

## Workforce Innovation Board of Region 15 Conflict of Interest Policy

Members of the Workforce Innovation Board of Region 15 of WIOA Region 15 and its committees are committed to maintaining the public trust in all matters concerning the use of federal and state funds for the purpose of carrying out grant requirements, and upholding the reputation and integrity of the local workforce development system.

### **Mitigating Potential Conflict of Interest**

- At appointment to the board, and every two years in advance of application for local board recertification, each member will read this conflict of interest policy and attest to understanding and complying with requirements herein. These signed forms will be retained as part of the board's certification documentation for the period of the certification.
- The Board shall have on file an annual Disclosure/Conflict of Interest form completed and signed by each Board member. The disclosure statements include: the organizational and fiduciary affiliations of the individual and the individual's immediate family, which may present a potential conflict of interest for that individual. Based on submittal and review of these disclosure statements, a board may identify pre-existing interests and relationships known to create a potential conflict of interest.
- In the case of pre-determined conflicts of interest found to exist based on the annual disclosure process, members may recuse themselves from any planned or required transactions that are a conflict of interest. Within the context of a public meeting where a transaction triggers the conflict, the annual disclosure form is cited as written disclosure for the item, and the member abstains from any involvement, discussion and vote during that meeting (to be noted in the minutes). (This is different than the disclosure requirements triggered by agenda items for board and committee meetings, wherein the full facts must be presented, existence of conflict of interest determined for each case, and a course of action determined.)
  - No entity or individual that has any role in the issuance of a solicitation (including development of requirements, drafting the RFP or IFB, etc.) may compete or submit a proposal under that procurement action. A list of entity(ies) and individuals with any role will be retained in the procurement package of documentation.
  - Neither membership on the Local WDB or a WDB standing committee, nor the receipt of WIOA funds to provide training and related services, by itself, violates these conflict of

interest provisions.

### **Conflict of Interest Policy Related to Board Business, Matters and Transactions**

- Members of the Workforce Innovation Board of Region 15 and the County Consortium Board of Region 15, standing committee, board subcommittee or workgroup convened to advise and/or participate in board activities must neither participate in any decision-making capacity, nor cast a vote on, or contribute to any part of an evaluation process (developing criteria, scoring, reviewing responses)
  - for the provision of services by such member, or any organization which that member directly represents, or such members' general partner or outside business endeavor, or any organization that the member serves on or is an employee of
  - nor on any matter which would provide any direct financial benefit to that member or that member's immediate family
    - a. Member's spouse
    - b. Member's children
    - c. Member's brother or sister

### **Disclosure**

- Members shall publicly disclose (possible, real, apparent) conflict of interest pertaining to any act or transaction of the board prior to the board addressing said act or transaction
- Any conflict disclosed prior to a meeting shall, if possible, be made part of the agenda of the relevant board meeting
- Disclosure must include all relevant facts so that the disinterested Board members can make a fully informed decision (i.e., cannot "disclose" a conflict of interest by merely stating that member has a conflict of interest)
- Cannot abstain from voting due to conflict of interest without public disclosure
- If a member/individual does not know whether s/he has a conflict of interest, s/he can protect himself or herself by asking for a board determination of whether or not a real or apparent conflict of interest exists (prior to the board addressing said act or transaction) followed by full disclosure of all facts related to the conflict situation

- Disclosure and related discussion does not in and of itself mean that the disclosing member has a real, apparent or organizational conflict of interest
- A member can seek and rely upon advice from legal counsel concerning possible conflicts of interest
- The Board may discuss the disclosure to determine if a real or apparent conflict of interest exists
- The Board Chair, or whoever is presiding in the place of the Chair, shall make any final determination whether a conflict of interest exists
- If it is determined there is a real conflict of interest, the member must abstain from any involvement, discussion and vote regarding the consideration of the matter
- If it is determined there is an apparent (or perceived) conflict, whereby an organization or agency that a board member is affiliated with can benefit from the influence of this individual, or there are circumstances that would cause a reasonable person with knowledge of the relevant facts to question the individual's impartiality in the official matter, the member must abstain from any involvement, discussion and vote.
- Any Board member who believes another member has a conflict may disclose said possible conflict to the board, during an open meeting. The board shall hear statements from both parties and, if necessary, discussion shall be held.
- The process of assessing potential conflict of interest may occur in advance of a meeting that has the act or transaction on the agenda, or may occur at the beginning of a meeting or before the item is taken up by the board. However, full disclosure, any discussion and actual determination of real or apparent conflict of interest, along with any resolution and action taken to address the conflict must occur during the public meeting and be part of the public record (minutes).
- The board may require conflicted member(s) to leave the room during discussion and voting on issues, and in any event the conflicted member may not participate in the discussion of such an issue
- Any board member abstaining from voting for reason of conflict of interest shall not be considered present for that vote.

