

LWIA #22 Standards of Conduct and Conflict of Interest Policy

Effective October 17, 2019

Members of the Madison-Bond-Jersey-Calhoun Workforce Innovation Board (MBCWIB) and its committees are committed to maintaining the public trust in all matters concerning the use of federal and state funds for the purpose of carrying out grant requirements, and upholding the reputation and integrity of the local workforce development system.

Mitigating Potential Conflict of Interest

- At appointment to the board, and every two years in advance of application for local board recertification, each member will read this conflict of interest policy and attest to understanding and complying with requirements herein. These signed forms will be retained as part of the board's certification documentation for the period of the certification.
- The Board shall have on file an annual Disclosure/Conflict of Interest form completed and signed by each Board member, board staff, fiscal agent staff, and administrative entity staff members. The disclosure statements include: the organizational and fiduciary affiliations of the individual and the individual's immediate family, which may present a potential conflict of interest for that individual. Based on submittal and review of these disclosure statements, a board may identify pre-existing interests and relationships known to create a potential conflict of interest, and these will be disclosed in writing to the State of Illinois Department of Commerce and Economic Opportunity (DCEO). In accordance with the requirements of 2CFR 200.112 (Uniform Guidance), subrecipients of Federal awards must disclose in writing any potential conflict of interest to the recipient of grant funds.
- In the case of pre-determined conflicts of interest found to exist based on the annual disclosure process, members may recuse themselves from any planned or required transactions that are a conflict of interest. Within the context of a public meeting where a transaction triggers the conflict, the annual disclosure form is cited as written disclosure for the item, and the member abstains from any involvement, discussion and vote during that meeting (to be noted in the minutes). (This is different than the disclosure requirements triggered by agenda items for board and committee meetings, wherein the full facts must be presented, existence of conflict of interest determined for each case, and a course of action determined.)
 - No entity or individual that has any role in the issuance of a solicitation (including

development of requirements, drafting the RFP or IFB, etc.) may compete or submit a proposal under that procurement action.

- Neither membership on 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.

Conflict of Interest Policy Related to Board Business, Matters and Transactions

- Members of the MBJCWIB, standing committees, board subcommittees or workgroups convened to advise and/or participate in board activities must neither participate in any decision-making capacity, nor cast a vote on, or contribute to any part of an evaluation process (developing criteria, scoring, reviewing responses):
 - for the provision of services by such member, or any organization which that member directly represents, or such members' general partner or outside business endeavor, or any organization that the member serves on or is an employee of;
 - nor on any matter which would provide any direct financial benefit to that member or that member's immediate family such as:
 - a. Member's spouse
 - b. Member's children or grandchildren
 - c. Member's parents or grandparents
 - d. Member's brothers, sisters, aunts, uncles or cousins
 - e. Member's in-laws
 - f. Persons that reside with the Member but not related

Disclosure

- Members shall publicly disclose (possible, real, apparent) conflict of interest pertaining to any act or transaction of the board prior to the board addressing said act or transaction.
- Any conflict disclosed prior to a meeting shall if possible, be made part of the agenda of the relevant board meeting.
- Disclosure must include all relevant facts so that the disinterested Board members can make a fully informed decision (i.e., cannot "disclose" a conflict of interest by merely stating that member has a conflict of interest).

- A Member cannot abstain from voting due to conflict of interest without public disclosure.
- If a member/individual does not know whether s/he has a conflict of interest, s/he can protect himself or herself by asking for a board determination of whether or not a real or apparent conflict of interest exists (prior to the board addressing said act or transaction) followed by full disclosure of all facts related to the conflict situation.
- Disclosure and related discussion does not in and of itself mean that the disclosing member has a real, apparent or organizational conflict of interest.
- A member can seek and rely upon advice from legal counsel concerning possible conflicts of interest.
- The Board may discuss the disclosure to determine if a real or apparent conflict of interest exists.
- The Board Chair, or whoever is presiding in the place of the Chair, shall make any final determination whether a conflict of interest exists.
- If it is determined there is a real conflict of interest, the member must abstain from any involvement, discussion and vote regarding the consideration of the matter. [L]
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- If it is determined there is an apparent (or perceived) conflict, whereby an organization or agency that a board member is affiliated with can benefit from the influence of this individual, or there are circumstances that would cause a reasonable person with knowledge of the relevant facts to question the individual's impartiality in the official matter, the member must abstain from any involvement, discussion and vote.
- Any Board member who believes another member has a conflict may disclose said possible conflict to the board, during an open meeting. The board shall hear statements from both parties and, if necessary, discussion shall be held.
- The process of assessing potential conflict of interest may occur in advance of a meeting that has the act or transaction on the agenda, or may occur at the beginning of a meeting or before the item is taken up by the board. However, full disclosure, any discussion and actual determination of real or apparent conflict of interest, along with any resolution and action taken to address the conflict must occur during the public meeting and be part of the public record (minutes).
- The board may require conflicted member(s) to leave the room during discussion and

voting on issues, and in any event the conflicted member may not participate in the discussion of such an issue.

