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**TO:** All Humboldt County Workforce Innovation and Opportunity Act Board Members, Staff and Subrecipients

**FROM:** Humboldt County Workforce Development Board

**EFFECTIVE:** December 14, 2017

**SUBJECT:** Conflict of Interest and Code of Conduct

**REFERENCES:** WIOA (Public Law 113-128);  
2 CFR §200.112;  
2 CFR §200.318;  
20 CFR §683.200(c)(5)(i)-(iii);  
29 CFR §95.42;  
State of California Employment Development Department Information Notice WSIN 15-17; and  
California Assembly Bill 1234.

**PURPOSE:**

The purpose of this policy is to provide guidance in identifying and handling potential and actual conflict(s) of interest involving the Humboldt County Workforce Development Board (HC-WDB). The purpose is also to ensure that individuals or representatives of organizations entrusted with public funds will not personally or professionally benefit from the award or expenditure of such funds. The HC-WDB is committed to the highest level of system integrity and the appropriate oversight of the Workforce Innovation and Opportunity Act (WIOA) and other workforce-related funds it oversees, in order to comply with federal, state, and local laws and regulations.

**BACKGROUND:**

The HC-WDB is required under state law and the federal Workforce Innovation and Opportunity Act of 2014 to have policies to address conflicts of interest, among other things. The fiduciary duties of Members of the HC-WDB under state law and the WIOA include, without limitation, a continuing responsibility to thoroughly comply with conflicts-of-interest principles. A conflict of interest arises when an individual or organization has a financial or other personal interest in, and participates in, the selection of awarding of funds for an organization.

**POLICY AND PROCEDURE:**

\*Note: This policy does not replace the mandatory Form 700.

**Humboldt County Workforce Development Board**

- I. The HC-WDB is required under state law and the federal Workforce Innovation and Opportunity Act of 2014 to have policies to address conflicts of interest, among other things. The fiduciary duties of Members under state law and the WIOA include, without limitation, a continuing responsibility to thoroughly comply with conflicts-of-interest principles.
- II. No Members or HC-WDB staff shall use his or her position, or the knowledge obtained from his or her position, in such a manner that conflicts with the interest of the HC-WDB or results in personal gain to the Member or HC-WDB staff, or a third party that the Member or HC-WDB staff is employed by, has a fiduciary relationship with, or to whom the Member or HC-WDB staff provides services.
- III. Any Member or HC-WDB staff that has, or believes he or she has, a conflict of interest must disclose such potential conflict in accordance with the procedures established by the HC-WDB in this policy and shall do so in writing on a prescribed form. In accordance with 20 CFR 683.200(c)(5)(i) "...a State WDB member, Local WDB Member, or WDB standing committee member must neither cast a vote on, nor 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 or that Member's immediate family."

The following are deemed conflicts of interest that create a duty of the Member or HC-WDB staff to fully disclose such interest immediately:

- a. If Member or HC-WDB staff has a significant personal financial interest in a proposed transaction involving the HC-WDB.
  - b. If Member or HC-WDB staff is employed by, or is Trustee, Director, or Officer of any individual, organization or entity that shall have a financial interest in a proposed transaction involving the HC-WDB.
  - c. If Member or HC-WDB staff represents a third party either through personal, professional, or confidential relationship and such party shall have a financial interest in a proposed transaction involving the HC-WDB.
  - d. No Member or HC-WDB staff shall solicit or accept gratuities or favors from suppliers or potential suppliers, including subcontractors.
  - e. No Member or HC-WDB staff shall participate in the selection, award or administration of a procurement supported by WIOA funds where, to the individual's knowledge, any of the following has a financial or substantial interest in any organization which may be considered for award:
    - i. the officer, employee, agent or HC-WDB Member;
    - ii. any Member of his or her immediate family;
    - iii. his or her partner; or
    - iv. a person or organization which employs, or is about to employ, any of the above.
- IV. In the event that a HC-WDB Member or HC-WDB staff has an interest, directly or indirectly, in a business entity that would have a direct pecuniary effect due to any official action taken by the HC-WDB, the Member or HC-WDB staff shall declare and in writing on a prescribed form, before a vote or discussion on the matter, the nature and extent of

the interest and shall not voluntarily discuss the proposed HC-WDB action. A Member or HC-WDB staff shall not be excluded from the meeting following such declaration. Furthermore, this limitation on discussion shall not prohibit the Member or HC-WDB staff from providing factual information in response to direct questions concerning the matter from other Members. The disclosure shall be reflected in the minutes of the meeting of the HC-WDB.

