

OBJECTIVITY IN RESEARCH
May, 1996 Revised

Summary/Purpose: To define general University policy and procedures regarding conflicts of interest in relationship to research or educational sponsored projects. The purpose of the guidelines stated in this policy is to protect the credibility and integrity of the University's faculty and staff so that public trust and confidence in the University's sponsored research and educational activities are ensured.

The University has a responsibility to manage any actual or potential conflict of interest that may be presented by a financial interest of an investigator. Thus, the University requires that investigators disclose significant financial interests that may present an actual or potential conflict of interest in relationship with a sponsored project.

This policy applies to all sponsored projects — research, educational, and service. The disclosure of a potential or actual conflict in the application process will not delay the processing of a proposal.

BACKGROUND: TECHNOLOGY TRANSFER AND CONFLICT OF INTEREST

The Federal Government has promoted the transfer of federally funded university research to industry since 1980 by enacting several laws pertaining to intellectual property ownership, patents and copyrights. The University of Mississippi (UM) has a comprehensive Patent and Inventions Policy (most current version dated 1992) that promotes and encourages the commercialization of intellectual property. Commercialization can be in the form of licensing or selling intellectual property or starting a small company to develop and market intellectual property. This policy is intended to create opportunities for the University to expand collaboration with industry and to increase federally funded research activities with the goal of enhancing the overall research capacity and technical competency of the University.

Additionally, the Patent and Inventions Policy assists the University in commercializing intellectual property to promote economic development, bolster U.S. industrial competitiveness and reward inventors. In fact, since 1980 the Federal Government has continued both to encourage and to require technology transfer and commercialization efforts for intellectual property that is developed with federal funds. The University Office of Technology Commercialization and Business Development have been established to perform tasks associated with commercializing intellectual property.

In July 1992, the State of Mississippi enacted the Mississippi University Research Authority (MURA) law to promote the commercialization of intellectual property created within a state university by easing conflict of interest issues. The State created MURA to promote the public welfare and prosperity of the people of Mississippi by forging links among the state's public universities, business and industrial communities, and state government. The resulting development of cooperative ventures of innovative technological significance will advance education, research or economic development within the state. This legislation provides for an officer or employee of a state university to apply to MURA, which may grant permission to

The University of Mississippi

establish and maintain a material financial interest in a private entity that provides or receives equipment, material, supplies or services in connection with the university in order to facilitate the transfer of technology developed by the officer or employee of the university from the university to commercial and industrial enterprises for economic development.

This Objectivity in Research Policy is designed to conform to federal regulations. The policy does not eliminate or dilute the more stringent state laws concerning conflicts of interest on the part of public employees. **Since each faculty member is personally responsible for having knowledge of state laws and abiding by those laws, a faculty member assessing his or her sponsored research projects for potential conflicts of interest should carefully review Sections 25-4-101 -- 25-4-105 of the Mississippi Code of 1972 (Ethics in Government laws) and Sections 37-147-1 -- 37-147-15 of the Mississippi Code of 1972 (MURA), as well as all subsequent amendments thereto.** (See Summaries of MURA and Mississippi Conflict of Interest Statute —Attachments A and B.)

DEFINITIONS

1. A *potential* Conflict of Interest occurs when there is a divergence between an individual's private interests and his or her professional obligations to the University such that an independent observer might reasonably question whether the individual's professional actions or decisions are influenced by considerations of personal financial gain. An actual conflict of interest depends on the situation.
2. 'Investigator' means the principal investigator/project director, co-principal investigators, and any other person at the University who is responsible for the design, conduct, or reporting of research, educational or service activities funded, or proposed for funding, by an external sponsor. In this context, the term "Investigator" includes the investigator's spouse and dependent children.
3. 'External Sponsor' means any granting agency outside the University. It includes both governmental and non-governmental sponsors.
4. 'Significant Financial Interest' means a personal and pecuniary interest, direct or indirect, accruing to a public servant or spouse or dependent children, either individually or in combination with each other, including, but not limited to:
 - Salary or other payments for services (e.g., consulting fees or honoraria);
 - Equity interests (e.g., stocks, stock options or other ownership interests);
 - Intellectual property rights (e.g., patents, copyrights and royalties or other income from such rights).

