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THE UNDER SECRETARY OF DEFENSE
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WASHINGTON, DC 20301-3010

ACQUISITION, TECHNOLOGY AND LOGISTICS

JAN 2 6 2007

MEMORANDUM FOR SECRETARY OF THE ARMY
SECRETARY OF THE NAVY
SECRETARY OF THE AIR FORCE
ASSISTANT SECRETARY OF DEFENSE (NETWORK AND INFORMATION INTEGRATION)
DIRECTOR, NATIONAL SECURITY AGENCY

SUBJECT: Federally Funded Research and Development Center (FFRDC) Avoidance of Conflict of Interest (COI)

We, with support from the Deputy General Counsel (Acquisition and Logistics), reviewed the conflict of interest (COI) policies and procedures in place at each of the DoD FFRDCs. The review addressed FFRDC sponsoring agreements, contracts, and internal policies and procedures. It concluded some of these documents failed to meet minimum requirements, and others need revision to better protect DoD from COIs.

The review also resulted in revised COI policies and procedures (attached) that, when implemented, will enable DoD FFRDCs to meet the standard to remain free from conflicts of interest, in order to "operate in the public interest with objectivity and independence," as required by Federal Acquisition Regulation (FAR) 35.017(a)(2). I direct you, as the sponsor of one or more DoD FFRDCs, ensure the changes to current policies and procedures are implemented in a timely manner. Updated policies and procedures are to be included in the FFRDC Sponsoring Agreement and the Sponsoring Agreement incorporated into the contract with the FFRDC parent institution. You should also ensure the Sponsoring Agreement includes the minimum requirements identified in FAR 35.017-1(c). Provide a copy of the Sponsoring Agreement and contract modification to my office by March 15, 2007.

We will incorporate these revised policies and procedures into the DoD FFRDC Management Plan.

My point of contact is Robert D. Williams, the Deputy Director, OSD Studies and FFRDC Programs, at 703-845-2192 or bob.williams@osd.mil.

Kenneth J. Krieg

Attachment:
As stated

cc:
Under Secretary of Defense for Intelligence
Director, Program Analysis and Evaluation (Army)
Director (A), Software Engineering Directorate
(US Army RDECOM CERDEC HQ)
Chief of Naval Operations (N-81)
Deputy Assistant Secretary of the Air Force
(Management Policy and Program Integration)
Deputy Assistant Secretary of Defense (Resources)
(OASD(NII))
FFRDC Chairperson (NSA)

CONFLICT OF INTEREST POLICIES AND PROCEDURES TO BE INCLUDED IN FFRDC SPONSORING AGREEMENTS

Avoidance of Conflict of Interest (COI)

Work performed by an FFRDC shall be characterized by a need for unquestioned objectivity, divorced from all conflicting interests, financial or commercial. This includes both organizational conflicts of interest and personal conflicts of interest of employees which may undermine the integrity of the relationship. "Organizational conflict of interest" exists when an organization has past, present, or currently planned interests that either directly or indirectly (through a client, contractual, financial, organizational or other relationship) relate to the work to be performed under a sponsoring agreement or contract and (a) may diminish its capacity to give impartial, technically sound, objective assistance or advice, or (b) may result in it having an unfair competitive advantage. "Personal conflict of interest" refers to an individual employed by an organization in a position to materially influence research findings and/or recommendations who, because of his/her personal activities, relationships, or financial interests, may lack objectivity or be perceived to potentially lack objectivity.

It is essential that all research and recommendations be guided solely by the public interest, with sponsors and the public not left to wonder whether some other interest or motive might be involved. Sponsors cannot afford to hesitate in entrusting the FFRDC organization with full information, including sensitive military and intelligence information, proprietary commercial information, or the government's planning and budget information.

In order to maintain this privileged position of trust and confidence, the appearance of conflict of interest as well as the actuality must be avoided. This requires that each parent organization of a DoD FFRDC--

a) Maintain a written, rigorous, corporate-wide, conflict of interest set of policies; report any COI to the applicable Contracting Officer or Contracting Officer's Technical Representative (COTR), and the Executive Agent as soon as it is identified; provide an annual compilation of conflicts of interest and their disposition; and maintain an audit program to verify compliance.

b) Have policies in place that address all major areas of personal COIs including, but not necessarily limited to: gifts; outside activities; and financial interests.

c) Have procedures in place to screen for potential COI. All personnel -- including chief executives and other officers, directors, trustees, employees, consultants, and subcontractor employees -- in a position to make or materially influence research findings and/or recommendations that might affect one or another outside interest will submit an Annual Statement of Financial Interests. At a minimum, this statement must list all financial interests that are likely to be relevant in ascertaining the individual's impartiality. This statement must be

reviewed, in view of their position or assigned projects, to affirm that they have no interest, direct or indirect, which could diminish their objectivity or place them in potential conflict with the public's interest. In lieu of requiring such Annual Statements, the FFRDC may use an alternative system that provides for a task-by-task review for potential conflicts.

d) Have procedures in place to ensure observance of the:

(i) clauses in the FFRDC contract concerning contractor standards of conduct (DFARS 203.70); anti-kickback provisions (FAR 52.203-7); limitations on hiring of certain federal employees and former employees (FAR 52.203-8 and 52-203-10); and payments to influence federal transactions (FAR 52.203-11 and 52.203-12);

(ii) provisions of the DOD Appropriations Act concerning compensated service to more than one DOD FFRDC by a member of the Board of Directors, Trustees, or any other similar entity (PL 109-289, section 8023(b) and subsequent re-enactments, if any); and

(iii) unless the FFRDC has a DOD-approved COI policy, provision of the DFARS (DFARS 235.017) concerning simultaneous service of an FFRDC Trustee or Director on the Board of a for-profit defense contractor.

e) Maintain policies and procedures to protect proprietary, privileged, and sensitive information from disclosure.

f) Provide initial and annual refresher training covering ethics and conflicts of interest for all affected employees.

g) Designate an office responsible for ethics compliance and training.