

APPENDIX A
Additional Information on Determining Conflict of Interest
for Those Who Are Not To Be Appointed as Federal Employees

This appendix provides further guidance to individuals for the purposes of completing these forms. ~~Persons subject to Tier 1 reporting need only complete the Tier 1 portion of the form. Persons required to complete the Tier 2 portion must complete both portions.~~ You must respond to each of the questions in accordance with its own terms. However, for the purpose of responding to questions on whether you have "any actual or potential personal conflict of interest or bias," 8 on Tier 1 portion of the form, you should consider the following factors in deciding whether you must report ~~that you have "any actual or potential personal conflict of interest or bias."~~ The term "bias" is intended to be read broadly and includes any factors that that you believe might be perceived as improperly influencing your actions on this project. The term "conflict of interest" is defined more specifically below. Should you have any questions, you should seek advice from the Task Manager.

For the purposes of completing ~~these~~ forms, the term "conflict of interest" does not refer to past interests that have expired, no longer exist and cannot reasonably affect current behavior. Nor does it refer to possible interests that may arise in the future but do not currently exist and are speculative or uncertain. For example, a pending formal or informal application for a particular job should be considered, but it is not necessary to consider the mere possibility that one might apply for such a job in the future.

The term "conflict of interest" refers not only to the personal 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. These interests include those 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. You should also consider the interests of those for whom you are 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).

In connection with your work on a covered project, you must identify *any interests that may be directly affected by the use of such reports by OSHA*. For example, if OSHA were conducting a study of proposed modifications in the government regulation of a particular industry, you must identify any interests that would be directly affected by the results of the expert panel's findings, including the interests of others with whom you have substantial common financial interests.

Such interests will include your stock holdings or being an officer, director, or employee of an entity or company. Serving as a consultant to the company could constitute such an interest if the consulting relationship with the company could be directly affected by, or is directly related to, the subject matter or a potential regulatory process.

Other possible interests that you must consider include, for example, relevant patents and other forms of intellectual property, serving as an expert witness in litigation directly related to the subject matter or the potential regulatory process, or receiving research funding from a party that would be directly affected by the regulatory process (if the research funding could be directly affected by, or is directly related to, the subject matter of the regulatory process and the right to independently conduct and publish the results of this research is limited by the sponsor). You must also consider such interests of others with whom you have substantial common financial interests -- particularly spouses, employers, clients, and business or research partners.

EMPLOYMENT. (a) If the reports resulting from this activity were to provide the basis for government regulatory action or inaction with respect to the matters addressed in the reports, you must consider whether --

(i) your current employment or self-employment (or your spouse's current employment or self-employment) could be directly affected.

(ii) any of your (or your spouse's) financial interests and employer's interests or, if self-employed, your (or your spouse's) clients and/or business partners could be directly affected.

(iii) the financial interests of a corporation or other legal entity for which you are an officer, director or trustee could be directly affected.

(iv) there could be a direct effect on any of your current consulting relationships.

(v) regardless of the potential effect on the consulting relationship, you have any current or continuing consulting relationships (including, for example, commercial and professional consulting and service arrangements, scientific and technical advisory board memberships, serving as an expert witness in litigation, or providing services in exchange for honorariums and travel expense reimbursements) that are directly related to the subject matter of the possible government regulatory action or inaction.

(b) If you have ever been a U.S. Government employee (either civilian or military), consider whether, to the best of your knowledge, there are any federal conflict of interest restrictions that may be applicable to your service in connection with this activity.

(c) Consider whether your employer (e.g., a private foundation) is a co-sponsor of this project.

INVESTMENT INTERESTS. Taking into account stocks, bonds, and other financial instruments and investments including partnerships, if the reports resulting from this activity were to provide the basis for government regulatory action or inaction with respect to the matters addressed in the reports, consider whether--

(a) any stocks, bonds or other financial instruments or investments that you or your spouse or minor children own directly or indirectly (e.g., through a trust or an individual account in a pension or profit-sharing plan) could be affected, either directly or by a direct effect on the business enterprise or activities underlying the investments.

(b) you have any other significant financial investments or interests such as commercial business interests (e.g., sole proprietorships), investment interests (e.g., stock options), or personal investment relationships (e.g., involving parents or grandchildren) that could be affected, either directly or by a direct effect on the business enterprise or activities underlying the investments.

PROPERTY INTERESTS. Taking into account real estate and other tangible property interests, as well as intellectual property (patents, copyrights, etc.) interests, if the reports resulting from this activity were to provide the basis for government regulatory action or inaction with respect to the matters addressed in the reports, consider whether --

(a) you or your spouse or minor children own directly or indirectly any such property interests that could be directly affected.

(b) to the best of your knowledge, any others with whom you have substantial common financial interests (e.g., employer, business partners, etc.) own directly or indirectly any such property interests that could be directly affected.

RESEARCH FUNDING AND OTHER INTERESTS. Taking into account your research funding and other research support (e.g., equipment, facilities, industry partnerships, research assistants and other research personnel, etc.), if the reports resulting from this activity were to provide the

basis for government regulatory action or inaction with respect to the matters addressed in the reports, consider whether --

(a) the research funding and support for you or your close research colleagues and collaborators could be directly affected.

(b) if you have any research agreements for current or continuing research funding or support from any party whose financial interests could be directly affected, and such funding or support is directly related to the subject matter or the potential regulatory process, such agreements significantly limit your ability to independently conduct and publish the results of your research (other than for reasonable delays in publication in order to file patent applications).

(c) the central purpose of the project for which this disclosure form is being prepared is a critical review and evaluation of your own work or that of your employer.

(d) you have any existing professional obligations (e.g., as an officer of a scientific or engineering society) that effectively require you to publicly defend a previously established position on an issue that is relevant to the functions to be performed in this activity.

(e) to the best of your knowledge, your participation in this activity will enable you to obtain access to a competitor's or potential competitor's confidential proprietary information.

(f) your service on the activity on which you have been invited to serve could create a specific financial or commercial competitive advantage for you or others with whom you have substantial common financial interests.

(g) if the activity for which this form is being prepared involves reviews of specific applications and proposals for contract, grant, fellowship, or other awards to be made by sponsors, you or others with whom you have substantial common financial interests, or a familial or substantial professional relationship, have an interest in receiving or being considered for awards that are currently the subject of the review being conducted by this committee.

(h) if the activity for which this form is being prepared involves developing requests for proposals, work statements, and/or specifications, etc., you are interested in seeking an award under the program for which the activity/task on which you have been invited to serve is developing the request for proposals, work statement, and/or specifications -- or, you are employed in any capacity by, or you have a financial interest in or other economic relationship with, any person or organization that to the best of your knowledge is interested in seeking an award under this program.