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## **POLICY: CONFLICT OF INTEREST**

**EFFECTIVE DATE: JULY 1, 2016**

**POLICY NUMBER: 2016-04**

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### **PURPOSE**

To provide guidance on maintaining the highest level of ethical standards for members of the Workforce Development Board (WDB), the WorkSource Montgomery Board, WorkSource Montgomery (WSM) staff, and any vendors funded under the Workforce Investment Act (WIOA) of 2014.

### **BACKGROUND**

A Conflict of Interest Policy is required 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. Grantees, sub-recipients, and contractors funded under WIOA, whether in whole or in part, must abide by WIOA Regulations, all applicable Office of Management and Budget (OMB) circulars, and the State of Maryland WIOA policies regarding conflict of interest.

### **CANCELLATIONS**

- Policy 2012-18: WDB Conflict of Interest Policy for WIB Members, Staff and Vendors

### **ACTION REQUIRED**

It is the WSM Chief Executive Officer's (CEO) and program operator's (e.g., vendors, partners) responsibility to inform all staff and board members of the policy and ensure adherence and accountability of its contents.

### **QUESTIONS**

Questions relating to this policy should be directed to the CEO at [policy@worksourcemontgomery.com](mailto:policy@worksourcemontgomery.com) or at 240.403.4102.

### **ATTACHMENTS**

- Attachment A: Conflict of Interest Statement
- Attachment B: Definitions of Key Terms

## CONFLICT DISCLOSURES

Conflict of interest, real or perceived, will not be tolerated. Any duality of interest or real or perceived conflict of interest on the part of any Workforce Investment Board (WDB) members, staff and vendors shall be disclosed to the Chair of the WDB or the CEO and made a matter of record, when the interest becomes a matter of Board action. A member must publicly declare that a possible conflict of interest exists before the agenda item in question is introduced. A member must disclose the nature of the conflict. The person chairing the meeting will then acknowledge the declaration. Members involved in an acknowledged conflict of interest must refrain from all discussion and abstain from all voting relative to the affected agenda item. The minutes of the meeting shall reflect that a disclosure was made and the abstention from voting and the discussion.

The conflict of interest policy shall be reviewed annually at a meeting of the Board to provide information and guidance to the members. Any new members of the Board shall be advised of the policy upon entering the duties of his/her office and shall sign the Conflict of Interest Statement annually.

## REQUIREMENTS

1. No individual in a decision-making capacity shall engage in any activity, including participation in the selection, award, or administration of a subgrant or contract supported by WIOA funds, if a conflict of interest (real, implied, or apparent) would be involved.
2. A WDB member or 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 a member of his immediate family. The U.S. Department of Labor's Final Rule defines to "participate in a decision-making capacity" includes to discuss an issue and to influence, or try to influence, other WDB or committee members or staff to take a position for or against an issue.
3. A conflict of interest under paragraph 1 and 2 would arise when:
  - An individual; i.e., employee, officer, or agent,
  - Any member of the individual's immediate family (partners, spouse, children, or siblings),
  - The individual's partner, or
  - An organization which employs, or is about to employ an individual (individual has received a job offer from the organization) who has financial or other interest, either through ownership or employment, and participates in the selection or award of funding for that organization or firm.
4. Members of the WDB and committees will neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or

parties to sub-agreements. The WDB may set minimum rules where the gift is an unsolicited item of nominal intrinsic value.

