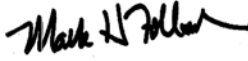


Memo

To: Stiven Foster, US EPA/OSWER

From: Mark Follansbee, Ph.D.



cc: Dave Linton, SRC Contract Officer
Bill Brattin, SRC Program Manager

Date: August 23, 2007

Re: FOIA Request from Earth Justice dated 8/9/07: *“Freedom of Information Act Request for Documents Pertaining to the Conflict of Interest Questionnaires Submitted by Peer Reviewers, William Stubblefield, Andrew Salmon and Thomas Parkerton”*

Per your request, I am returning the signed and completed Conflict of Interest and Bias Questionnaires submitted by the three external peer reviewers selected for the Waste Minimization Prioritization Tool peer review. This fulfills part 1 of the FOIA request.

As described in ATTACHMENT 1, *SRC’s Policy and Process for Conflict of Interest and Bias for Peer Review*, the process for disclosing conflict of interest by the peer review panel was followed to for the waste minimization prioritization tool peer review. Neither William Stubblefield nor Andrew Salmon met the typical exclusion criteria (specifically, affiliation with an organization with financial ties directly related to the outcome, direct personal financial investments in the sponsoring organization or related to the subject, or direct involvement in the documents submitted to the peer review panel). Also, none of the responses by William Stubblefield or Andrew Salmon to the questions on the Conflict of Interest and Bias Questionnaires required written follow up. For one response (“I don’t know” to question 3) provided a brief explanation. As noted, this response was due to uncertainty in the mix of companies in an investment portfolio. This is a common response and is not considered to be a direct personal financial investment that would be influenced by the outcome of the review.

Thomas Parkerton checked “I don’t know” to question 1. As indicated in his explanation, he is uncertain whether his employer may have provided input in the material being reviewed. I followed up on his response to question 1 with a phone call to Thomas on March 8, 2007. The notes of that conversation are provided in ATTACHMENT 2. As noted, he did not have any involvement in producing the material to be reviewed; however, he did provide comments on an early version that may have been shared with EPA. This was not considered to be a significant issue and attests to his experience and knowledge of the program.

Mr. Parkerton also disclosed (in response to question 3) that his employer (Exxon Mobil) would potentially benefit from an extension of the fuel exclusion (a possible outcome of this peer review). After careful consideration, it was agreed that expertise was important in this review panel and that any bias or potential conflict among the panel would be mitigated by assembling a balanced panel of individuals whose affiliations represent a mix of the regulated community (e.g., Mr. Parkerton) and regulators (e.g., Andrew Slamon of California EPA), with the third panel member being neutral (in this case a consultant, William Stubblefield). Because it was believed that a balanced panel could be assembled, Thomas Parkerton was retained to allow the panel to benefit from expertise and experience with developing a similar comparative ranking scheme for the European Union.

SRC did not send any additional questions or documents in writing to the panel requesting further information, nor did the panel send any additional documents or information to SRC. Thus, there is nothing to send for parts 2 and 3 of the FOIA request.

ATTACHMENT 1

SRC Process for Conflict of Interest and Bias for Peer Review

Background

Identification and management of potential conflict of interest (COI) and bias issues are vital to the successes and credibility of any peer review / peer consultation composed of external experts. This document describes the draft conflict of interest questions for the subject peer review. The questions described herein are consistent with EPA Guidance concerning peer reviews¹.

Definitions

SRC recognizes that experts in a particular field will in many cases have existing opinions concerning the subject of the peer review. These opinions may be considered bias, but are not necessarily conflicts of interest.

Bias: As used in this document, “bias” for a peer review/consultation panel means a predisposition towards the subject matter to be discussed that could influence the candidate’s viewpoint. Examples of bias would be situations in which a candidate:

1. Has previously expressed a position on the subject(s) under consideration by the panel,
or
2. Is affiliated with an industry, governmental, public interest, or other group which has expressed a position concerning the subject(s) under consideration by the panel.

Conflict of Interest: As used in this document, “conflict of interest (COI)” for a peer review/consultation panel, as defined by the National Academy of Sciences² includes any of the following :

1. *Affiliation with an organization with financial ties directly related to the outcome,*
 2. *Direct personal financial investments in the sponsoring organization or related to the subject, or*
 3. *Direct involvement in the documents submitted to the peer review panel*
- ... that could impair the individual’s objectivity or create an unfair competitive advantage for the individual or organization.*

¹ U.S. EPA (2000, 2006). Science Policy Council Peer Review Handbook.
OMB (2004). Final Information Quality Bulletin for Peer Review.

² NAS (2003). “Policy and Procedures on Committee Composition and Balance and Conflict or Interest for Committees Used in the Development of Reports” (www.nationalacademies.org/coi).

Policy

SRC's policy on COI³ and bias for peer reviews / peer consultations is as follows:

- Candidates will be asked to disclose all potential conflict of interest and bias issues to SRC during the candidate identification and selection process.
- Candidates with COI as defined above will not be eligible for membership on those panels where their conflicts apply; however, they may be eligible for other reviews where their conflicts do not apply.
- In general, candidates with bias on a particular issue will be eligible for all panel memberships; however, extreme biases, such as those likely to impair a candidate's ability to contribute to meaningful scientific discourse, will disqualify a candidate.
- Ideally, the composition of each panel will reflect a range of bias for a particular subject. SRC will strive for balance.

Process

The following illustrates how SRC will implement this policy:

- Candidates who meet scientific qualifications and other eligibility criteria will be requested to provide written disclosure of potential COI and bias issues to SRC by completing written questionnaires. SRC will treat the questionnaires as private and personal information, although these may be shared with appropriate sponsor representatives.
- SRC will discuss potential COI and bias issues with each candidate individually, as needed.
- All bias issues related to the selected panelists will be disclosed at the panel meeting and, as directed by the sponsor, may be noted in the panel report (in summary form).