- **Recusal**

- Whereas transaction-specific disclosures may lead to a board member abstaining from related activities during a meeting, a board member may also recuse him/herself from any participation in multiple phases of any matter if a conflict of interest exists. This includes for example, participation in all phases of a competitive procurement or non-competitive selection or designation (whichever process may apply) of service providers, services, one-stop operator, eligible training providers, etc.
- In these instances, the board will apply all previously listed requirements for public disclosure and documentation.
- In addition, for competitive procurement, the Board will assure that physical and electronic access to information that would limit the efficacy of a recusal, and prevent fairness and impartiality of the outcome is restricted: the recused member(s) will not have access to any documents, reports, data, decisions, transactions or information including:
  - Any information acquired during activities conducted in the planning phase including but not limited to
    - Market research conducted specific to the procurement
    - RFIs, RFQs
    - Cost analysis, comparisons, research
    - Establishing procurement method, project budget, and/or scope of work
    - Factors for evaluation, scoring and point allocation
  - Access to any information or documents, or access to proceedings during the review and selection phases
- The board will maintain information contained in the paper copies and/or electronic proposals submitted by offerors/bidders in a manner that is confidential, to avoid use of the information to another offeror/bidder's advantage and to prevent collusive bidding
- Also, based on documentation from USDOL, the board will consider additional public disclosure activities to ensure transparency to stakeholders in the procurement process for the selection of the one-stop operator: publicly disclose any conflicts of interest and recusals on the Local board's website, or, (if the Local Board lacks a website), the State Board's website, and/or publication in newspapers. (TEGL 15-16)

## Documentation

The minutes of board and committee meetings shall document compliance with these conflict of interest requirements.

- Detailed minutes will reflect the disclosure of facts and circumstances of conflict of interest, and indicate when the disclosure was made (e.g., prior to the board addressing said act or transaction)
- Minutes reflect discussion of (possible) conflict of interest and outcome of discussion and disclosure, including determination of conflict of interest, course of action pursued and the board's rationale for course pursued

## Other Requirements

- Board members may not engage in any other activity determined by the Governor to constitute a conflict of interest (see below: Additional Board Roles Approved by Governor and CEO, and Single Entities Performing Multiple Functions that include the OSO)
- Other prohibited activities include soliciting or accepting gratuities, favors, or anything of monetary value from awardees, potential awardees, or other parties to agreements
- Individuals shall not use for their personal gain, for the gain of others, or for other than officially designated purposes, any information obtained as a result of their committee, board or working relationships with the board where that information is not available to the public, or divulge such information in advance of the time decided by the board for its release.

## Impact on Quorum

- **SAMPLE A:** If a bylaw-required quorum of disinterested members does not exist as a result of member conflicts, a board decision may be made by a majority of the remaining disinterested members, provided that the number of disinterested members is greater than one **OR**
- **SAMPLE B:** A board member who is in attendance at any regular or special meeting and discloses a potential conflict of interest and removes him/herself from the meeting while such item is being addressed, shall continue to be counted for purposes of determining whether there is a quorum.

- For competitive procurement of the One-stop Operator, if the number of members who must be recused deprives the board of a quorum, the Local board will outsource the competitive selection to (insert entity e.g., an outside entity or specific State agency or the State WDB). (Specific instance cited by USDOL, related to the OSO competitive process.)

### **Organizational Conflict of Interest**

Organizational conflict of interest occurs when the board or another associated entity (or individuals within the entity): 1) is unable to render impartial assistance or advice, 2) does not perform work in an objective way, or 3) has an unfair competitive advantage compared to other entities, because of other activities, relationships or access to information.

- Board members, board staff, the administrative entity, fiscal agent, one-stop operator(s), partners and service providers will persistently scan and self-monitor for organizational conflicts of interest including but not limited to impaired objectivity, biased rules/policies, staff performing conflicting duties, and other sources of perceived or apparently unfair practices or events. This requirement will be included in as many official documents as possible including the Board's bylaws, agreements/contracts with service providers, board orientation and training, staff orientation and training, etc.

Approved by the Workforce Innovation Board of Region 15 on June 21, 2017.

Signed: \_\_\_\_\_

Mark DeKeersgieter Board Chair