- Any board member abstaining from voting for reason of conflict of interest shall not be considered present for that vote. Roll call vote will be taken and duly recorded for all funding decisions.

Recusal

- Whereas transaction-specific disclosures may lead to a board member abstaining from related activities during a meeting, a board member may also recuse him/herself from any participation in multiple phases of any matter if a conflict of interest exists. This includes for example, participation in all phases of a competitive procurement or non-competitive selection or designation (whichever process may apply) of service providers, services, one-stop operator, eligible training providers, etc.
- In these instances the board will apply all previously listed requirements for public disclosure and documentation.
- In addition, for competitive procurement, the Board will assure that physical and electronic access to information that would limit the efficacy of a recusal, and prevent fairness and impartiality of the outcome is restricted: the recused member(s) will not have access to any documents, reports, data, decisions, transactions or information including:
 - Any information acquired during activities conducted in the planning phase including but not limited to:
 - a. Market research conducted specific to the procurement
 - b. RFIs, RFQs
 - c. Cost analysis, comparisons, research
 - d. Establishing procurement method, project budget, and/or scope of work
 - e. Factors for evaluation, scoring and point allocation
 - Access to any information or documents, or access to proceedings during the review and selection phases
- The board will maintain information contained in the paper copies and/or electronic proposals submitted by bidders in a manner that is confidential, to avoid use of the

information to another bidder's advantage and to prevent collusive bidding. ^{[[[} _{SEP]}

- Also, based on documentation from USDOL, the board will consider additional public disclosure activities to ensure transparency to stakeholders in the procurement process for the selection of the one-stop operator: publicly disclose any conflicts of interest and recusals on the Local board's website, and/or publication in newspapers. (TEGL 15-16)

Documentation

The minutes of board and committee meetings shall document compliance with these conflict of interest requirements.

- Detailed minutes will reflect the disclosure of facts and circumstances of conflict of interest, and indicate when the disclosure was made (e.g., prior to the board addressing said act or transaction).
- Minutes reflect discussion of (possible) conflict of interest and outcome of discussion and disclosure, including determination of conflict of interest, course of action pursued and the board's rationale for course pursued.

Other Requirements

- Board members may not engage in any other activity determined by the Governor to constitute a conflict of interest.
- Other prohibited activities include soliciting or accepting gratuities, favors, or anything of monetary value from awardees, potential awardees, or other parties to agreements.
- Individuals shall not use for their personal 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 the board where that information is not available to the public, or divulge such information in advance of the time decided by the board for its release.

Impact on Quorum

- If a bylaw-required quorum of disinterested members does not exist as a result of member conflicts, a board decision may be made by a majority of the remaining disinterested members, provided that the number of disinterested members is greater than one.

- For competitive procurement of the One-stop Operator, if the number of members who must be recused deprives the board of a quorum, the Local board will outsource the competitive selection to an impartial outside entity.

Organizational Conflict of Interest

Organizational conflict of interest occurs when the board or another associated entity (or individuals within the entity): 1) is unable to render impartial assistance or advice, 2) does not perform work in an objective way, or 3) has an unfair competitive advantage compared to other entities, because of other activities, relationships or access to information.

- Board members, board staff, the administrative entity, fiscal agent, one-stop operator(s), partners and service providers will persistently scan and self-monitor for organizational conflicts of interest including but not limited to impaired objectivity, biased rules/policies, staff performing conflicting duties, and other sources of perceived or apparently unfair practices or events. This requirement will be included in as many official documents as possible including the Board's bylaws, agreements/contracts with service providers, board orientation and training, staff orientation and training, etc.
- The oversight function of specifically monitoring for conflict of interest is assigned to the Title1B Planning & Program Manager/EO Officer or staff designated by the Title1B Program Administrator to review: mitigation efforts and effective handling of conflict of interest situations, documentation, resolution and impact on local policy, Standard Operating Procedures (SOP) and practices.
- A staff person designated by the Program Administrator will provide a quarterly monitoring report to the board; and if necessary recommend revisions to any firewalls developed, to ensure a clear separation of duties, structured and standardize procedures and ongoing system-wide detection of conflict of interest

The board has created the following combination of activities to yield firewalls that mitigate conflict of interest.