³ The policy stated herein is in accord with SRC's standard Conflict of Interest Plan (specifically section 5.5.7 which discusses conflict of interest with respect to subcontract and consultants). When incongruous, the SRC standard Conflict of Interest Plan policies will have precedence.

Conflict of Interest and Bias Questionnaire for Comparable Emissions Peer Review

Instructions to Candidate Reviewers

1. Please check one YES/ NO/ DON'T KNOW response for each question.
2. If your answer is YES or DON'T KNOW please provide a brief explanation of the circumstances. We do not desire a lengthy response on this form at this time. We will contact you for additional information as needed.
3. Please make a reasonable effort to accurately answer each question. For example, to the extent a question applies to individuals (or entities) other than you (e.g., spouse, dependents, or their employers), we expect you to make a reasonable inquiry, such as e-mailing the questions to such individuals (or entities) in an effort to obtain the information needed to accurately answer the questions.

Questions

1. Are you (or your spouse or dependents) or your current employer, an author, contributor, or an earlier reviewer of the document(s) being reviewed by this panel?

YES__ NO__ DON'T KNOW__
2. Do you (or you spouse or dependents) or your current employer have current plans to conduct or seek work related to the subject of this peer review following the completion of this peer review panel?

YES__ NO__ DON'T KNOW__
3. Do you (or your spouse or dependents) or your current employer have any known financial stake in the outcome of the review (e.g., investment interest in a business related to the subject of peer review)?

YES__ NO__ DON'T KNOW__
4. Have you (or your spouse or dependents) or your current employer commented, reviewed, testified, published, made public statements, or taken positions regarding the subject of this peer review?

YES__ NO__ DON'T KNOW__
5. Do you hold personal values or beliefs that would preclude you from conducting an objective, scientific evaluation of the subject of the review?

YES__ NO__ DON'T KNOW__
6. Do you know of any reason that you might be unable to provide impartial advice or comments on the subject review of the panel?

YES__ NO__ DON'T KNOW__
7. Are you aware of any other factors that may create potential conflict of interest or bias issues for you as a member of the panel?

YES__

NO__

DON'T KNOW__

Acknowledgment

I declare that the disclosed information is true and accurate to the best of my knowledge, and that no real, potential, or apparent conflict of interest or bias is known to me except as disclosed. I further declare that I have made reasonable effort and inquiry to obtain the information needed to answer the questions truthfully, and accurately. I agree to inform SRC promptly of any change in circumstances that would require me to revise the answers I have provided.

Candidate Signature

Date

ATTACHMENT 2

Communication with EPA documenting follow up call with Thomas Parkerton

----- Original Message -----

From: Mark Follansbee [follansbee@syrres.com]

Sent: 03/08/2007 03:20 PM

To: Stiven Foster

Subject: Parkerton: WMPT Peer Review Conflict of Interest Question Follow up

I called Tom to follow-up. In my experience, an interview is often the best way to get people talking when you're drilling down into COI issues.

Tom's responses are in blue text below.

I have finished my teleconferences for the day. Call me if you want to discuss. I'll be here until about 5:15 today.

Mark

Subject: Re: Fwd: Re: Fwd: Re: Fwd: WMPT Peer Review: Parkerton

To: Mark Follansbee <follansbee@syrres.com>

From: Foster.Stiven@epamail.epa.gov

Mark,

Would you ask Parkerton to address the questions below and please send me all of the CV's you have for prospective members of this panel?

Thanks, Stiven

Peer Review Handbook Page 66-67

How do you evaluate candidates for appearance issues? In addition to collecting confidential financial disclosure forms and public comment (where appropriate), it may be necessary on occasion to seek additional information from the potential advisory committee member. For example, you might want to consider asking additional questions which will help you to determine whether there is an appearance issue. Some suggested questions would be:

a) Do you know of any reason that you might be unable to provide impartial advice on the matter to come before the Panel or any reason that your impartiality in the matter might be questioned?

No.

b) Have you had any previous involvement with the review document(s) under consideration? If so, please identify and describe that involvement.

Tom recalls that he reviewed WMPT with support from American Petroleum Institute funding 10 or so years ago. He recalls that there was a public review period for WMPT early on and ExxonMobil provided technical comments on WMPT. Tom is not sure how his comments were submitted (under his name, ExxonMobil, or API). He does not have his comments because they were made about 10 years ago, but his responses are likely to be in the public review record.

c) Have you served on previous advisory panels, committees or subcommittees that have addressed the topic under consideration? If so please identify those activities.

No. Just provided comments as noted above.

d) Have you made any public statements on the (written or oral) on the issue? If so, please identify those statements.

Tom recalls that he reviewed WMPT with support from American Petroleum Institute funding 10 or so years ago. He recalls that there was a public review period for WMPT early on and ExxonMobil provided technical comments on WMPT. Tom is not sure how his comments were submitted (under his name, ExxonMobil, or API). He does not have his comments because they were made about 10 years ago, but his responses are likely to be in the public review record.

e) Have you made any public statements that would indicate to an observer that you have taken a position on the issue under consideration? If so, please identify those statements.

Tom recalls that he reviewed WMPT with support from American Petroleum Institute funding 10 or so years ago. He recalls that there was a public review period for WMPT early on and ExxonMobil provided technical comments on WMPT. Tom is not sure how his comments were submitted (under his name, ExxonMobil, or API). He does not have his comments because they were made about 10 years ago, but his responses are likely to be in the public review record.