Conflicts of Interest Unraveled

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Office of Institutional Assurance and Integrity

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Regulatory Environment
Organizational Conflicts of Interest
Unfair Advantage in Seeking Funding

Government contemplates program/funding opportunity

LBNL develops specifications or statement of work

LBNL receives information from funding agency not released or available to the public

Restrictions on LBNL ability to propose or compete for subject funding
LBNL contemplates an acquisition that will result in a Request for Proposal (RFP).

Potential vendor asked to define requirements.

Vendor given advantage not available to other competitors.

Vendor receives information not available to other competitors.

Employee/Vendor Relationship

Integrity of procurement compromised; subject to prohibitions and/or challenge.
INDIVIDUAL CONFLICT OF INTEREST
A COI a set of circumstances that creates a risk that professional judgment or actions regarding a primary interest will be unduly influenced by a secondary interest.

Fully and transparently identifying and managing conflicts of interest helps maintain the integrity of the research and fosters public trust in the research enterprise.
Economic Interests

- Outside Employment
- Business Investment
- Business Ownership/Management
- Personal Financial Effect
- Spouse’s Economic Interests
- Real Property
- Sources of Income
  - Travel Payments
  - Gifts
  - Honoraria
The Case of the Shiny Mirrors

- Read the case
- Please understand that it is a hypothetical only, and does not represent what may be allowable or manageable within our environment
- Identify required processes
- Think about potential conflicts of interest
Required processes

• Adams
  – COPA/Outside Work must be reviewed and approved by Berkeley Lab prior to her engaging in work for the company
  – Disclose ownership interest in MirrorsPlus
    • Inventor Statement of Economic Interest
    • Employee-vendor list
  – Disclose equity and management position in potential sponsored work (SBIR/SPP)
  – Disclose equity in NIH, probably other federally funded proposal submissions

• Lucas
  – COPA must be reviewed and approved
# Policies and Procedures

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<td>Prior approval for compensated outside professional activities</td>
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## Required Disclosures

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<td>Employees seeking compensated outside professional activities</td>
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<td>Employees with vendor relationships</td>
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<td>PI on privately sponsored research and gifts</td>
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<td>Those responsible for the design, conduct or reporting of research funded by PHS/NSF and other entities</td>
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<td>Human Subjects Researchers</td>
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<td>Inventors</td>
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<td>Designated officials</td>
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<td>Peer reviewers (proposal, program, publications)</td>
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Case Study

Potential conflicts

• Time committed to MirrorsPlus could interfere with LBNL responsibilities

• Economic interest could bias design, conduct or reporting of research or award of license

• Potential misuse of LBNL resources (time, facilities, phone/computer, etc.) for personal gain

• Lucas reporting to her in both organizations – potential misdirection of subordinate work

• Appearance of conflict creates personal/LBNL reputational risks

• Subcontract to employee-owned company
Case Study

Managing the conflicts

- Both researchers disclose financial interests
  - Research group
  - Publications/presentations
  - Program managers
- Division reduces Adams’ time commitment at LBNL or Adams reduces time commitment at MirrorsPlus, or both
- Division provides additional oversight and changes supervisory structure
- OIAI notifies DOE Berkeley Site Office, possibly NIH of the conflict and resulting management plan
Unmanageable conflict of interest

- Though MirrorsPlus may engage in SPP with Berkeley Lab, Adams may not be Berkeley Lab PI (no separation of personal and public interests, potential bias of research, misuse of Lab resources for personal gain)
- Lucas cannot report to Adams for both organizations (potential misdirection of work)
- Adams may not subcontract work to MirrorsPlus
- LBNL must find another way to accomplish the production of the prototype coatings, or not accept this part of the research project
Single COI Review Process

Conflict of Interest Advisory Committee

- Privately Sponsored Research
- Outside Employment
- NIH/NSF Research

Conflict of Interest Advisory Committee
COIAC Review Triggers

Income
- Any $ amount for COPA

Equity
- Varies by process

Relationship to Lab
- Technology license
- Research Sponsor
- Supplier/Vendor/Subcontractor

Other employee involvement
- Reporting relationships
Employees may participate in outside professional interests, including employment relationships and equity holdings, as long as those financial interests do not interfere with employees’ Laboratory obligations, involve use of Laboratory resources, embarrass DOE or the University, create an unmanageable conflict of interest.

Each regulatory entity has similar principles and frameworks for reviewing outside interests and addressing conflicts that arise therein.
Managing Research Conflicts

Disclosure
- Research Group
- Funding Source
- Publications

Independent Oversight/Supervisory Change

Limit Researcher Role

Reduce or Eliminate Financial Interest
Potentially Significant Consequences
Personal/Institutional

- Personal criminal/civil prosecution/fines
- Personal disciplinary action
- Delay in ability to compete for funds
- Disqualification/debarment
- Loss of UC Contract
Remember

Be Alert to Potential COI Situations
- Activities in which you have an economic interest
- Interactions with funding agency personnel
- Interactions with subcontractors/bidders
- Interactions with previous/prospective employers

Know Your Economic Interests
- Sources include employee, spouse, registered domestic partner, dependent children, etc.
- Types include income, real property, investments

Ask Experts
- Office of Institutional Assurance and Integrity
- Procurement
- Intellectual Property Office
- Lab Counsel

Disclose/Self-Disqualify
Questions?
coi@lbl.gov