- 1) The roles of oversight, procurement, evaluation/monitoring and service delivery are distinctly separate, and are either provided by another entity, ensuring no entity performs functions for its own entity with its own staff, or performed by individuals without a conflict of interest.
- 2) For each function below, an itemized list describes the roles, tasks and responsibilities for that function; and training, oversight/supervision and job descriptions are used to

ensure separation of duties: so that no entity or individual(s) in an entity perform tasks outside of the role/duties that constitute a conflict of interest.

- Governance roles and functions
 - Local WIB and Committees
 - Staff to the Local WIB
 - Administrative Entities
 - Fiscal Agents
 - One-Stop Operators

	Oversight	Procurement	Evaluation/ Monitoring	Service Delivery
Local Board- Madison- Bond-Jersey- Calhoun Workforce Innovation Board	State board	Disinterested board members, based on standards of conduct & conflict of interest policy	State Board Certification State monitors	N/A unless approved by Governor, CEO; if so, state agency/board oversees
WIOA Title 1B Staff- Madison County Employment and Training Department	Local board	Based on board- approved budget Fiscal agent	Local board County (or employer of record)	NA
One-Stop Operator- Madison County American Job Center Consortium	Local board and Title 1-B staff	Board-approved procurement standards with board approved MOU budget Fiscal agent	Local Board Center Certification	Career services delivered based on board-approved MOU
Fiscal Agent- Madison County	CEOs/County	NA	Outside auditor, state monitor, fiscal reports	NA
Administrative Entity- Madison County Board Chairman	County, CEOs Local board	Fiscal agent	County, CEOs Local board	NA

- Procurement and financial system functions and responsibilities are controlled by standardized operating procedures, policies delegating authority for different authorization levels by transaction, preapproved budgets, regularly scheduled reporting and reconciliation, and outside audits. Any findings by outside audits are immediately used to revise these controls.
- Board will maintain assurance from service providers and organizations with whom the board has agreements (with content in the contract, MOU, service delivery agreement, etc.) that no preferential treatment will be shown to any program applicant or participant covered by WIOA based on relationship of service delivery staff, or staff family members, or other basis not related to eligibility and fair determination of need.

Additional Board Roles Approved by Governor and CEO

- Local Board as one-stop operator
 - If the MBJCWIB desires to be the one-stop operator (OSO), the board will participate in the competitive process performed by an impartial entity. Based on state policy, the board will not deem itself the one stop operator due to lack of bids.
 - If selected as the OSO, the board will seek approval from the Governor and the CEO (by completing Request for Approval form attached to OSO policy)
 - Additional requirements:
 - The MBJCWIB will present documentation that sufficient research and outreach justify board's selection as OSO.
 - The MBJCWIB will provide evidence to demonstrate that the solicitation was publicized in a manner providing for full and open competition.
 - Based on USDOL interpretation of WIOA sunshine provisions, the MBJCWIB will present documentation and justification of procurement at an open board meeting in order to provide transparency.
 - Due to inherent conflict of interest for monitor function, another LWIA will conduct the monitoring and report the monitoring results to the CEO.

- OSO function will be delivered by non-voting board staff to mitigate any potential conflict of interest

Single Entities Performing Multiple Functions

The possibility that a conflict of interest may arise is inherent when entities are performing, or seeking to perform, multiple functions within the local workforce development system. The board will oversee mitigation of conflict of interest when single entities are performing more than one function from the following list:

Board staff, OSO, fiscal agent, administrative entity, Title 1B service provider (Adult, Dislocated worker or youth program services, direct provider of career services or training services, or other partner agency service provider.

- As required by WIOA, the Board and CEO(s) will enter into a written agreement when a single entity performs multiple functions in a local area, with content to include how the entity will limit conflict of interest or the appearance of conflict of interest, minimize fiscal risk, and develop appropriate firewalls. The agreement will clarify how the organization will carry out its responsibilities while demonstrating compliance with the Workforce Innovation and Opportunity Act and corresponding regulations, relevant Office of Management and Budget circulars, and the state's and local board's conflict of interest policy.
- The agreement will identify the role, responsibilities and tasks associated with each function, and based on comparison of each function to the others, itemize any potential conflict of interest.
- The agreement will also specify how each potential conflict of interest will be mitigated including clear separation of duties across different staff/units/departments. Other actions that strengthen existing firewalls or build new ones will also be described.

