals. To do so would create the potential that decisions about the subcontractor's compliance with subcontract terms were influenced by the employee's possible future with the subcontractor, rather than by the best interests of his/her employer and the government.

4. An BEA employee who has a past, present, or planned financial interest with a firm that is negotiating a CRADA with BEA may not participate in the negotiation process because of the possibility that his/her financial interest could influence the discussions.

The foregoing are merely examples. Conflict of interest situations cover such a broad spectrum that a full catalogue of "dos" and "don'ts" is impractical. In cases of reasonable doubt, employees should consult with their manager, the INL COI Coordinator or BEA Office of General Counsel.

Appendix B

Procedure Basis

Step	Basis	Source Document	Citation