

CONFLICT OF INTEREST POLICY TEMPLATE

The purpose of the Conflict of Interest Policy is to protect the interest of [Name] Workforce Development Board (WDB) as a public body charged with the oversight of federal and/or state funds, when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer, staff, WDB Member, WDB Director or might result in a possible excess benefit transaction. This includes persons and entities involved in the competitive selection processes to identify service providers and award funding using federal funds which must be free of conflicts of interest: real, apparent, or organizational. This policy is intended to supplement, but not replace, any applicable state and federal laws governing conflicts of interest applicable to organizations responsible for maintaining the public trust for the use of federal, state, and other grant funds for the purpose of carrying out goals and program requirements, including the responsibility to maintain the reputation and integrity of the entity, organizations, and agencies and programs.

I. Boards

It is the policy and expectation of the WDB that its Members will fulfill the fiduciary duties applicable to their service as Members of the WDB. Due to the legal and statutory structures of the WDB, it is expected that conflicts of interest may arise, and this policy is intended to provide a framework that will allow the work of the WDB to be achieved without the fact of or appearance of impropriety. Where this document references “Member” it shall mean any agent, WDB employee, officer, service provider contractor, and Board Member. The WDB, Chief Local Elected Official (CLEO), and all other agencies receiving direct financial assistance through the Workforce Innovation and Opportunity Act (WIOA) shall avoid conflict of interest, real or apparent.

It is the responsibility of each member to govern the actions of all other Members in compliance with the Conflict of Interest Policy. If a Member thinks there is a possibility of a conflict of interest, real or apparent, on the part of another Member, it is their affirmative responsibility to immediately bring the matter to the attention of the WDB Director. Therefore, no WDB Member will discuss, present proposals, or vote on any issue as to which the Member has an economic interest unless specifically questioned by the other Members as part of a scheduled opportunity for all interested parties to present information. A Member may vote on and may discuss any matter that would not have any impact on the Member.

No official or employee of the WDB or contracting agency authorized in their official capacity to negotiate, make, accept, approve, or take part in the negotiating,

making, accepting, or approving of any contract or subcontract in connection with a project shall have directly or indirectly any financial or personal interest in any such contract or subcontract. It shall be against the policy of the WDB or contracting agency for any employee or volunteer to directly or indirectly ask, demand, exact, solicit, accept, receive, or agree to receive anything of value for themselves or any other person or entity in return for:

- being influenced in the performance of their job or position;
- being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or to make opportunity for the commission of any fraud on the WDB or contracting agency; or
- being induced to do or admit to any act in violation of their official duties.

Each Member shall annually confirm a statement that affirms such person:

1. has received a copy of the [Name] Workforce Development Board Conflict of Interest Policy;
2. has read and understands the policy; and
3. has agreed to comply with the policy.

II. Discovery of an Actual or Potential Conflict of Interest

Upon the assertion of a possible violation of this policy, the WDB Chair or Vice-Chair will appoint an ad hoc committee to review the circumstances, report their findings to the Board for discussion and vote, and recommend a course of action in the event a Member is found to be in violation. Action may include, but is not limited to, a declaration that the Member be removed from the Board position and a request to the Consortium Board to make a new appointment.

III. Procurement

All negotiations of a contract for or with potential contractors/service providers must be conducted with arm's length negotiations. The definition of an arm's length negotiation is an agreement made by two parties freely and independently of each other, and without special relationship, such as being a relative, having another deal on the side or one party having complete control of the other. It becomes important to determine if an agreement was freely entered into to show that the price, requirements, and other conditions were fair and real.

No WDB Member (whether compensated or not) shall engage in any activity, including participation in the selection, award, or administration of a sub-grant or contract supported by WIOA funds if a conflict of interest, real, or apparent would be involved. Such a conflict would arise when:

- (i) the individual,
- (ii) any Member of the individual's immediate family,
- (iii) the individual's partner, or
- (iv) an organization which employs or is about to employ any of the above has a financial interest in the firm or organization selected for the award.

No WDB Member, Member of their immediate family, officers, employees or agents of the WDB Member's agency or business shall neither solicit nor accept gratuities, favors, or anything of value from contractors, potential contractors, or parties to sub-agreements.

A WDB Member shall not cast a vote, or participate in, any decision-making capacity on the provision of services by such Member (or any organization which that Member directly represents), nor on any matter which would provide any direct financial benefit to that Member.

No WDB Members shall participate in a governmental decision including voting on a matter (including recommendations, appointments, obligating, or committing the WDB to a course of action) when such action influences a decision or exercises judgment in making a decision. Any Member with a potential or actual conflict of interest shall comply with requirements for public disclosure and recusal.

IV. Work Experience Placements

The Division of Workforce Solutions (DWS) strongly discourages the practice of placing participants in workforce training located at the board office, NCWorks Career Center, or administrative entity due to the potential of conflicts of interest. Placement at these locations should only be allowed where there is specific documentation in the participant file that the particular experience meets the participant's career goals and skills needs *and* there is no other placement opportunity available.

V. Service Providers/Contractors

Although the WIOA program is not an entitlement program, it should be accessible to any individual, in any local workforce development area, who is eligible and suitable for available services subject to WDB policies and procedures. However, when applicants have a close relationship with WIOA staff Members, management, and other specific stakeholders of the Workforce Development System, access to program services should not be based on such relationships or based on political influence. It is possible that even without any intention to misuse WIOA funds a decision to enroll an individual in the program could be perceived as improper. Such a perception could cause noncompliance with state and/or federal law.

General authorization for providing funds to participants will comply with the standards

of conduct for maintaining the integrity of the program and avoiding any conflict of interest in its administration. Chief Local Elected Officials, WDBs, designated fiscal agents, and administrative officials must help meet the objectives of WIOA through effective policies, procedures, and safeguards that ensure the integrity of these public funds. Throughout the Local Workforce Development Areas safeguards must be in place ensuring that all those served in the program are not only eligible and suitable but also detached from being part of the perception of impropriety or conflict of interest.

In the event a service provider/contractor is related to a WDB staff member or officer, appropriate firewalls must be in place to ensure the staff member/officer does not directly monitor, supervise, or provide oversight. An alternate staff member/officer must be identified to assume the oversight responsibilities.

VI. Code of Conduct

A written set of standards (Code of Conduct) governing the performance of the WDB and its employees, officers, or agents related to real or apparent conflicts of interest is a requirement of 29 CFR 95.42. Attachment 4 is available for reference when developing a Code of Conduct.

VII. Firewalls

Proper firewalls must be in place to ensure the transparency and integrity of the procurement process and demonstrate to the public and to the United States Department of Labor (USDOL) that the selection process was impartial, and that no preferential treatment was given to the awardee. A “firewall” is an established policy or procedure that acts as a barrier or protection against an undesirable influence, outcome, or authority. Examples of firewalls include but are not limited to organizational arrangements that provide clear separation of duties and responsibilities, including confidentiality and disclosure agreements.

No entity or individual that has any role in the issuance of a solicitation may compete or submit a proposal under that procurement action, including the development of requirements, drafting the Request for Proposals (RFP) or Letter of Intent for Bid (IFB), evaluation of proposals/bids, and identification of the best entity.