

IV. Conflict of Interest

Members of the EM SSAB are not considered to be Federal employees. There are however, conflict-of-interest restrictions that apply to members in order to protect the integrity of the EM SSAB and the credibility of its work product. As a matter of policy, DOE requires that representative members be recused from working on matters before the advisory committee in which they have a direct financial interest. DOE also requires that members not use their position on the Board for their private gain or for the gain of others and not to accept gifts given because of a member's position on the Board. The purpose of such policy is to maintain the integrity of the Board's work.

Generally, employees of a non-M&O or a non-M&I contractor do not have an inherent or inevitable conflict of interest that prohibits them from serving on the EM SSAB. However, certain EM prime contractors may create a conflict of interest for their employee members. The DFO, DDFO, and Federal Coordinator must be mindful that if a matter concerning a contractor in which a member has a direct financial interest arises, recusal from the discussion and voting would be required as this constitutes a conflict of interest.

Appointing or reappointing local board members, such as DOE M&O and M&I contractor employees, who may reasonably be expected to have a potential conflict of interest regarding certain issues that might be considered by the board, is permissible when necessary to achieve balance or diversity on a local board. In the event of such an appointment, the CMO must sign a letter of exception allowing this individual to serve on the board. A statement that thoroughly describes the individual's potential conflict of interest and explains why this individual's appointment is deemed essential must be included in the memorandum from the operations office manager in the board's membership package.

If such a member is appointed, the local site DDFO is required to take special care to ensure that the appointment of this member will not result in a conflict of interest or appearance of such conflict which can lead to actual bias, or perception of possible bias, in the review of DOE activities or projects. This individual will be informed of the general conflict of interest provisions and asked to disclose the potential or actual conflict of interest and recuse him/herself from voting on issues that would have a direct and predictable effect on his/her employing organization, represented group (s) or other entities with which he/she is associated or in which he/she has a financial, professional, or private interest or will receive either tangible or intangible benefits. All members should advise the local board chair and the DDFO of a potential or actual conflict in advance of any discussion of such a topic and, at the time of the discussion, make their potential or actual conflict of interest a matter of record. In the event of a potential or actual conflict of interest, a statement is required to be included in the local site board minutes detailing the conflict, and the action taken to remove it. In the case of a potential or actual conflict of interest arising during a subcommittee meeting, the individual with the conflict will report it to the subcommittee chair, who will report it to the DDFO.

The Assistant General Counsel for General Law reviews new member qualifications for conflict-of-interest issues and proposed mid-term replacements (section III.C.3 of the guidance). If a proposed mid-term appointment exhibits a potential conflict or conflict of interest, the local DDFO must provide the field general counsel with any relevant materials and consult with the Designated Federal Officer and the Office of the Assistant General Counsel for General Law if necessary.

All Board members must adhere to the following general conflict-of-interest requirements:

- A member shall refrain from any use of his or her membership, which is, or gives the appearance of being, motivated by the desire for private, professional, or financial gain;
- A member shall not use either directly or indirectly for private or professional gain for him/herself or for his/her represented group any inside information obtained as a result of advisory committee service;
- A member shall not use his or her position in any way to coerce or give the appearance of coercing another individual to provide a financial benefit to the member with the conflict of interest or any person with whom that member has family, business, or financial relationships;
- A member shall recuse him or herself from decisions and discussions related to real or perceived conflicts of interest, act impartially, and avoid the appearance of impropriety;
- A member shall not create situations that may result in conflicts of interest or questions regarding the objectivity and credibility of the Board process; and
- A member should seek immediate guidance, beginning with the local DDFO, if he or she is offered anything of value such as a gift, gratuity, loan, or favor in connection with advisory committee service.

In addition, for the potential conflict-of-interest situation where an EM SSAB Board member is a party in a legal action against the Department, or where a Board member is a member of an organization that is a party in a legal action, the individual's continued membership on the Board will be considered by the DFO on a case by case basis, in consultation with both the Office of General Counsel at DOE HQ and the Office of Chief Counsel at the DOE operations, field, or site office.