

APPENDIX F E
ON PREVENTING CONFLICTS OF INTEREST
IN GOVERNMENT-SPONSORED RESEARCH AT UNIVERSITIES

A Joint Statement of

The Council of the American Association of University Professors

and

The American Council on Education

December, 1964

The increasingly necessary and complex relationships among universities, Government, and industry call for more intensive attention to standards of procedure and conduct in Government-sponsored research. The clarification and application of such standards must be designed to serve the purposes and needs of the projects and the public interest involved in them and to protect the integrity of the cooperating institutions as agencies of higher education.

The Government and institutions of higher education, as the contracting parties, have an obligation to see that adequate standards and procedures are developed and applied; to inform one another of their respective requirements; and to assure that all individuals participating in their respective behalves are informed of and apply the standards and procedures that are so developed.

Consulting relationships between university staff members and industry serve the interests of research and education in the university. Likewise, the transfer of technical knowledge and skill from the university to industry contributes to technological advance. Such relationships are desirable, but certain potential hazards should be recognized.

A. Conflict Situations

1. Favoring of outside interests. When a university staff member (administrator, faculty member, professional staff member, or employee) undertaking or engaging in Government-sponsored work has a significant financial interest in, or a consulting arrangement with, a private business concern, it is important to avoid actual or apparent conflicts of interest between his or her Government-sponsored university research obligations and his or her outside interests and other obligations. Situations in or from which conflicts of interest may arise are the following:

(a) Undertaking or orientation of the staff member's university research to serve the research or other needs of the private firm without disclosure of such undertaking or orientation to the university and to the sponsoring agency;

(b) Purchase of major equipment, instruments, materials, or other items for university research from the private firm in which the staff member has the interest without disclosure of such interest;

(c) Transmission to the private firm or other use for personal gain of Government-sponsored work products, results, materials, records, or information that are not made generally available. (This would not necessarily preclude appropriate licensing arrangements for inventions, or consulting on the basis of Government-sponsored research results where there is significant additional work by the staff member independent of his or her Government-sponsored research);

(d) Use for personal gain or other unauthorized use of privileged information acquired in connection with the staff member's Government-sponsored activities. (The term "privileged information" includes, but is not limited to, medical, personnel, or security records of individuals; anticipated material requirements or price actions; possible new sites for Government operations; and knowledge of forthcoming programs or of selection of contractors or subcontractors in advance of official announcements);

(e) Negotiation or influence upon the negotiation of contracts relating to the staff member's Government-sponsored research between the university and private organizations with which he or she has consulting or other significant relationships;

(f) Acceptance of gratuities or special favors from private organizations with which the university does or may conduct business in connection with a Government-sponsored research project, or extension of gratuities or special favors to employees of the sponsoring Government agency, under circumstances which might reasonably be interpreted as an attempt to influence the recipients in the conduct of their duties.

2. Distribution of effort. There are competing demands on the energies of a faculty member (for example, research, teaching, committee work, outside consulting). The way in which he or she divides his or her effort among these various functions does not raise ethical questions unless the Government agency supporting his or her research is misled in its understanding of the amount of intellectual effort he or she is actually devoting to the research in question. A system of precise time accounting is incompatible with the inherent character of the work of a faculty member, since

the various functions he or she performs are closely interrelated and do not conform to any meaningful division of a standard work week. On the other hand, if the research agreement contemplates that a staff member will devote a certain fraction of his or her effort to the Government-sponsored research, or he or she agrees to assume responsibility in relation to such research, a demonstrable relationship between the indicated effort or responsibility and the actual extent of his or her involvement is to be expected. Each university, therefore, should--through joint consultation of administration and faculty--develop procedures to assure that proposals are responsibly made and complied with.

3. Consulting for Government agencies or their contractors. When the staff member engaged in Government-sponsored research also serves as a consultant to a Federal agency, his or her conduct is subject to the provisions of the Conflict of Interest Statutes (18 U.S.C. 202-209 as amended) and the President's memorandum of May 2, 1963, Preventing Conflicts of Interest on the Part of Special Government Employees. When he or she consults for one or more Government contractors, or prospective contractors, in the same technical field as his research project, care must be taken to avoid giving advice that may be of questionable objectivity because of its possible bearing on his other interests. In undertaking and performing consulting services, he or she should make full disclosure of such interests to the university and to the contractor insofar as they may appear to relate to the work at the university or for the contractor. Conflict of interest problems could arise, for example, in the participation of a staff member of the university in an evaluation for the Government agency or its contractor of some technical aspect of the work of another organization with which he or she has a consulting or employment relationship or a significant financial interest, or in an evaluation of a competitor to such other organization.

B. University Responsibility

Each university participating in Government-sponsored research should make known to the sponsoring Government agencies:

1. The steps it is taking to assure an understanding on the part of the university administration and staff members of the possible conflicts of interest or other problems that may develop in the foregoing types of situations, and
2. The organizational and administrative actions it has taken or is taking to avoid such problems, including:
 - (a) Accounting procedures to be used to assure that Government funds are expended for the purposes for which they have been provided, and that all services which are required in return for these funds are supplied;
 - (b) Procedures that enable it to be aware of the outside professional work of staff members participating in Government-sponsored research, if such outside work relates in any way to the Government-sponsored research;
 - (c) The formulation of standards to guide the individual university staff members in governing their conduct in relation to outside interests that might raise questions of conflicts of interest; and
 - (d) The provision within the university of an informed source of advice and guidance to its staff members for advance consultation on questions they wish to raise concerning the problems that may or do develop as a result of their outside financial or consulting interests, as they relate to their participation on Government-sponsored university research. The university may wish to discuss such problems with the contracting officer or other appropriate Government official in those cases that appear to raise questions regarding conflicts of interest.

The above process of disclosure and consultation is the obligation assumed by the university when it accepts Government funds for research. The process must, of course, be carried out in a manner that does not infringe on the legitimate freedoms and flexibility of action of the university and its staff members that have traditionally characterized a university. It is desirable that standards and procedures of the kind discussed be formulated and administered by members of the university community themselves, through their joint initiative and responsibility, for it is they who are the best judges of the conditions which can most effectively stimulate the search for knowledge and preserve the requirements of academic freedom. Experience indicates that such standards and procedures should be developed and specified by joint administrative-faculty action.