5. Neither membership on the WDB nor the receipt of WIOA funds to provide training or other services shall be construed, by itself, to violate these conflict of interest provisions of the Act or Regulations.
6. Members shall not be financially interested in any contract made by them in their official capacity or in any contract made by the WDB. If a member has a remote interest in a contract that member shall disclose such interest to the WDB so that the interest can be noted in the official records; shall not influence or try to influence another member to enter into the contract or not enter into the contract; and shall not vote concerning whether the WDB should enter into the contract.
7. When the CEO determines that h/he should not make a governmental decision because s/he has a disqualifying interest in that decision, the CEO shall disclose his/her determination and disqualifying interest in writing to the Chairperson of the WDB.
8. When an employee (other than the CEO) or a consultant determines that s/he should not make a governmental decision because s/he has a disqualifying interest in that decision, that person shall disclose his/her determination and disqualifying interest in writing to the CEO.
9. If an employee is notified or becomes aware that a potential conflict of interests exists with respect to a member, employee, or vendor the employee will so inform the CEO. If the potential conflict involves an employee, the CEO will dismiss the employee from all matters related to the potential conflict. If the potential conflict involves a member, the CEO will consult with the Chairperson of the WDB.
10. Any member who believes a conflict of interest exists with respect to another member can declare so during the appropriate meeting. If the issue is challenged or disputed by the affected member, the Chairperson of the meeting will refer the matter to the Executive Committee for final determination, and the agenda item will be tabled pending final opinion from the committee.
11. All instances of nonparticipation due to declared conflicts of interest shall be duly recorded in the minutes of the appropriate board or committee meeting, and shall serve as documentation of compliance with this policy. Instances in which a member has chosen not to be present at a meeting where a conflict of interest might arise shall likewise be recorded in the minutes.
12. A WDB member must not engage in any activity determined to constitute a conflict of interest by the State of Maryland's Ethics Law.
13. All WDB members, committee members, and staff must participate in an annual Ethics and Conflict of Interest training conducted by the WDB.
14. All WDB members, committee members, WSM staff and vendor staff must have a Conflict of Interest Form, signed annually, on file.

## REFERENCES

### Law

- [Workforce Innovation and Opportunity Act of 2014 \(WIOA\)](#). Section 107(h); WIOA (Public Law 113-128) - Section 121(d) (4);
- The Maryland Code Annotated, State Government Article, Title 15 Subtitle 5 (Supp. 2001) and Code of Maryland Regulations (“COMAR”) 19A.02.01 and 19A.02.02 addresses the conflict of interest provisions of the State Ethics Law; Md. STATE GOVERNMENT Code Ann. § 15-501 (2013)

### Federal Guidance

- [Workforce Innovation and Opportunity Act Labor Only Final Rule](#): 29 CFR 95.42, 29 CFR 97.36(b)(3)

### Local Guidance

- Chapter 19A, Montgomery County Code of Ethics.  
<http://www6.montgomerycountymd.gov/mcgtmpl.asp?url=/Content/ethics/index.asp>
- County Council resolution 16-466, Approval of the Executive Regulation 27-07 Financial Disclosure

### Approved:

CEO of WorkSource Montgomery, Inc.  
Montgomery County Workforce Development Board



**ANNUAL CONFLICT OF INTEREST STATEMENT**

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Are you a voting Director?       Yes    No

Are you an Officer of the WDB or WSM?       Yes    No

If yes, list your position: \_\_\_\_\_.

Are you an employee of       WSM       Contractor receiving WIOA funds

I affirm the following by initiating:

\_\_\_\_\_ I have received a copy of the WDB Conflict of Interest Policy.

\_\_\_\_\_ I have read and understand the policy.

\_\_\_\_\_ I agree to comply with the policy.

Do you have any relationships that might reasonably be regarded as creating a possible conflict of interest?    Yes    No

If YES, please describe:

I certify that I have read, understand and will comply with the WDB policy on Conflict of Interest.

Signature \_\_\_\_\_

Date \_\_\_\_\_

### Definitions of Key Terms

**Conflict of Interest** refers to the conflict between the public obligation and the private interests of the persons or entities identified in the Purpose Section of this Policy.

**Member** refers to a member of the WDB or any Committees, unless otherwise specified.

**Employee** refers to an employee of the WDB, WSM, and any vendor (where applicable) unless otherwise specified.

**Financial Interest** includes possible disadvantage to a competitor of the business or nonprofit entity which the member represents.

**Immediate Family** consists of the individuals' parents (including stepparents), spouse, domestic partner, children (including step-children), siblings, grandchildren, grandparents, and any relative by marriage (an "in-law")

**Individual** is (1) an individual; i.e., officer, or agent, or (2) any member of the individual's immediate family (spouse, partner, child, or sibling), or (3) the individual's business partner.

**Organization** is a for-profit or not-for-profit entity that employs, or has offered a job to, an individual defined above. An entity can be a partnership, association, trust, estate, joint stock company, insurance company, corporation, or a sole proprietor.