

USF Institute of Applied Engineering (IAE)

Policy Number: 100-01	Supersedes: New
Approval: USF IAE BOD 11/6/2018	Subject: Conflicts of Interest and Confidential Information
Effective date: 11/6/2018	

POLICY

The proper governance of the USF Institute of Applied Engineering (the "**Organization**") depends on individual members of its Board of Directors (the "**Board**") who give of their time for the benefit of the Organization and the community. Because of the varied interests and backgrounds of the Board members (also referred to herein individually as a "**Director**" and collectively as "**Directors**"), the giving of this service may result in situations involving a possible conflict of interest. This service should not be rendered impossible solely by reason of a possible conflict of interest; however, this service nevertheless carries with it a requirement of loyalty and fidelity to the Organization, it being the responsibility of the members of the Board to govern the Organization's affairs honestly and economically, exercising their best care, skill and judgment for the benefit of the Organization. Similarly, officers and key employees are responsible for proper execution of the business and serve as custodians of the Organization. The purpose of this policy is to protect the Organization's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of a Director, officer or key employee of the Organization. The matter of any possible conflict of interest can be best handled through full disclosure of any financial interest that might involve an actual or possible conflict of interest, the determination by the Board of the existence of a conflict of interest, and the exclusion of a Board member, officer of the Organization or key employee of the Organization from any discussion of and vote on the transaction or arrangement that results in the conflict of interest. This policy is intended to supplement, but not replace, applicable Florida laws governing conflicts of interest applicable to nonprofit and charitable organizations.

PROCEDURE

1. DEFINITIONS APPLICABLE TO THIS POLICY AND PROCEDURE

- A. **Conflict of Interest**. Generally a "**conflict of interest**" occurs in a situation where regard for private interests might tend to appear or tend to cause an individual to disregard the Organization's interest and the duty of the individual in his or her capacity as a Director, officer or key employee of the Organization.
- B. **Interested Person**. An "**interested person**" is any Director, officer, or key employee of the Organization who has a financial interest (as defined below). If a person is an interested

person with respect to any business entity (as defined below) in the State University System of Florida of which the Organization is a part, he or she is an interested person with respect to all entities in the State University System of Florida.

C. **Financial Interest**. A person has a “**financial interest**” if the person has, directly or indirectly, through business, investment or family:

- 1) a potential or actual ownership or investment interest in any entity with which the Organization has a transaction or arrangement, or
- 2) a potential or actual compensation arrangement with the Organization or with any entity or individual with which the Organization has a transaction or arrangement. Compensation includes direct and indirect remuneration as well as gifts or favors that are substantial in nature.

A financial interest is not necessarily a conflict of interest. Under Section 2B below, an interested person has a conflict of interest only if the Board (or committee) decides that a conflict of interest exists.

D. **Business Entity**. A “**business entity**” is any corporation, limited liability company, partnership, limited partnership, proprietorship, firm, enterprise, franchise, association, self-employed individual, trust or other business entity, whether fictitiously named or not.

E. **Committee**. A “**committee**” is a committee with Board-delegated powers.

F. **Key Employee**. A “key employee” is an individual who is required to be identified on the Organization’s Form 990 as a key employee.

2. DETERMINATION OF AND REMEDIES FOR CONFLICTS OF INTEREST

A. **Disclosure**. In connection with any actual or possible conflict of interest, an interested person must disclose the existence of his or her financial interest and must be given the opportunity to disclose all material facts to the Directors (and members of committees) considering the proposed transaction or arrangement. The disclosure shall be made as soon as practicable following the realization by the interested person that an actual or possible conflict of interest exists. Ordinarily, disclosures by interested persons should be to the President of the Organization. When an actual or possible conflict of interest becomes apparent in the course of a Board meeting (or committee meeting), the interested person shall immediately disclose his or her financial interest and related material facts to the presiding Director or officer at such meeting.

B. **Determining Whether a Conflict of Interest Exists**. After disclosure of the financial interest and all material facts, and after any discussion with the interested person, the interested person shall leave the Board (or committee) meeting while the determination of

a conflict of interest is discussed and voted upon. The remaining Board (or committee) members shall decide if a conflict of interest exists.