The term **does not** include:

- Salary, royalties, or other remuneration from the University;
- Income from seminars, lectures, or teaching engagements sponsored by governmental or other nonprofit entities;

The University of Mississippi

- Income from service on advisory committees or review panels for governmental or other nonprofit entities;
 - Ownership of any interest of less than ten percent (10%) in a business where the aggregate annual net income to the public servant therefrom is less than One Thousand Dollars (\$1,000.00); or
 - Ownership of any interest of less than two percent (2%) in a business where the aggregate annual net income to the public servant therefrom is less than Five Thousand Dollars (\$5,000.00).
5. 'Public Servant' means:
- Any elected or appointed official of the government;
 - Any officer, director, commissioner, supervisor, chief, head, agent or employee of the government or any agency thereof, or of any public entity created by or under the laws of the state of Mississippi or created by an agency or governmental entity thereof, any of which is funded by public funds or which expends, authorizes or recommends the use of public funds; or
 - Any individual who receives a salary, per diem or expenses paid in whole or in part out of funds authorized to be expended by the government.
6. **Objectivity in Research Committee (ORC)** is a committee appointed to review the Disclosure Packet when a potential or actual conflict has been identified by the Director of Research, determine if an actual or a potential conflict of interest exists, and may suggest ways to manage, reduce or eliminate conflicts. The Committee shall be convened by the Associate Vice Chancellor for Research, and shall comprise the academic deans, the Director of Technology Commercialization and Business Development and 1 or 2 members of the University Research Board, with the addition of the respective vice chancellor or division head when the proposal is being submitted by a member of a non-academic division, and other members as may be deemed appropriate by the Associate Vice Chancellor for Research.
7. **Memorandum of Understanding (MOU)** is a document developed and agreed to by an Investigator and the ORC that constitutes the plan for the resolution of an identified potential or actual conflict of interest.
8. 'Confidentiality' means that Disclosure Packets marked "Confidential" shall be kept in a locked cabinet accessible only to the Director of Research or official designee. The contents of the Disclosure Packets shall be made available to others on a "need to know" basis.

GUIDELINES

It is the responsibility of those faculty or staff members of The University of Mississippi, either full- or part-time, who will be participating in a sponsored project, to initiate the disclosure process at the time of proposal submission indicating whether or not they have external affiliations which could constitute a potential or actual conflict of interest as defined above.

The University of Mississippi

Each Investigator is required to disclose the following Significant Financial Interests:

- Any Significant Financial Interest of the Investigator that would reasonably appear to be affected by the research, educational, or service activities funded, or proposed for funding, by an external sponsor;
- Any Significant Financial Interest of the Investigator in an entity whose financial interest would reasonably appear to be affected by the research, educational, or service activities funded, or proposed for funding, by an external sponsor.

Regardless of the above minimum requirements, a faculty or staff member, in his or her own best interest, may choose to disclose any other financial or related interest that could present an actual conflict of interest or be perceived to present a conflict of interest. Disclosure is a key factor in protecting the reputation and career of the Investigator from potentially embarrassing or harmful allegations of misconduct.

All Significant Financial Interests of anyone involved in the design, conduct or reporting of a sponsored project must be disclosed prior to the time a proposal is submitted to an external sponsor. Each Principal Investigator shall complete The University of Mississippi Transmittal Sheet prior to submission of a proposal to an external funding agency. Each Principal Investigator shall indicate on the Transmittal Sheet whether he or she has read the Objectivity in Research Policy and whether there is a potential or actual conflict of interest as defined by this Policy. The disclosure of a potential or actual conflict in the application process will not delay the processing of a proposal.

Each Principal Investigator shall inform all other persons who are or will be responsible for the design, conduct and reporting of the proposed project of their responsibility to disclose prior to the submission of the proposal any potential or actual conflict of interest as defined in this policy.

