
Code of Conduct and Conflict of Interest

PURPOSE

This policy is established to provide direction and guidelines on conducting business in an open, sensitive manner that will prevent actual, potential, or questionable conflicts of interest. All Board members, staff, subrecipients, and partners of Pacific Gateway Workforce Innovation Network (Pacific Gateway) are expected to read, understand and apply this policy to ensure integrity and effective oversight of the Workforce System.

BACKGROUND

Grantees, subrecipients, and contractors funded under the Workforce Innovation and Opportunity Act (WIOA) must implement codes of conduct and conflict of interest policies and procedures as stipulated in WIOA; federal and state regulations and guidance; relevant Office of Management and Budget (OMB) circulars; and state conflict of interest policies. A conflict of interest policy is required to ensure that individuals and representatives of organizations entrusted with public funds will not personally or professionally benefit from the award or expenditure of such funds.

POLICY

The Pacific Gateway recognizes that by its very composition, conflict of interest and issues concerning the appearance of fairness may arise. Therefore, it is essential for the Board members and staff be sensitive and err on the side of caution when potential or real conflict or matters of fairness occur. To accomplish these purposes, the following definitions, actions and guidelines have been established.

A. Definitions

Conflict of Interest. Conflict between the official responsibilities and the private interests of a person or entity that is in a position of trust. A conflict of interest would arise when an individual or organization has a financial or other interest in or participants in the selection or award of funding for an organization. Financial or other interest can be established either through ownership or employment.

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

Individual. An employee, officer, board member, Pacific Gateway committee member, subrecipient, subcontractor or agent of Pacific Gateway.

Partner. A business associate of an individual, whether an equal participant in a business with the individual, a supervisor or sub-ordinate.

Organization: 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, or corporation, whether domestic or foreign, or a sole proprietor.

B. Code of Conduct

During the performance of duties, individuals' actions are a reflection upon Pacific Gateway. It is important that all Board members, staff, subrecipients, and partners act in a courteous and friendly, helpful and prompt manner in dealing with the public, customers, other employees, officials and members of both internal and external organizations of Pacific Gateway.

Ethical Principles

All Pacific Gateway Workforce Development Board members, staff, subrecipients, and partners hereafter referred to as Representatives shall conduct themselves in an honest and ethical manner, including ethical handling of perceived, potential and actual conflicts of interest between Pacific Gateway interests and the personal and financial interests of a Pacific Gateway representative.

1. Compliance with the Law: It is Pacific Gateway's policy to be knowledgeable of and comply with applicable laws and regulations of the United States and State of California in a manner that will reflect a high standard of ethics. Compliance does not comprise one's entire ethical responsibility; rather it is at minimum, an essential condition for adherence to the organization's mission and duties.
2. Professional Standards: It is Pacific Gateway's policy that its Representatives be knowledgeable of emerging issues and professional standards in the field and conduct themselves with professional competence, fairness, efficiency and effectiveness.

Guidelines for Interpretation

Areas of concern are those actions or lack of actions which may lead to conflict of interest or the appearance of conflict of interest or to a perception of unfairness related to Pacific Gateway business outside board and committee meetings. Specific areas which may pose problems include, but are not limited to, comments made in public, information sharing, and disclosure of associations.

1. Comments Made in Public: Representatives are encouraged to act in a public relations capacity for Pacific Gateway. This includes public speaking engagements and comments in a public forum. Because there is public interest in Pacific Gateway's actions, Representatives should differentiate between descriptive comments, which relate to actions already taken by the Board, statements which imply future Pacific Gateway decision-making, or the ability to influence decision making.
2. Information Sharing: Representatives are encouraged to share information with the community about Pacific Gateway's activities. To the extent possible, access to information regarding Board activities and procurement of services should be available at the same time and under the same circumstances to all parties. Such information includes the local workforce plan, requests for proposals, notice of meetings, meeting minutes, and policies.
3. Disclosure of Associations: Representatives have professional and personal associations throughout the community. Associations include those which pertain to membership in organizations or contractual agreements between partners, stakeholders, or employers or employees, as well as associations which arise out of custom, shared interests, friendships, or other relationships.

