

Please see [RAIN-2018-G03-R](#) for details regarding changes to this GPI effective November 12, 2020.

Please see [RAIN-2018-G03](#) for details regarding changes to this GPI effective August 22, 2018.

Amended Grants Policy Issuance (GPI) 15-02

EPA's Financial Assistance Conflict of Interest Policy

1.0 Purpose

As required by Title 2 of the Code of Federal Regulations (CFR) section [200.112](#), EPA has established the following final policy governing disclosure of actual and potential conflicts of interest (COI Policy) by applicants for, and recipients of, federal financial assistance awards from EPA. This policy is intended to prevent personal and organizational conflict of interests in the award and administration of EPA financial assistance.

2.0 Applicability, Effective Date and Relationship to other Policies

This COI Policy, except as noted below, applies to all individuals and non-Federal entities requesting and receiving EPA financial assistance in the form of new initial awards or incremental/supplemental funding on or after November 12, 2020, and supersedes previous versions of the COI Policy. It is distinct from and different than EPA policies governing scientific integrity and those implementing the Standards of Ethical Conduct for Employees of the Executive Branch. In addition, nothing in this COI Policy supersedes the conflict of interest provisions of [EPA Order 5700.5A1](#), Policy for Competition of Assistance Agreements (02/06/2014) (“EPA’s Competition Policy”).

This COI Policy does not apply to:

- (a) Awards to foreign governments and international organizations covered by the International Organizations Immunity Act (e.g. the World Health Organization).
- (b) Internal transfers of funds within the recipient’s organization (e.g. between departments of a tribal government or institution of higher education).
- (c) Subawards in the form of loans, loan guarantees, interest subsidies and principal forgiveness, purchases of insurance or similar transactions entered into with borrowers by recipients of revolving loan fund capitalization grants or other EPA financial assistance agreements where Agency funds may be used for lending activities. However, the terms and conditions of these EPA assistance agreements or program guidance related to revolving loan capitalization grant programs may include COI provisions applicable to transactions with borrowers.

3.0 Definitions

Applicant: An individual (including applicants for competitive fellowships under [40 CFR Part 46](#)) or non-Federal entity who submits a competitive proposal and/or final [Standard Form 424, "Application for Federal Assistance"](#) (SF-424), following selection by EPA to receive a federal financial assistance award under competitive or noncompetitive procedures.

Conflicts of Interest (COI): An actual or potential COI situation described at [2 CFR 200.318\(c\)\(1\)](#) or (c)(2). The term also includes situations that create, or may create, an unfair competitive advantage, or the appearance of such, for an applicant in competing for federal financial assistance from EPA.

COI Point of Contact: The individual designated by the applicant or recipient to disclose and resolve COI for Federal financial assistance awards or subawards. A COI Point of Contact for applicants for competitive funding may be the "Authorized Representative" specified on the [Standard Form 424, Application for Federal Financial Assistance](#), unless the applicant designates another official. Applicants for noncompetitive funding and recipients may designate the Authorized Representative or another employee or officer of the Non-Federal Entity or another entity (e.g. consultant or attorney) expressly authorized by the Non-Federal Entity to speak on its behalf.

Federal Financial Assistance: This term is defined at [2 CFR 200.1](#).

Non-Federal Entity: This term is defined at [2 CFR 200.1](#).

Immediate Family: This term includes family members as described at [2 CFR 200.465\(c\)\(4\)](#).

Individual: A natural person.

Pass-through entity: This term is defined at [2 CFR 200.1](#).

Recipient: This term is defined at [2 CFR 200.1](#) and for the purposes of this COI Policy also includes individuals who receive awards under EPA statutes authorizing direct Federal financial assistance to individuals.

State: This term is defined at [2 CFR 200.1](#). For the purposes of this COI Policy, institutions of higher education that are instrumentalities of a state under their state's laws are subject to the same disclosure obligations as state government agencies.

Subaward: This term is defined at [2 CFR 200.1](#).

Subrecipient: This term is defined at [2 CFR 200.1](#) and for the purpose of this COI Policy also includes individuals (who are not program beneficiaries) who receive subawards.

4.0 Situations Requiring Disclosure

This policy addresses the following COI situations:

(a) **COIs related to Competitive Assistance Agreements.** All EPA solicitations will include a clause requiring the applicant's COI Point of Contact to notify the EPA contact identified in Section VII of the solicitation of any actual or potential conflict of interest that they are aware of that may provide the Applicant with an unfair competitive advantage in competing for EPA financial assistance awards. Examples of an unfair competitive advantage include but are not limited to situations in which an EPA employee reviewed and commented on or drafted all or part of an applicant's proposal. EPA will promptly take appropriate action upon receiving any such notification from the Applicant. In addition, assistance agreement awards made under the solicitation will include a term and condition notifying recipients that they must have procedures in place to ensure that they address, disclose and resolve actual and/or potential conflicts of interest as described in this COI Policy in awarding subawards and/or contracts under the EPA assistance agreement award.

(b) **COIs related to the selection, award and administration of recipient or subrecipient contracts.** Any COI described at 2 CFR 200.318(c)(1), as applicable, involving a procurement contract regardless of amount including, but not limited to, consulting fees or other compensation paid by contractors to employees, officers, agents of the recipient or subrecipient and/or members of their Immediate Families.