If the Principal Investigator indicates on the Transmittal Sheet that he or she has a potential or actual conflict of interest, the Principal Investigator shall complete a Significant Financial Interests Disclosure Form and attach all required supporting documentation. Likewise, other individuals who are or will be involved in the design, conduct or reporting of the proposed research and who may have a potential or actual conflict of interest shall complete a Disclosure Form and attach all required supporting documentation. The completed Disclosure Form(s) must be submitted with the proposal and the University Transmittal Sheet to the Office of Research and Sponsored Programs following normal UM procedures. Supporting documentation that identifies the business enterprise or entity involved and the nature and amount of the interest should accompany the Disclosure Form(s) and the Transmittal Sheet. The supporting documentation may be sealed in an envelope marked "Confidential" and must accompany the Disclosure Form(s) and the Transmittal Sheet.

All financial disclosures must be updated by Investigators during the period of the award, either on an annual basis or as changes occur that affect previously reported Significant Financial Interests. If a newly reportable Significant Financial Interest arises at any time during the period

The University of Mississippi

after the submission of the proposal through the entire period of any resulting award, the filing of a Disclosure Form is required.

The Office of Research and Sponsored Programs will contact annually each Investigator who has completed a Disclosure Form regarding an application that is still pending or an award that has been received during that year to remind the Investigator of his or her obligation in accordance with this Policy to report any change in his or her Significant Financial Interests that might reasonably appear to affect the conduct of the project proposed or funded. The Office of Research and Sponsored Programs will also contact annually each Principal Investigator who has an application pending or has received an award during that year to remind the Principal Investigator of his or her obligation to inform all other persons who are or will be responsible for the design, conduct and reporting of the proposed project of their responsibility to disclose any potential or actual conflict of interest as defined in this policy.

The Director of Research or official designee shall conduct an initial review of all financial disclosures to determine if any disclosed Significant Financial Interest could directly and significantly affect the design, conduct, or reporting of the proposed sponsored project.

If the Director of Research determines after reviewing the Disclosure Packet that there is no potential for conflict of interest, the Disclosure Packet shall be referred to the Associate Vice Chancellor for Research. If the Associate Vice Chancellor for Research concurs with the determination of no conflict, the Disclosure Packet shall be filed along with documentation of its review in the Office of Research and Sponsored Programs. The Associate Vice Chancellor for Research may also choose to forward the Disclosure Packet to the UM Objectivity in Research Committee (ORC) for review and processing.

If the initial determination is that there may be a potential for conflict of interest as defined by this policy, the Director of Research will discuss the issues with the Investigator. If, in the opinion of the Director of Research, a potential or actual conflict exists, then the Disclosure Packet shall be referred to the ORC. The ORC shall review the Disclosure Packet and shall determine if an actual or potential conflict of interest exists. If a conflict of interest is determined to exist, the ORC will communicate to the Investigator the ORC's determination of the nature of the conflict of interest. The ORC may also suggest ways to manage, reduce, or eliminate the conflict.

If the Investigator is dissatisfied with the conclusion of the ORC, he or she may appeal in writing directly to the cognizant vice chancellor within ten (10) working days. The cognizant vice chancellor shall confer with the Investigator, as well as the ORC, to the extent necessary and provide the Investigator with a written decision within ten (10) working days. The Investigator may appeal the decision of the cognizant vice chancellor to the Chancellor.

When an actual or potential conflict is determined to exist, the Investigator, in cooperation with the ORC member representing the college, school or non-academic department of the Investigator, shall develop and present to the ORC a Conflict of Interest Resolution Plan that details proposed steps that will be taken to manage, reduce, or eliminate any actual or potential

The University of Mississippi

conflict of interest presented by a Significant Financial Interest. At a minimum the Resolution Plan shall address such issues as:

- Public disclosure of significant financial interests;
- Review of research protocol by independent reviewers; and
- Monitoring of research by independent reviewers.