C. Procedures for Addressing the Conflict of Interest.

1. An interested person who has a conflict of interest may make a presentation at the Board (or committee) meeting, but after such presentation, he or she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement that results in the conflict of interest. The interested person who has a conflict of interest will not be counted as present for determining a majority with respect to the vote on the transaction or arrangement that results in the conflict of interest.
2. The chairperson of the Board (or committee) shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
3. After exercising due diligence, the Board (or committee) shall determine whether the Organization can obtain a more advantageous transaction or arrangement with reasonable efforts from a person or business entity that would not give rise to a conflict of interest.
4. If a more advantageous transaction or arrangement is not reasonably attainable under circumstances that would not give rise to a conflict of interest, the Board (or committee) shall determine by a majority vote of the disinterested Directors (or committee members) whether the transaction or arrangement is in the Organization's best interest and for its own benefit and whether the transaction is fair and reasonable to the Organization, and shall make its decision as to whether to enter into the transaction or arrangement in conformity with such determination.

D. Violations of the Conflicts of Interest Policy.

1. An interested person may have numerous professional and personal affiliations and, undoubtedly, some of them may cross paths with the Organization. If these associations develop into conflicts of interest that become a major obstacle to fulfilling the duty of loyalty, it may be necessary to re-evaluate the Board member's suitability for current Board service.
2. If the Board (or committee) has reasonable cause to believe that an interested person has failed to disclose actual or possible conflicts of interest, it shall inform the interested person of the basis for such belief and afford the interested person an opportunity to explain the alleged failure to disclose.
3. If, after hearing the response of the interested person and making such further investigation as may be warranted in the circumstances, the Board (or committee) determines that the interested person has in fact failed to disclose an actual or possible

conflict of interest, it shall take such action as it determines to be appropriate, including corrective and disciplinary action.

3. RECORD OF PROCEEDINGS

The minutes of the Board (and each committee) shall contain:

- A. The name of each person who disclosed or otherwise was found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the Board's (or committee's) decision as to whether a conflict of interest in fact existed.
- B. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection therewith.

4. GIFTS

No Director or committee member shall solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor or service, based upon any understanding that the vote, official action or judgment of the Director or committee member would be influenced thereby in connection with any action or decision pertaining to the Organization.

5. COMPENSATION

- A. A Director who receives compensation, directly or indirectly, from the Organization for services is precluded from voting on matters pertaining to that Director's compensation.
- B. A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Organization for services is precluded from voting on matters pertaining to that member's compensation.
- C. No Director or committee member whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Organization, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

6. ANNUAL DISCLOSURE STATEMENT

Prior to taking a seat as a Director or a committee member, and annually thereafter as long as such person continues to serve as a Director or committee member, such person shall complete, sign and deliver to the President of the Organization a disclosure statement affirming that such person (A) has received a copy of the Organization's conflicts of interest policy, (B) has read and understands the policy, (C) has agreed to comply with the policy, and (D) understands that the Organization is a charitable organization and that in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

7. PERIODIC REVIEWS

To ensure that the Organization operates in a manner consistent with its charitable purposes and that it does not engage in activities that could jeopardize its status as an organization exempt from federal income tax, periodic reviews shall be conducted. The periodic review shall, at a minimum, include the following subjects:

- A. Whether compensation arrangements and benefits are reasonable and are the result of arm's-length bargaining.
- B. Whether any acquisitions of any services result in inurement or impermissible private benefit.
- C. Whether partnership and joint venture arrangements and arrangements with management service organizations conform to written policies, are properly recorded, reflect reasonable payment for goods and services, further the Organization's charitable purposes and do not result in inurement or impermissible private benefit.

8. DISCLOSURE OR USE OF CONFIDENTIAL INFORMATION

Officers and directors receive information in their service to the Corporation which may contain sensitive or confidential information regarding financial information or other Corporation business. The Corporation is committed to maintaining confidentiality of all information which is confidential pursuant to Florida Statutes 1004.28(5) or other applicable law.

Officers and directors agree to treat all such information as confidential whether provided to them in an oral, printed, electronic or other format. Such information should not be discussed or distributed to a third party without written authorization from the Corporation and care should be taken to dispose of copies of any information in a secure manner such as shredding.

No officer or director, during or after their term, shall knowingly disclose or use information not available to members of the general public and gained by reason of their position with the Corporation for his personal gain or benefit or for the personal gain or benefit of any other person or business entity. Such information shall be used solely for the benefit of the Corporation and may not be shared, distributed or used for any personal, commercial or other purposes.

Distribution:

1. IAE Board of Directors
2. Staff

Policy Owner: This policy was developed by the IAE Executive Director. Any questions regarding this policy should be directed to 813-974-6557.

USF INSTITUTE OF APPLIED ENGINEERING

Conflict of Interest Certification

I have reviewed the USF Institute of Applied Engineering Policy and Procedure Relating to Conflicts of Interest and certify that I am in compliance.

Signature

Name (type or print)

Date