(c) **Recipient or subrecipient procurement actions raising organizational COIs with a parent, affiliate or subsidiary organization that is not a State, local government or Indian Tribe.** Any organizational COI described at 2 CFR 200.318(c)(2) or governed by 40 CFR 40.43 or 40 CFR 31.36(c), as applicable, involving a procurement contract regardless of amount. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization. For the purpose of this disclosure requirement, the non-Federal entity should use the definition of "affiliate" at [2 CFR 180.905](#) for guidance.

(d) **Subaward COIs.** Consistent with OMB's Frequently Asked [Questions](#) on 2 CFR 200.112, any COI in the award, administration, or monitoring of subawards regardless of amount that would arise due to:

i. COIs similar to those described at 2 CFR 200.318(c)(1) including consulting fees or other compensation paid to employees, officers, agents of a pass-through entity or members of their

Immediate Families by subrecipients or their procurement contractors receiving EPA funding under a subaward.

ii. Organizational COI similar to those described at 2 CFR 200.318(c)(2) between the subrecipient or other subrecipients receiving EPA funding under a subaward.

5.0 Disclosure Requirements by Applicant/Recipient Type

(a) Consistent with [2 CFR 200.317](#), Authorized Representatives or other designated officials for states must provide COI disclosures to EPA only when competing for EPA funding under the solicitation provision described in Section 4.0(a) or as a Pass-Through Entity under Section 5.0(d).

(b) Individuals applying for EPA Fellowship awards under [40 CFR Part 46](#) are only subject to the disclosure requirements under the competitive solicitation provision described in Section 4.0(a). They are not subject to any other COI disclosure requirements.

(c) Non-federal entities (other than states) and individuals (other than fellowship recipients) must provide COI disclosures to EPA under the situations described in Section 4.0(a) through 4.0(d).

(d) Recipients, including states, acting as a Pass-through entity must require subrecipients receiving or being considered for a subaward to disclose to the recipient the COI situations described in Section 4.0(b), (c) and (d). The Pass-through entity must in turn disclose the COI to EPA.

(e) EPA only requires that Applicants/Recipients disclose any COI, if any, as described in Section 6.0. If Applicants/Recipients do not discover a COI, they do not need to advise EPA of the results of their inquiries.

6.0 Disclosure Requirements

(a) Under Section 4.0(a), the Applicant's COI Point of Contact need only disclose to EPA situations that they are personally aware of at the time the applicant submits its competitive proposal to EPA or subsequently becomes aware of prior to being notified by EPA of the outcome of the competition. Additionally, EPA's assistance agreement with successful applicants will include a term and condition requiring the recipient to notify EPA of any competition related COI described in Section 4.0(a) of the COI Policy that the COI Point of Contact discovers after award. EPA does not require that COI Points of Contact make additional inquiries regarding situations covered in Section 4.0(a).

(b) Recipients (other than states and fellowship recipients under 40 CFR Part 46) must have systems in place to address, resolve, and disclose to EPA the COI situations described in Sections 4.0(b) and (c), and (d) that affect any contract or subaward funded under an EPA financial assistance agreement in accordance with the terms and conditions of their award.

(c) Pass through entities, including states, must impose COI disclosure requirements on Non-federal entities and individuals being considered for, or receiving subawards, that are at a minimum in accordance with Sections 5.0(d) and 7.0(c) of this COI Policy.

7.0 Timing of Disclosures.

(a) For awards EPA will make competitively, the Applicant's COI Point of Contact must provide disclosures, if any, covered by Section 4.0(a) to EPA's point of contact identified in Section VII of the solicitation within 10 calendar days of becoming aware of the COI.

(b) For COI disclosures required by Sections 4.0(b), (c), and (d) recipients must provide their COI disclosure, as applicable, within 30 calendar days of discovery of the COI to EPA in accordance with the terms and conditions of their award.

(c) Pass-through entities (including states) must require that subrecipients disclose COI described in Sections 4.0(b), (c), and (d) to them within 30 calendar days of discovery. In turn, Pass-through entities must disclose subrecipient COI's to EPA within 30 calendar days of receiving notification of a COI by the subrecipient unless the pass-through entity requests that EPA grant a longer period of time to resolve the subrecipient COI.

8.0 Content of Disclosures.

(a) All COI disclosures must be in writing preferably through email communication.

(b) In situations covered under Section 4.0(a), applicants must describe the unfair competitive advantage (e.g., proposal preparation assistance they received from an EPA employee and the approximate time frame in which the assistance was provided) circumstances.

(c) For the COIs described in Sections 4.0(b), 4.0(c) and 4.0(d), recipients must provide EPA with any information regarding measures to eliminate, neutralize, mitigate or otherwise resolve the COI.

9.0 EPA Actions.

(a) EPA will notify applicants of their COI disclosure obligations prior to award through the solicitation clause described in 4.0(a) and include a term and condition in all awards describing

the recipients COI disclosure obligations under 4.0(b), 4.0(c) and 4.0(d) after award. The notifications and terms and conditions will identify EPA's point of contact for COI disclosures.

(b) The Agency will review COI disclosures under 4.0(b), 4.0(c) and 4.0(d) and measures recipients propose to resolve the COI and advise applicants/recipients of EPA's determination on the effectiveness of the measures within 30 calendar days of disclosure unless a longer period of time is necessary due to the complexity of the situation. Disclosure of a potential COI will not necessarily result in EPA disallowing costs, with the exception of procurement contracts that the Agency determines violate 2 CFR 200.318(c)(1) or (2), provided the recipient notifies EPA of measures the recipient or subrecipient has taken to eliminate, neutralize or mitigate the conflict of interest when making the disclosure.