

ORAU POLICY: CONFLICT OF INTEREST FOR DOSE RECONSTRUCTION UNDER EEOICPA

A. OVERVIEW

In any situation that involves compensation for injury, whether a tort claim, a worker's compensation case, or a claim made under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA), the integrity of the process must be unimpeachable. This is particularly true under the EEOICPA, because one branch of the U.S. government (i.e., DOE) was responsible for the exposures to ionizing radiation and hazardous substances and is also charged with providing data to assist in adjudicating claims, while other branches of the government (i.e., NIOSH, DOL) are responsible for administering and operating the program. Many of the persons working for the government on this program, whether as federal or contractor employees, have had previous involvement in the conduct of radiation protection programs at DOE facilities; or they may have previously received or are currently receiving financial support from DOE.

The ORAU Team is extremely sensitive to the concerns in the stakeholder community regarding conflict of interest (COI). We understand why the bar on perceived and actual conflicts of interest must be set higher for this project than is established by the COI provisions of the Federal Acquisition Regulations (FAR).

The critical consideration is not whether the potential for COI exists – it does. The most important factors are that the contractor has a rigorous and precise plan for identifying potential COI situations and avoiding them; and that NIOSH be assured the contractor will carry out that process with absolute integrity. Although some may view it as not desirable that persons with any sort of DOE affiliation be involved in the dose reconstruction, it is inevitable that many must be involved, especially in the process of dose reconstruction research. For example, it is a simple fact that health physicists who have expertise in the internal radiation dosimetry of plutonium must have learned their trade at DOE facilities simply because that is where the plutonium is. Similarly, the research effort to develop job-exposure matrices for the various sites will necessarily involve persons with expert knowledge of the sites, and that knowledge will usually have been gained from having worked there. Therefore, given these inherent potential conflicts, the contractor selected for the dose reconstruction project must do everything possible to prevent or manage actual conflicts of interest and to disclose all potential conflicts of interest.

ORAU, a non-profit association of universities, was chartered in 1946. In the ensuing five decades, we have gained unparalleled experience in maintaining the integrity of technical processes while working with many issues of public concern. Lessons learned from those experiences have been woven into the culture and structures of ORAU. Providing objective science-based studies and analyses that withstand the COI challenge is more than something we do – it's a part of who we are.

ORAU and its employees are committed to the highest ethical standards. All ORAU employees receive mandatory initial and refresher training in the ethical issues covered by these policies. This training will be made mandatory for all persons working on this project, including subcontractors, and will be conducted during the start-up phase, with annual refreshers thereafter. Copies of the training materials can be provided to NIOSH for the project files. ORAU will maintain documentation of the successful completion of this (and other) training for all personnel working on this project, whether ORAU or subcontractor employees.

B. COI POLICY/PROCEDURE

ORAU is committed to full and open disclosure as the best way to prevent conflicts of interest. The Government Accountability Project has provided some useful guidance on avoiding conflicts of interest in the NIOSH Dose Reconstruction Project. ORAU agrees completely that “sunshine is the best disinfectant.”

The ORAU Team will disclose, for each company and for each individual involved in dose reconstruction, information about their past and present work at DOE sites. In addition, the ORAU Team members will inform NIOSH of any new DOE work which they are awarded. ORAU and its subcontractors will be proactive in making its processes for avoiding COI available to all stakeholders

There are three aspects to effective disclosure/avoidance of conflict of interest:

- Planning of the work by the contractor;
- Oversight by NIOSH of COI performance; and
- Disclosure to stakeholders of information sufficient to let them evaluate for themselves the resolution of potential concerns about conflict of interest.

The ORAU Team will construct a database that lists all DOE sites where team members have worked, and outlines all potential areas of conflict of interest. This database will be used by the Project Director and Task Managers in making and checking work assignments for dose reconstruction. All individuals and companies on the ORAU team will provide the necessary information to populate the database initially, and will update it as necessary.

Access to the database will be provided to NIOSH for oversight of this contract. The ORAU Team believes that access to this information by individual claimants and by stakeholders is appropriate. Because few claimants are likely to be able to use the database itself, printouts about the persons performing individual dose reconstructions (and their companies) will be offered to those claimants. Beyond this, we will work with NIOSH to find the best way to provide stakeholder access to the information.

The database will be constructed to provide the following information to the ORAU Team, to NIOSH and to claimants and other stakeholders:

- Whether and where ORAU or a subcontractor is, was or will be (in the next 12 months) involved in managing or directing DOE radiation protection and health physics program policies, practices and /or procedures.
- Whether and where ORAU or a subcontractor is, was or will be supporting, directly or indirectly, decision making in a radiation dosimetry program. This includes a contractor/subcontractor that is an M&O/M&I, team member of an M&O/M&I, or a program manager of such a program.
- Whether and where ORAU or a subcontractor has broad technical support contracts or task-based contracts in place at DOE sites whose Statement of Work permits them to be broadened to include the above radiation dosimetry work.
- Whether and where ORAU or a subcontractor has an “active” interest in bidding for the above DOE work activities and such “interest” has been disclosed elsewhere publicly (through public announcements, media or other disclosures.)
- Whether and where any individuals conducting dose reconstruction for the ORAU team have acted as expert witnesses on behalf of DOE or a DOE contractor with respect to worker compensation claims or

law suits involving the question of whether radiation exposure was responsible in whole or in part for an alleged injury.

- Whether any individuals conducting dose reconstruction for ORAU or subcontractors have former colleagues or co-workers whose claims they may receive for dose reconstruction by virtue of the DOE facilities or sites assigned to them.
- Whether ORAU and its subcontractors and their employees are reviewing reports, assessments, surveys, documents and records that they organizationally or individually have been responsible for authoring, developing, or submitting to DOE or its contractors.