Such associations have been and will continue to be of significant benefit to Pacific Gateway. Where a direct or indirect financial conflict of interest exists, Representatives may not vote or serve on a rating team. When associations raise appearance of fairness as an issue, Representatives should qualify statements in public by disclosing the association and minutes of the Board meeting should reflect the disclosure.

Whenever a Pacific Gateway representative is in doubt about a possible problem with appearance of fairness, they should disclose the association.

C. Conflict of Interest

1. Each grant recipient and subrecipient shall maintain a written code of standards or conduct governing the performance of persons engaged in the award and administration of Pacific Gateway contracts and subagreements. This policy can be adopted if none exists. A written acknowledgement adopting this policy must be maintained on record.
2. No individual in a decision-making capacity shall engage in any activity, if a conflict of interest (real, implied, apparent, or potential) is involved. This includes decisions involving the selection, award, or administration of a contract supported by WIOA or any other federal funds.
3. Before any public discussions regarding the release of a Request for Proposal, or any matter regarding the release of funding or the provision of services, a Pacific Gateway Board member or Representative must disclose any real, implied or apparent, or potential conflicts of interest before engaging in the discussion. The minutes of the meeting should reflect the disclosure.
4. An individual of the Board shall not cast a vote, nor participate in any decision-making capacity on the provision of services, or any organization which that individual directly represents, nor any matter which would provide any direct financial benefit to the individual, to the individual's immediate family, or to the individual's organization.
5. An individual of the Board or Pacific Gateway Representative cannot solicit or accept gratuities, favors, or anything monetary value from awardees, potential awardees, or other parties to agreements. However, Pacific Gateway allows for situations where the gift is an unsolicited item of a nominal value worth \$50.00 or less and can be shared by the members of the organization as a whole.
6. The standards of conduct shall provide for disciplinary action, including termination of employment, board membership or contract for violations of this policy by any individual. The Pacific Gateway's Workforce Development Board (WDB) Executive Committee may evaluate any violations of these provisions on a case-by-case basis and recommend to the entire board, if and what penalties and sanctions or other disciplinary actions are appropriate.
7. Individuals shall not use, for their own private 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 Pacific Gateway where the information is not available to the public at large, or divulge such information in advance of the time prescribed for its authorized release.
8. One-Stop operators must disclose any potential conflicts of interest arising from relationships with training providers and other service providers, as specified in this conflict of policy. In the event the WDB staff acts in the capacity of the One-Stop operator, staff must disclose any potential conflict of interests arising from relationships with training providers and other service providers. In addition to the requirement for conflict disclosure the One-Stop operator may not perform any of the following: convening system stakeholders to assist in the development of the local plan; be responsible for oversight of itself, manage or significantly participate in the competitive selection

process for One-Stop operators; select or terminate One-Stop operators, career services, and youth providers; negotiate local performance accountability measures; or develop and submit budget for activities of Pacific Gateway.

9. An organization that has been selected or otherwise designated to perform more than one function related to WIOA must develop a written plan that clarifies how the organization will carry out its multiple responsibilities while demonstrating compliance with WIOA, corresponding regulations, relevant Office of Management Budget circulars, and this conflict of interest policy. This plan must limit conflict of interest or the appearance of conflict of interest, minimize fiscal risk, and develop appropriate firewalls within that single entity performing multiple functions. The plan must be agreed by both the WDB and the Executive Board.
10. Membership on the WDB, or being a recipient of WIOA funds to provide training or other services, is not by itself a violation of conflict of interest provisions of WIOA or corresponding regulations. Unless and until a situation arises where there is a conflict of interest.

REFERENCES

- WIOA (Public Law 113-128) Sections 101(f); 102(b)(2)(E);107(h); 121(d)(4)
- Title 20 CFR “WIOA Final Rule” Sections 697.430; 679.130(f)(1) through (3); 679.410(a)(3) and (c); 679.430; 683.200(c)(5)
- Title 2 CFR Part 200 and Part 2900 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” (Uniform Guidance)

INQUIRIES

For questions or assistance related to this policy, please contact Pacific Gateway Workforce Innovation Network staff at (562) 570-3748.

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