The ORC shall review the Resolution Plan and approve it or, as the ORC deems appropriate, add conditions or restrictions, which may include the following:

- Modification of the research plan;
- Disqualification from participation in all or a portion of the research funded;
- Severance of relationships that create actual or potential conflicts of interest; or
- Divestiture of significant financial interests.

The approved Resolution Plan shall be incorporated into a Memorandum of Understanding (MOU) that details the conditions or restrictions imposed upon the Investigator in the conduct of the project or in the relationship with the sponsoring entity. The MOU shall be signed by the Investigator, the Investigator's cognizant University official (usually a Dean or Director), and the Associate Vice Chancellor for Research. Conflicts of interest shall be satisfactorily managed, reduced, or eliminated in accordance with these guidelines prior to the expenditure of the award or within 60 days of identification for conflicts disclosed subsequent to an award. The existence of a conflicting interest and the status of its resolution will be disclosed to the sponsoring agency in accordance with its regulations.

If the ORC determines that imposing the above referenced conditions or restrictions would be inequitable or that the potential negative impacts that might arise from a significant financial interest are outweighed by interests of scientific progress, technology transfer, or the public health and welfare, then the ORC may determine that, to the extent permitted by Federal regulations, the research go forward without imposing conditions or restrictions.

The ORC member representing the college, school or non-academic department of the Investigator shall be responsible for monitoring the Investigator's compliance with the terms of the MOU and reporting such to the ORC semi-annually.

Whenever an Investigator has violated this policy or the terms of the MOU, the ORC shall recommend sanctions that may include disciplinary action ranging from a public letter of reprimand to dismissal and termination of employment. If the violation results in a collateral proceeding under University policies regarding misconduct in science, then the ORC shall defer a recommendation on sanctions until the misconduct process is completed. The ORC's recommendations on sanctions shall be presented to the Investigator's cognizant University official who, in consultation with the affected vice chancellor and the Associate Vice Chancellor for Research, shall refer the recommendations to the Chancellor for any disciplinary action in accordance with established UM policies and procedures.

The University of Mississippi

Upon receipt of notice that the proposed project involving the potential or actual conflict of interest will not be funded, all conflict of interest procedures will cease.

Records of Investigator significant financial interest disclosures and of actions taken to manage conflicts of interest shall be retained by the Office of Research and Sponsored Programs until three (3) years after either the termination or completion of the award to which they relate or the resolution of any government action involving those records, whichever of these actions occurs later. To the extent permitted by law, all records of financial interest submitted by an Investigator shall be maintained in the Office of Research and Sponsored Programs with the very highest level of security and strictest confidentiality.

This policy shall be reviewed by the University Research Board at least annually and modified as necessary to be in compliance with external agencies. The University Research Board shall seek the advice of the ORC on possible policy and procedural revisions. Should the policy be at variance with sponsoring agency policy at the time of an award, the sponsoring agency's requirements shall prevail.

This policy is effective beginning October 1, 1995.
Original Policy Dated: June 12, 1995

ATTACHMENTS

- A — Summary of Mississippi University Research Authority Act (MURA)
- B — Summary of Mississippi Conflict of Interest Statute 3

ATTACHMENT A

SUMMARY OF MISSISSIPPI UNIVERSITY RESEARCH AUTHORITY ACT (MURA) ¹

The Mississippi Legislature created MURA in 1992 to facilitate economic development within the state by encouraging the development of cooperative ventures among the state's educational institutions, government and business.

The MURA Act provides that "notwithstanding any other provision of state law" [the Ethics in Government Act], an employee of a university may apply to MURA for permission to establish and maintain a material financial interest in a private entity which provides or receives equipment, material, supplies or services in connection with the university in order to facilitate the transfer of technology developed by the employee from the university to commercial and industrial enterprises for economic development.

Prior to making application to MURA, the employee must first receive approval in writing from the chief executive officer (CEO) of the university at which he or she is employed. Permission may be granted by the CEO only if all of the following conditions are met:

The University of Mississippi

- a. Employee provides detailed description of interest in private entity to CEO;
- b. Fully describes nature of the undertaking to CEO;
- c. Demonstrates to satisfaction of CEO that the proposed undertaking may benefit the economy of the state;
- d. Demonstrates to satisfaction of CEO that the proposed undertaking will not adversely affect research public service or instructional activities at the university; and,
- e. Employee's interest in the private entity, or benefit from the interest, will not adversely affect any substantial state interest.

