

## Foothills Region Workforce Development Board Conflict of Interest Policy (PS 18-2017)

The purpose of the Conflict of Interest Policy is to protect the interest of the Foothills Region Workforce Development Boards 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 member, or 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 for the Foothills Region Workforce Development Board (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 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 his or her affirmative to immediately bring the matter to the attention of the Workforce Development Board 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 of a scheduled opportunity for all interested parties to present information. A member may vote on and may discuss any matter what 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, or approve, or to take part in the negotiating, making, accepting, or approving any contract or subcontract in connection with a project shall have directly or indirectly and financial or personal interest in any such contact or subcontract, unless the official or employee has recused themselves from negotiation, making, accepting, or approving any contract or subcontract in connection with a project. It shall be against the policy of the WDB or contracting agency for any employee or volunteer to directly or indirectly, demand, exact, solicit, accept, receive, or agree to receive anything in 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, 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 confirm a statement that affirms such person:

- has received a copy of the Foothills Region Workforce Development Board Conflict of Interest Policy;
- has read and understands the policy; and
- 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 appropriate County Board of Commissioners 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 a negotiation where the parties to the negotiation have an opposing economic interest to that of the organization with which they are negotiation.

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. Any 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 his/her 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. Placements 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 need 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 area, who is eligible and suitable for available services subject to Local Workforce Development Board 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. Local Chief Elected Officials, Local Workforce Development Boards, 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 the 29 CFR 95.42. Code of Conduct appended to this policy.

## **VII Firewall**

Proper firewalls must be in place to ensure the transparency and integrity of the procurement process and demonstrate to the public and to the Department of Labor that the selection process was impartial and that no preferential treatment was given to the awardee.

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 (IFP), evaluation of proposals/bids and identification of the best entity.

## CODE OF CONDUCT

The Foothills Region Workforce Development Board members, committee, Workforce Development Board staff members, and program contractor/service provider staff shall adhere to the following Code of Conduct.

No member shall:

1. use the name, endorsement, or services of the Local Area for to secure personal privileges or exemptions any person, or would give the appearance of such
2. accept or seek for oneself or any other person any financial advantage or gain of other than nominal value offered as a result of Board affiliation;
3. disclose any confidential WDB information to any person not authorized to receive such information or use such information to the disadvantage of the Local Area or accept any position or engage in a business which will require such;
4. engage in conduct, write, or otherwise communicate that would give a reasonable person the impression that official duties may be improperly influenced
5. accept any position whether compensated or uncompensated, which will impair independence of judgment in the exercise of official duties;
6. when officially representing the Board or during official meetings, take part in any religious, anti-religious, or partisan political activities in violation of the federal Hatch Act;
7. promote or oppose unionization in the discharge of official duties;
8. take any action in violation of the WDB's conflict of interest policy or state or federal statute;
  - A. Conflict of interest arises when any of the following may be positively or negatively affected by an action under consideration by the WDB:
    - (1) the WIOA staff member or program operator or any member of their immediate family has a financial interest pertaining to the procurement;
    - (2) a business or organization in which the WIOA staff member/or program operator or any member of their immediate family has a financial interest pertaining to the procurement; or
    - (3) any other person, business or organization with whom the WIOA staff member or program operator or any member of their immediate family is negotiation or has any arrangement concerning prospective employment is involved in the procurement

- B. Members must declare any potential conflict of interest upon joining the Board and thereafter at the first meeting of each Program Year. When a potential conflict of interest arises during the year, the members will immediately notify the Workforce Development Administrator in writing.
- C. WDB members must make a conflict declaration upon the introduction of any agenda item that raises a real or apparent conflict of interest and must abstain from voting after declaring the conflict. Meeting minutes must show all conflict declarations and abstentions. Such situations would include, but are not limited to, the following:
  - (1) participating in the provider selection process including discussion or voting on one's own or a rival proposal (one which competes for funding from the same source);
  - (2) voting on issues affecting one's own program operation of funding level(s).

NOTE: For the purposes of this document, immediate family shall be defined as a member's spouse, parents, children and siblings.

It is the responsibility of each member of the Workforce Development Board to govern the actions of all Board members in complying 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 his or her responsibility to bring the matter to the attention of the Board or committee.

Upon the assertion of a possible violation of this policy, the Chairman shall review the complaint. If the Chairman determines the complaint to be valid, the course of action to be taken in dealing with the complaint is at the discretion of the Chairman. In the case of a serious violation, action may include, but is not limited to, a request to the Consortium to replace the member. In addition, civil penalties may be sought in the event the WDB incurs disallowed cost or damages due to violation of this Code of Conduct.

This Code of Conduct, which conforms to the Federal Uniform Administrative Requirements (Common Rule), becomes effective on 1/1/2018 and shall be referenced in the WDB Bylaws and other appropriate documents.