Selected OSO is (an entity or consortium of partner agencies that are) also Board member

At a minimum, these board members who are also the OSO, will be restricted from the following activities due to apparent or organizational conflict of interest:

- Participation in development of center operations policy (but not SOP)

- Participation in monitoring/evaluation overall center operations, including center certification processes
- Independently making changes/altering board-approved partner MOU or MOU budget
- Participation in development of metrics for system-level (vs. program level) indicators; e.g., goals for center traffic, usage of career services, overall customer satisfaction
- Participation in selection/termination of OSOs, career service providers and youth providers (IL OSO policy)

Reporting Concerns

- Each member of the Board, board staff, and staff in functions reporting to the board (fiscal agent, administrative entity, OSO, service providers under contract to the board) are responsible for maintaining the public trust for the use of federal, state, and other 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. All of these individuals are expected to bring concerns about undisclosed conflicts of interest, actions that circumvent conflict of interest policy and articulated firewalls, or other potential errors and omissions that may occur during the normal course of business to their immediate supervisor or to the Program Administrator/Executive Director unless another course of action is prudent.
- It is the responsibility of all individuals cited in bullet above to immediately report suspected fraud, misconduct, or dishonesty to appropriate authority. Any reprisal against an employee or other such reporting individual because that individual, in good faith, reported an incident is strictly forbidden
- Among WIOA partners, the Board expects that actual or potential conflicts of interest on the part of staff are identified to supervisory staff immediately as they are known and pertinent to any program-related activity; and requires a statement as to such to be included in the partner's MOU.

Sanctions

- Members are subject to sanctioning by vote of the Board, up to and including dismissal. Individuals and entities may also be barred from doing business with the local board.
- Board staff and contractors are also subject to sanctions under local procurement and personnel policies and contract provisions. To the extent that this Code of Conduct and other entities' procurement and personnel policies or contract provisions overlap or are perceived to conflict, the most restrictive interpretation shall apply.

References

- WIOA Public Law 113-128 Section 101(f) - State Board Conflict of Interest
- WIOA Public Law 113-128 Section 102(b)(2)(E) - State Plan Conflict of Interest Assurance
- WIOA Public Law 113-128 Section 107(h) - Local Board Conflict of Interest
- WIOA Public Law 113-128 Section 121(d)(4) - One-Stop Operators
- WIOA Proposed 20 CFR 697.430
- WIOA Proposed 679.130(f)(1) through (3) - State board must use criteria to certify One Stops to avoid inherent conflict of interest
- WIOA Proposed 20 CFR 679.410(a)(3) and (c) - Local board must avoid inherent conflict of interest
- WIOA Proposed 20 CFR 679.430 - Entities performing multiple functions
- WIOA Proposed 20 CFR 683.200(c)(5) - Administrative Rules, Costs, Limitations – Title I WIOA and Wagner-Peyser
- 29 CFR 97.36(3)
- 2 CFR 899 Part 200 and Part 2900 - Office of Management and Budget Uniform Guidance on administrative, cost, and audit provisions for federal grants

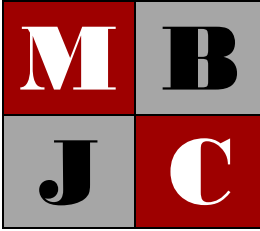
Signature of Board Member

I, in my capacity as a member or employee of the Madison-Bond-Jersey-Calhoun Workforce Innovation Board (MBJCWIB), have read the *LWIA#22 Standard of Conduct and Conflict of Interest Policy* and attest to understanding and complying with requirements herein. As long as I am an active board member or employee of the board, I will complete the *LWIA #22 MBJCWIB Conflict of Interest Annual Disclosure Statement* each fiscal year.

Printed Name

Signature

Date



**Madison-Bond-Jersey-Calhoun
Workforce Innovation Board
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Wood River, IL 62095
(618) 296-4445**

**LWIA #22
MBJCWIB
Conflict of Interest
Annual Disclosure Statement**

I, _____, a Member or Employee of the MBJCWIB hereby disclose the following conflict(s) of interest with another position that I hold outside of the MBJCWIB.

Check All That Apply

_____ I have no conflicts to disclose.

_____ I represent a private sector employer that has current business/contractual dealings with the MBJCWIB, or one or more of the One Stop Operators, Partners, or other WIOA funded Service Providers/Contractors.

_____ I have a family member(s) who is employed by a current or potential WIOA funded Service Provider/Contractor or by another organization that provides services directly to the MBJCWIB.

_____ I represent a WIOA funded Service Provider/Contractor.

_____ I represent a One Stop Operator.

_____ I represent an American Job Center Partner.

_____ Other: (please describe the nature of the conflict)

For the reasons stated above, I promise and attest that I will hereby declare, before a vote or discussion on the matter, the nature and extent of the conflict. I will hereby voluntarily withhold from participating in any discussions pertaining to this matter and abstain from voting on the subject. I further understand that this shall not prohibit me from responding to any direct questions on the matter from other Members.

Member Signature

Signed: _____

Print Name: _____

Date: _____