- V. HC-WDB staff shall disseminate the Conflict of Interest and Code of Conduct Policy to HC-WDB Members, Staff and Sub-recipients using email messaging. A delivery notification receipt will be used to track delivery confirmation. In the event that email is undeliverable, the policy will be mailed using the United States Postal Service.
- VI. HC-WDB staff shall disseminate the HC-WDB Conflict of Interest Attestation and Code of Conduct Disclosure of Conflict(s) of Interest forms, specific to Board Member/Staff or Sub-recipient using email messaging. A delivery notification receipt will be used to track delivery confirmation. A signed version will be maintained in the HC-WDB Office and the electronic version will be maintained in the HC-WDB folder, Membership subfolder. In the event that email is undeliverable, the forms will be mailed using the United States Postal Service. Each Member and HC-WDB staff shall complete a Conflict of Interest and Code of Conduct Attestation form specific to:
  - a. Board Member;
  - b. Staff; or
  - c. Sub-recipient.
- VII. If an award of funding is made with Member or HC-WDB staff violating the requirements of this procedure, the HC-WDB Executive Committee is empowered to immediately suspend the obligation; the suspension subject to review at the next regular or special meeting of the HC-WDB. The balance of the Board, excluding the Member(s) or HC-WDB staff(s) with potential conflict, will then determine what final corrective actions are Workforce Development Board Conflict of Interest Policy and Code of Conduct necessary; actions that could include removal of the Member, suspension of the obligation, termination of the obligation, or civil action to recover any monetary damages.
- VIII. This policy is not meant to rule out transactions between the HC-WDB and other persons or entities where an interest or a relationship between the Member or HC-WDB staff and such a person or entity exists which require proper disclosure and which are documented as being the outcome of established Procurement Policies, and are determined to be in the best interest of the HC-WDB. As stated in 20 CFR §683.200(c)(5)(ii), "Neither membership on the State WDB, the Local WDB, or a WDB standing committee, nor the receipt of WIOA funds to provide training and related services, by itself, violates the conflict of interest provisions."
- IX. This policy requires that the HC-WDB must disclose in writing any potential conflict of interest to the Department of Labor. Recipients and sub recipients must disclose in writing any potential conflict of interest to the recipient of grant funds. As stated in 20 CFR §683.200(c)(5)(iii), "In accordance with the requirements at 2 CFR 200.112, recipients of Federal awards must disclose in writing any potential conflict of interest to

the Department. Sub recipients must disclose in writing any potential conflict of interest to the recipient of grant funds.”

- X. Nothing in this policy should be construed to prevent any Member’s or HC-WDB staff’s participation in WIOA programs. HC-WDB membership should not result in an employer receiving any more or any less consideration for trainees. What is important is to ensure that the officer, employee, agent or HC-WDB Member does not approve his/her own training package, or contract for services, but that the system of approval allows for objective determinations.

### **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 pursuant to 29 CFR §95.42. The following standards shall apply for the WDB, its employees, and its WDB committees:

- I. Adherence to the Conflict of Interest Policy.
- II. Adherence to procurement procedures that serve to minimize the appearance of conflicts, in addition to eliminating actual conflicts. Members or HC-WDB staff who represent One Stop Operators, Partners or actual or potential Service Providers and who serve on committees that oversee One Stop System or the allocation of resources that would potentially be allocated to their programs shall refrain from discussing or voting on any matter that would impact the programs they represent.
- III. A Member’s or HC-WDB staff’s employer may not participate in any way in a future bid on procurement where the Member or HC-WDB staff helped draft Specifications. In order to avoid potential conflicts as circumstances change, Members or HC-WDB staff whose employers may wish to participate in a future procurement will refrain from involvement in a specification development or procurement processes.
- IV. A Member or HC-WDB staff shall not become a recipient, directly or indirectly, of any salary payments or loans or gifts or any free service or discounts or other fees from or on behalf of any person or organization engaged in any transactions with the HC-WDB except that a disclosed token gift of a value within applicable Federally allowable maximums may be approved by the Executive Committee.

### **FORM(S):**

- HC-WDB Board Conflict of Interest and Code of Conduct Attestation Board Member
- HC-WDB Board Conflict of Interest and Code of Conduct Attestation Staff
- HC-WDB Board Conflict of Interest and Code of Conduct Attestation Sub-recipient
- HC-WDB Board Conflict of Interest and Code of Conduct Disclosure Board Member and Staff
- HC-WDB Board Conflict of Interest and Code of Conduct Disclosure Sub-recipient

### **INQUIRIES:**

Any questions regarding this policy may be directed to the Workforce Development Board Director at 707-445-7745.

Humboldt County Workforce Development Board Approval Required?  Yes  No