

## NATIONAL INSTITUTES OF HEALTH (NIH)

### ADMINISTRATIVE FACT SHEET FOR SPECIAL GOVERNMENT EMPLOYEES

An appointment on an NIH Advisory Council, Board of Scientific Counselors, or Program Advisory Committee requires NIH to appoint you as a Special Government Employee (SGE)<sup>1</sup>. Federal laws and regulations require Government employees, which includes SGEs, to complete certain forms in relation to their Government service. These laws include the Ethics Reform Act of 1989, Immigration Reform and Control Act of 1986, Debt Collection Improvement Act of 1996, Civil Service Employment Law, and Federal Advisory Committee Act. Your appointment as an advisory committee member will be finalized once we receive and review all the completed forms listed below. So that we may finalize your appointment, please complete and return the following forms in the envelope provided:

- **Executive Branch Confidential Financial Disclosure Report (OGE 450)**
- **Foreign Activities Questionnaire (HHS 697)**
- **Immigration and Naturalization Employment Eligibility Verification (I-9)**
- **Appointment Affidavit (SF 61) (Revised August 2002)**
- **Declaration for Federal Employment (OF 306) (Revised January 2001)**
- **Self-Identification of Handicap (SF 256)**
- **Direct Deposit (FMS Form 2231)**
- **Statement of Prior Federal Service (SF 144)**
- **Ethnicity and Race Identification (SF 181)**
- **Employee's Withholding Allowance Certificate (W-4)**
- **Maryland State Exemption (MW-507) or Withholding Tax Form (see attached explanation w/forms)**
- **Record of Home Address (HHS-476)**
- **Update of Consultant Verification Report (OMB 0925-0358)**

Detailed information for these forms is provided below. You are strongly encouraged to review this information before completing your forms. We also request that you pay close attention to information concerning the Executive Branch Confidential Financial Disclosure Report (OGE 450), and the Foreign Activities Questionnaire (HHS 697).

#### **Executive Branch Confidential Financial Disclosure Report (OGE 450)**

Your appointment is contingent upon careful consideration of the information you provide. If for any reason you are not selected to serve on the committee, your completed OGE 450 report will be returned to you.

We are required by the Privacy Act to disclose the following information to you prior to your completion of the OGE 450 report:

- The Ethics Reform Act requires the collection of the information requested on this form. Your disclosure of this information is mandatory if you wish to be considered for membership.

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<sup>1</sup>A Special Government Employee is defined as an employee who is retained, designated, appointed, or employed to perform temporary duties either on a full-time or intermittent basis, with or without compensation, for a period not to exceed 130 days during any consecutive 365-day period. 18 U.S.C. 202.

- The information you disclose on this form will be used to determine whether there is an actual or apparent conflict of interest between your employment and financial interests and your appointment as an NIH advisory committee member.
- Your information will remain confidential in the Committee Management Office and seen only by designated Government officials. The designated officials will review this information prior to each advisory committee meeting to help identify any potential conflict of interest situation which may arise. The information solicited will be treated in a manner compliant with the Privacy Act. The information you provide will not be released to the public except by court order, request of the U.S. Congress, or by the General Accounting Office as part of a Federal agency audit.
- **You will be required to update the information you provide on the OGE 450 reports before each advisory committee meeting until the completion of your term.** You will receive information when it is time for this update. The Ethics Reform Act provides that any individual who knowingly or willfully falsifies or fails to report the required information may be subject to criminal or administrative sanctions. You may be contacted for additional information if it is determined that the filed report does not provide enough information for a meaningful analysis of real or apparent conflicts of interest. A copy of the report, along with a form for verification of the information, will be sent to you before each meeting.

In addition to the instructions listed on the OGE 450 report and the supplemental instructions for reporting non-Federal research/training support, please note the following:

- Income includes foreign employment, summer and part-time employment, compensated membership on advisory boards of organizations, and consultant fees.
- Assets and income include royalty agreements with, or stock ownership or options in such organizations as research institutions, drug companies, and companies that provide services to such organizations.
- When providing stock holdings, indicate the company's full name and the nature of the business. If you own mutual funds concentrated in a particular geographic area or economic sector, indicate the area or industry in which the fund is primarily invested. If you own diversified and publicly traded mutual funds, they need not be listed on the form.
- If you or your spouse has control over assets from an employer-sponsored pension, you must list any underlying investment holdings; for all other employer-sponsored pension plans, you only need to indicate the name of the employer who sponsors the plan.

### **Foreign Activities Questionnaire and the Emoluments Clause of the U.S. Constitution**

The Emoluments Clause of the United States Constitution applies to all U.S. Government employees, including most SGEs (i.e., all the NIH Institute/Center Advisory Councils, and some

Program Advisory Committees). The Emoluments Clause applies at all times during your appointment as an SGE and not just the periods of time during your actual duty on behalf of NIH. During your advisory committee appointment you cannot be an employee of a foreign government entity. The Constitution prohibits you from receiving any present, emolument, office, or title of any kind from a foreign state. You also may not accept concurrent outside employment with a foreign government or a political subdivision of a foreign government, including certain public universities or commercial enterprises owned or operated by a foreign government. An emolument includes salary, honoraria, transportation, per diem allowances, household goods shipment costs, and housing allowances. Certain gifts and travel expenses outside the United States may be authorized by the Foreign Gifts and Decorations Act. You can be an employee of, or receive presents or emoluments from, a non-government foreign entity or an international organization of which the U.S. is a member.

