



Workforce Issuance

100 DCS 03.107

☒ Policy ☐ Information

To: Chief Elected Officials
MassHire Workforce Board Chairs
MassHire Workforce Board Directors
Title I Administrators
MassHire Career Center Directors
Title I Fiscal Officers
MDCS Operations Managers

cc: WIOA State Partners

From: Alice Sweeney, Director
MassHire Department of Career Services

Date: November 16, 2018

Subject: **Conflict of Interest & Code of Conduct Policy / Procedure Statement of Policy**

Purpose: To notify MassHire Workforce Boards, MassHire Career Center Operators and other workforce partners of guidance regarding conflict of interest; in accordance with applicable Federal guidelines to Workforce Innovation and Opportunity Act (WIOA) State Partners receiving Federal awards.

Background: *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards § 200.112*, requires the federal awarding agency to establish conflict of interest policies for federal awards. The non-Federal entity must disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy.

Policy: It is the policy and expectation of the WIOA State Partners and MassHire Workforce Boards (MWB) that its Members will fulfill the fiduciary duties applicable to their service as Members of these entities. Due to the legal and statutory structures of these entities, it is expected that conflicts of interest will arise and this policy is intended to provide a framework that will allow the work

of these entities to be achieved without the fact of or the appearance of impropriety.

Where this document references “Member” it shall mean any agent, employee, WIOA subcontractor employee, officer, standing committee and Board Member. The MWB and all other agencies receiving direct financial assistance through WIOA in Massachusetts shall avoid conflict of interest, real or apparent, by observing the following requirements:

1. It is required under state law and the federal Workforce Innovation and Opportunity Act (WIOA) to have policies to address conflicts of interest, among other things (2 CFR §200.112). The fiduciary duties of Members under state law and the WIOA include, without limitation, a continuing responsibility to scrupulously comply with conflicts-of-interest principles.
2. Each Member shall sign and date an Attestation denoting that the Conflict of Interest and Code of Conduct Policies have been read, are understood, and that the Member pledges to conduct him/herself in accordance with such policies and procedures during their service to the Board.
3. Each Member must also provide a disclosure of potential conflicts created by his or her position(s) outside of their service to the MWB. Such conflicts are detailed on the Disclosure of Conflict(s) of Interest form (Attachment C).
4. No Members 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 MWB or results in personal gain to the Member, or a third party that the Member is employed by, has a fiduciary relationship with, or to whom the Member provides services.
5. Any Member 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 MWB in this policy and shall do so in writing on a prescribed form. In accordance with §20 CFR Section 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 to fully disclose such interest immediately:
 - i. If Member has a significant personal financial interest in a proposed transaction involving the MWB.

- ii. If Member 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 MWB.
- iii. If a Member 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 MWB.
- iv. No Member shall solicit or accept gratuities or favors from suppliers or potential suppliers, including subcontractors.
- v. No Member 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:
 - a. the officer, employee, agent or MWB Member;
 - b. any Member of his or her immediate family;
 - c. his or her partner, or;
 - d. a person or organization which employs, or is about to employ, any of the above.
- vi. In the event that a MWB Member 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 MWB, the Member shall declare, before a vote or discussion on the matter, the nature and extent of the interest and shall not voluntarily discuss the proposed MWB action. A Member shall not be excluded from the meeting following such declaration. Furthermore, this limitation on discussion shall not prohibit the Member 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 MWB.
- vii. If an award of funding is made with Member violating the requirements of this procedure, the MWB Executive Committee is empowered to immediately suspend the obligation; the suspension subject to review at the next regular or special meeting of the MWB. The balance of the Board, excluding the Member(s) with potential conflict, will then determine what final corrective actions are 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 MWB and other persons or entities where an interest or a relationship between the Member 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 MWB. As stated in 20 CFR Section 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 these conflict of interest provisions.”

- ix. Nothing in this policy should be construed to prevent any Member’s participation in WIOA programs. MWB membership should not result in an employer receiving any more or any less consideration for trainees. What is important is to insure that the officer, employee, agent or MWB 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 MWB and employees, officers, or agents related to real or apparent conflicts of interest is a requirement (§2 CFR 200.318). The following standards shall apply for the MWB, its employees and its Standing Committee Members:

1. Adherence to the Conflict of Interest Policies.
2. Adherence to procurement procedures that serve to minimize the appearance of conflicts, in addition to eliminating actual conflicts. Members who represent MassHire Career Center Operators, Partners or actual or potential Service Providers and who serve on committees that oversee the MassHire Career Center 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.
3. A Member’s employer may not participate in any way in a future bid on procurement where the Member helped to draft specifications. In order to avoid potential conflicts as circumstances change, Members whose employers may wish to participate in a future procurement will refrain from involvement in specification development or procurement processes.
4. A Member 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 transaction with the MWB except that a disclosed token gift of a value within applicable Federally allowable maximums may be approved by the Executive Committee.

Required: MassHire Workforce Boards must ensure compliance with this guidance and develop local policies and standard operating procedures for conflict of interest in the WIOA program.

Effective: Immediately

Attachments: A. MWB Conflict of Interest Policy and Code of Conduct Board Member Form
B. MWB Conflict of Interest Policy and Code of Conduct Standing Committee, MWB Staff and Sub Contractor Staff Form
C. Disclosure of Conflict(s) of Interest Form

References: [2 CFR 200.112](#)
[2 CFR 200.318](#)
20 CFR Section 683.200(c)(5)

Inquiries: Please email all questions to PolicyQA@MassMail.State.MA US. Also, indicate Issuance number and description.