After approval is given by the CEO, MURA may authorize an employee to maintain a material financial interest in a private entity if it considers the same information and factors submitted to the CEO, makes positive findings as to all, and reflects this fact on its minutes. The CEO of the university at which the employee is employed may require that the university have a share in any royalties, proceeds or equity positions from the proposed undertaking of the private entity.

Attachment B

SUMMARY OF MISSISSIPPI CONFLICT OF INTEREST STATUTE ²

The Mississippi Conflict of Interest statute is designed to prevent a public employee from realizing or giving the appearance of realizing personal gain for himself or herself, his or her business or family from official employment.

The Conflict of Interest statute prohibits any public servant [includes public employee] from using his or her official position to obtain pecuniary benefit for himself, herself, his or her relative, or business with which he or she is associated. More specifically, a public employee is prohibited from doing any of the following:

- Holding an interest in contract authorized while the employee was a member of the governmental entity or board approving the contract or for one year thereafter;
- Contracting, subcontracting or selling to the governmental entity of which he or she is employed or having a material financial interest ³ in a business which contracts, subcontracts or sells to the entity;
- Purchasing anything sold by him or her while acting in the course of employment;
- Purchasing any security issued by the treasury of the governmental entity of which the employee is employed;
- Performing any service for compensation during employment by which he or she attempts to influence a decision of the employing entity;
- Performing any service for compensation after termination of public employment in connection with any case or decision with which he or she was directly concerned while in public office or employment;
- Disclosing information gained in the course of or by reason of his or her employment in a way that could result in pecuniary benefit for himself or herself, relative, or any other person if the information has not been communicated to the public.

The University of Mississippi

Notwithstanding the above constraints, a public employee or his or her relative may do any of the following:

- Be an officer or stockholder of banks or other financial institutions which are depositories of public funds or of a newspaper in which legal notices are required to be published;
- Contract, subcontract, sell or have a material financial interest in a business which contracts or sells to a component part of which he or she is employed where such contract is let to the lowest and best bidder after competitive bidding and three or more legitimate bids are received or where the goods or services are reasonably available from two or fewer sources;
- Contract, subcontract, sell or have a material financial interest in a business which contracts or sells to the component part of the governmental entity in which he or she is employed: (i) where such goods or services are reasonably available from two or fewer commercial sources; or (ii) where the contractual relationship involves the further research, development, testing, promotion, or merchandising of an intellectual property created by the public servant;
- Purchase securities issued by the governmental entity of which he or she is an employee if such are offered to the general public and are purchased at the same price as offered to the public;
- Have an interest less than a material financial interest in a business which contracts or sells to the employing governmental entity;
- Be employed by or receive compensation from a component of the governmental entity other than the component part of the entity of which the employee is employed.

The statute contains provisions for the bringing of complaints against a public employee who violates this law by the Mississippi Ethics Commission, the attorney general or the district attorney in the county where the wrongful act occurred. Penalties include censure, removal from employment, reduction in pay, or civil fines up to \$5,000.

¹ This summary covers only those portions of the MURA Act which address responsibilities of university employees. The sections of the Act concerning creation of the MURA Authority and formation of university research corporations are omitted. The MURA Act in its entirety is found in Miss. Code Ann. ## 37-147-1 — 37-147-15.

² The Conflict of Interest statute is found in Miss. Code Ann. ##25-4-101 — 25-4-113.

³ A “material financial interest” is defined as a personal and pecuniary interest accruing to a public servant or spouse. However, the following shall not be deemed to be a material financial interest with respect to a business with which a public servant may be associated:

- i. ownership of any interest of less than 10% of a business where the aggregate annual net income to the public servant is less than \$1,000;
- ii. ownership of an interest less than 2% in a business where the aggregate annual net income to the public servant is less than \$5,000.