To help you determine if there is or could be a violation of the Emoluments Clause of the U.S. Constitution, the HHS Office of General Counsel, Ethics Division, has issued a mandatory form, HHS-697, *Foreign Activities Questionnaire*, which must be completed by all SGE advisory committee members. **You are required to complete this questionnaire prior to your appointment and yearly during your advisory committee service.** You will receive the questionnaire prior to the first committee meeting of each calendar year to fulfill the yearly requirement.

Enclosed is the reference document *Special Government Employees and Foreign Activities* that we hope you will find helpful. If you need further information about the Emoluments Clause (whether membership on the committee you will serve falls under the Clause), or if you have a conflict, please contact the committee's Executive Secretary or the Institute/Center Committee Management Officer.

### **Consultant Verification Report**

The Federal Advisory Committee Act (5 U.S.C. Appendix 2) requires that NIH maintain current information on members of each of its advisory committees. The purpose of the Consultant Verification Report is to verify information relating to your current or prospective appointment and to provide statistical data. The information will become part of a computerized system of records used only by authorized NIH staff seeking to identify potential/current consultants for NIH advisory committees and other peer review activities. In completing the form, please review the information and modify as necessary.

### **Employment Eligibility Verification (I-9) and Appointment Affidavit (SF 61)**

These forms **must be notarized**. The NIH will allow a notary public to act as its agent for examination and verification of document(s) required to complete these forms. **It is requested that you appear before a notary with the appropriate documentation and have the notary complete the forms according to the instructions.**

The additional personnel forms listed on page one are also required to complete your appointment as an advisory committee member. However, these forms do not have to be notarized. Please return the completed forms with the other forms in the enclosed envelope.

If you have any questions regarding these forms, please call [**Name of IC CMO or other appropriate official**] at [**area code + telephone number**] for assistance.

### **Other Important Information**

#### **Standards of Ethical Conduct/Conflict of Interest**

The Office of Government Ethics published Standards of Ethical Conduct for Employees of the Executive Branch effective on February 3, 1993, for all Government employees, including SGEs. This Final Rule established uniform standards of ethical conduct relating to many aspects of Federal Government employment, including conflicts of interest and the use of one's official position. These Standards apply to you in your SGE role and should be reviewed carefully. The Office of Government Ethics "Standards of Ethical Conduct for Employees of the Executive Branch" is available at the following website address:

[http://www.usoge.gov/pages/forms\\_pubs\\_otherdocs/fpo\\_files/reference/rfsoc\\_02.pdf](http://www.usoge.gov/pages/forms_pubs_otherdocs/fpo_files/reference/rfsoc_02.pdf)

You are also required by Office of Government Ethics regulations to receive annual ethics training. Since on-site training is not always practical, this year's annual training requirement is being fulfilled by the distribution of the enclosed materials for your review:

“Ethics Rules for Advisory Committee Members and Other Individuals Appointed as Special Government Employees (SGEs)”

“Overview of the Ethics Rules for Special Government Employees Serving on Advisory Committees”

This training material is also available at: <http://www1.od.nih.gov/cmo/ethics/main.html>

The criminal conflict of interest statutes preclude an SGE from participating as a Government employee in any particular matter in which to his/her knowledge, they, their spouse, minor child, partner, or organization for which they serve as officer, director, trustee, general partner, or employee has a financial interest. Whenever your participation in committee deliberations on a product, program, project or other particular matter would constitute a conflict of interest or create the appearance of a conflict of interest, it is incumbent upon you to so advise the Executive Secretary and abstain from any participation in discussion or action regarding that matter. When in doubt, you should seek a determination from the Executive Secretary of your committee.

#### **Reimbursement/Compensation**

Members are compensated at the rate of \$200 per day for time spent at meetings and site visits. This payment for service on advisory committees is made from the Defense Finance and Accounting Service (DFAS) system. Once a member's appointment is effective, a letter will be sent to their residential address from the DFAS containing a temporary PIN number that is valid for 120 days. Members will be required to change the temporary PIN number to a customized PIN via the DFAS website <https://mypay.dfas.mil/mypay.aspx> or by calling 1-877-363-3677. A member will have sole access to his/her pay records and will have the option of printing a W-2

form for tax purposes at the end of the calendar year from this system. Social Security (except for non-citizens) and Federal and Maryland State (unless a Maryland State Tax Exemption form, WM-507, is filed), income taxes will be deducted, and a W-2 Wage and Tax Statement will be provided no later than January 31 of each year. In addition, it will be the member's responsibility, should changes occur during an appointment, to update the residential address and direct deposit banking information.

A separate payment will be processed for reimbursement of travel expenses and per diem. Reimbursement of travel expenses is processed through the NIH accounting database (which is separate from the DFAS system). It is suggested that you retain a copy of the submitted record of travel expenses after each meeting. The daily per diem rate is determined by General Services Administration guidelines and is based on the city and state location of the meeting. If changes are made to your banking information or residential address during your appointment, it is imperative that you contact the Committee Management Officer listed on page four of this document. This is critical to ensure the correct distribution of your expense reimbursements and for maintaining accurate committee member records.

OFACP  
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