Conflict of Interest in Licensing

BRIEF

Policy Summary

This policy describes the handling of potential conflicts of interest in licensing decisions. Berkeley Lab inventors and licensing staff must not allow their personal financial interests to influence or appear to influence their or others' licensing decisions. Inventors and employees who have a role in licensing decisions must disclose their financial interest in companies with which Berkeley Lab is negotiating a license.

Who Should Read This Policy

This policy applies to all Berkeley Lab inventors and other Laboratory employees who have a role in technology licensing agreements, including those who work part time or who have faculty appointments.

To Read the Full Policy, Go To:

The POLICY tab on this wiki page

Contact Information

Licensing Manager
Technology Transfer and Intellectual Property Management

ttd@lbl.gov

POLICY

A. Purpose

Lawrence Berkeley National Laboratory (Berkeley Lab) manages the intellectual property created by its employees in support of its research and technology transfer goals. The transfer of technology can include the licensing of inventions and other intellectual property (e.g., through licenses, options, bailments), and constitutes a business decision on the part of the University of California (UC). Berkeley Lab manages
conflict of interest and the appearance of conflict of interest in licensing per California law and the UC-DOE Prime Contract for the Laboratory. Berkeley Lab reviews many attributes, including conflict of interest, of every license, and hence meets the UC requirement for a Licensing Decision Review.

B. Persons Affected

- Berkeley Lab inventors
- Other Berkeley Lab employees who have a financial interest in a potential licensee
- Licensing staff and other staff who review or approve licensing agreements

C. Exceptions

The economic disclosure will not be required in the cases of multiple non-exclusive licenses offered on identical terms to all licensees. A typical example of this is software licensed under a standard agreement to anyone or any company.

D. Policy Statement

1. Inventors must disclose their financial interest in companies with which the licensing professional is negotiating a license because the inventor may have the opportunity to influence licensing decisions in ways that could lead to personal gain or give advantage to companies in which they have a financial interest.
2. The Technology Transfer and Intellectual Property Management Department's licensing staff will provide the inventor with a copy of the Inventor's Statement of Economic Interest in Candidate Licensees (Form TT-100) when negotiations begin with a company interested in licensing the invention. The inventor must complete and return this form in a timely manner, as the licensing review and approval is dependent upon it.
3. Berkeley Lab has developed a process to address federal, state, and UC requirements regarding conflicts of interest in the licensing context. See the Process for Conflict of Interest Review for Licensing for details on how the Laboratory manages potential conflicts of interest in licensing.

E. Roles and Responsibilities

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<thead>
<tr>
<th>Role</th>
<th>Responsibility</th>
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<tbody>
<tr>
<td>Inventor</td>
<td>Discloses any financial interests in potential licensee on Form TT-100</td>
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<tr>
<td>Other Employees with a Financial Interest in a Potential Licensee</td>
<td>Disclose any financial interests in a potential licensee on Form TT-100 if they are aware of the licensing transaction or were requested to do so by TTIPM</td>
</tr>
<tr>
<td>Licensing Staff</td>
<td>• Disclose financial interest and recusal from licensing decisions if necessary • Obtain DOE approvals for exclusive licensing or assignment to an employee or a former employee or an entity in which such an individual is a principal</td>
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<tr>
<td>Staff Who Review and Approve Licensing Agreements</td>
<td>Disclose financial interest and recusal from licensing decisions if necessary</td>
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F. Definitions/Acronyms

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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<tbody>
<tr>
<td>Conflict of Interest</td>
<td>Contract 31, Clause I.66, Organizational Conflicts of Interest, ensures that the UC Regents (and its employees) are not biased because of financial, contractual, organizational, or other interests that relate to the work under the Contract, and that there is no unfair competitive advantage over other parties due to the performance under the Contract.</td>
</tr>
</tbody>
</table>
License | Agreement to authorize a use (such as copying software or using a patented invention) to a licensee
---|---
Licensing Agreement | As used in this policy, a license or a related contract granting rights in intellectual property such as an option to license or a bailment of tangible research material
Policy | Statements or directives from the federal, state, or local government; the University of California; or Berkeley Lab senior management that set a course of action, define acceptable conduct, or implement governing principles. Example: Berkeley Lab Site Access
TTIPM | Technology Transfer and Intellectual Property Management

G. Recordkeeping Requirements

None

H. Implementing Documents

<table>
<thead>
<tr>
<th>Document number</th>
<th>Title</th>
<th>Type</th>
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<tbody>
<tr>
<td>TT-100</td>
<td>Inventor's Statement of Economic Interest in Candidate Licensees (Form TT-100)</td>
<td>Form</td>
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I. Contact Information

Licensing Manager
Technology Transfer
ttd@lbl.gov

J. Revision History

<table>
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<th>Date</th>
<th>Revision</th>
<th>By whom</th>
<th>Revision Description</th>
<th>Section(s) affected</th>
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<td>1</td>
<td>Wolinsky</td>
<td>Reformat for wiki (policy)</td>
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Document Information

**DOCUMENT INFORMATION**

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<thead>
<tr>
<th>Title:</th>
<th>Conflict of Interest in Licensing</th>
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<tbody>
<tr>
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<tr>
<td>Revision number:</td>
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<td>9/14/2012</td>
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<td>Policy Area:</td>
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<td>RPM Section (home):</td>
<td>Conflict of Interest</td>
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RPM Section (cross-reference) | Section 10.11
---|---
Functional Division | Operations
Prior reference information (optional) | RPM Section 10.11

**Source Requirements Documents**

- University of California *Conflict of Interest Policy and Compendium of Specialized University Policies, Guidelines, and Regulations Regulated to Conflict of Interest*
- Political Reform Act of 1974, (Gov. Code, § 81001, subd. (b))

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