To avoid potential for actual or perceived conflicts of interest in dose reconstruction activities, ORAU and its subcontractors will subscribe to the following restrictions:

- No contractor, subcontractor, or employee will supervise, perform, or review dose reconstructions for claimants from a given DOE/AWE site if they have previously performed work that affected or established policies on radiation dosimetry assessments, dosimetry programs or records at that site.
- No contractor, subcontractor, or employee will supervise, perform, or review dose reconstructions for claimants from a given DOE/AWE site if they have previously been involved with dose assessments or reconstructions for workers from that site.
- No contractor element will participate in or review dose reconstructions for those DOE sites or activities where it is the prime contractor (i.e., M&O/M&I), team member to a prime contractor, program manager or subcontractor managing dosimetry programs, or intends to be within 12 months.
- No individual will perform, supervise, or review radiation dose reconstructions if he or she has acted as an expert witness (including a non-testifying expert) on behalf of DOE or a DOE contractor in defense of radiation dose claims or suits.
- No individual will perform, supervise, or review radiation dose reconstructions for co-workers, DOE facilities at which they were formerly employed, or for contractors by whom they have been employed.
- No contractor or subcontractor element will be permitted to perform or bid for collateral work on radiation dosimetry program support for those sites where it is conducting dose reconstruction.
- “Key personnel” of the ORAU team will not have a conflict of interest with respect to managing this project or carrying out or marketing radiation protection/health physics services elsewhere in DOE.
- Each supervisor, dosimetrist, and reviewer will be required to complete and sign the attached form agreeing to abide by the above requirements. The forms will be maintained as auditable records of this project. If NIOSH concurs, these forms will also be scanned and posted on a web page ORAU will maintain for this project; links to the ORAU page will be provided for the NIOSH/OCAS and DOL web pages for this project.
- A form identifying the dosimetrist who performed the dose reconstruction and the supervisor who reviewed and approved it will be attached to each dose reconstruction, and provided to the claimant, along with short biographical sketches.

All subcontracts issued to support ORAU in EEOICPA will contain a clause to ensure that the subcontractor complies with ORAU policy (stated here) regarding conflict of interest.

C. ORAU CORPORATE DISCLOSURE STATEMENT

ORAU was formed as the Oak Ridge Institute for Nuclear Studies in 1946, and in 1947 became a contractor to the Atomic Energy Commission (AEC) to manage educational programs in nuclear sciences in Oak Ridge. ORAU has managed the Oak Ridge Institute for Science and Education (ORISE) for DOE since the

establishment of ORISE in 1991. ORISE conducts programs in science and engineering education; basic and applied research; radiation emergency response and dose assessment; radiological safety, assessment and training; national security operations; health, safety and emergency management; and performance systems.

ORAU manages and provides radiation protection services, including dosimetry, to radiation workers at ORAU and ORISE, and had previously done so at the AEC Oak Ridge Hospital (closed in 1974). Consequently, all ORAU personnel will recuse themselves from any involvement in the dose reconstruction process for claimants from ORAU, ORISE, and the Oak Ridge Hospital. ORAU will work with NIOSH to develop a process for managing those claims (7 as of the date of the RFP) in a manner acceptable to all stakeholders.

ORAU also conducts radiation surveys at the Oak Ridge Y-12 and K-25 facilities, but does not perform work that affects or establishes policies on radiation dosimetry assessments, dosimetry programs or records at those sites.

**Conflict of Interest for Dose Reconstruction Under EEOICPA
COMPANY DISCLOSURE AND AGREEMENT FORM**

Please tab through this document unless additional space(s) are required.

Company Name: _____ **DUNS Number:** _____

Providing services to _____ **under Contract Number** _____.

Company Officers: _____

Previous Department of Energy (DOE) Contractor Work, Service:

Site	Contractor	Dates	Job Name	Individual Providing Services	Duties

Expert witness participation (including non-testifying); list all cases:

Case	Dates	Roles

_____ Company hereby agrees to recusal from supervising, performing, or reviewing any dose reconstruction for a claimant from DOE facilities at which company has previously worked, or has otherwise been involved in managing, directing, developing, or implementing DOE radiation protection and health physics program policies, practices and/or procedures. Company also agrees to recusal from performing or reviewing any dose reconstruction for a claimant personally known to me. Furthermore, company agrees to recusal from performing or reviewing any dose reconstruction if company has served as an expert witness (including a non-testifying expert) on behalf of DOE or a DOE contractor in defense of radiation dose claims or suits.

Signed: _____ Date: _____

Witness: _____ Date: _____

Print witness name: _____

**Conflict of Interest for Dose Reconstruction Under EEOICPA
INDIVIDUAL DISCLOSURE AND AGREEMENT FORM**

Please tab through this document unless additional space(s) are required.

Name: _____ Employer: _____ Date: _____

Previous Department of Energy (DOE) Contractor Employment:

Site	Contractor	Dates	Job Title	Duties

Expert witness participation (including non-testifying); list all cases:

Case	Dates	Role

I hereby agree to recuse myself from supervising, performing, or reviewing any dose reconstruction for a claimant from DOE facilities at which I have previously worked, or otherwise been involved in managing, directing, developing, or implementing DOE radiation protection and health physics program policies, practices and/or procedures. I also agree to recuse myself from performing or reviewing any dose reconstruction for a claimant personally known to me. Furthermore, I agree to recuse myself from performing or reviewing any dose reconstructions if I have acted as an expert witness (including a non-testifying expert) on behalf of DOE or a DOE contractor in defense of radiation dose claims or suits.

Signed: _____ Date: _____

Witness: _____ Date: _____

Print witness name: _____