

San Diego Workforce Partnership**Policy: Conflict of Interest****Purpose**

This policy describes the commitment of the San Diego Workforce Partnership ("SDWP") to 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

Federal and State regulations require SDWP to maintain a written Conflict of Interest Code ("COIC" or "Policy") governing the performance of its employees, officers, and agents (e.g., evaluators, consultants) (hereinafter "Staff"), as well as persons appointed to its boards, committees and workgroups (hereinafter "Members") engaged in the selection, award and administration of contracts or the design of such proposals the contracts are based on.

Pursuant to the California Political Reform Act of 1979 (Government Code Section 81000 et seq.) ("Political Reform Act"), SDWP is also required to adopt a local conflict of interest code in accordance with California Code of Regulations ("CCR"), Title 2, division 6, section 18730, that requires both the disclosure of financial interests and implements disqualification requirements under state law. This Policy constitutes the local conflict of interest code for SDWP and the San Diego Consortium Policy Board ("Policy Board"), which oversees SDWP. Violation of the provision of a local conflict of interest code is subject to the administrative, criminal and civil sanctions of the Political Reform Act.

Individuals holding designated positions within the local conflict of interest code shall file their statements of economic interest with the SDWP, which will retain the statements and make the statements available for public inspection and reproduction. (Gov. Code, § 81008). Upon receipt of the statements of economic interest for SDWP Board Members, Directors, and CEO, SDWP shall make and retain a copy and forward the original of these statements to the Clerk to the San Diego County Board of Supervisors. SDWP shall retain all other original statements in its office.

Policy

SDWP Staff and Members must act solely in the best interest of the community without regard to personal interest and must not participate in matters in which they have a disqualifying financial interest.

Staff, from the time they are hired, and Members, upon appointment to the SDWP Board and/or any SDWP committee, are required to agree to this COIC in writing.

No individual (including Members and Staff) 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 subgrant or contract supported by WIOA funds.

- (a) DISCIPLINARY ACTION. –

(1) Staff who violate the COIC may be subject to disciplinary action up to and including termination for failure to abide by this Policy.

(2) Members who violate this COIC may be subject to removal from their appointed position.

(b) STAFF. –

(1) Staff may not participate in the procurement process, selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

(2) Staff shall not make, participate in making, or in any way attempt to use his/her official position to influence a decision of the SDWP in which he/she knows or has reason to know that he/she has a disqualifying financial interest. A public official has a disqualifying financial interest if it is reasonably foreseeable that the decision will have a material financial effect, which is distinguishable from the effect on the public generally, directly on the official, or his/her immediate family.

(3) Staff may not solicit or accept gratuities, favors, or anything of monetary value from awardees, potential awardees, contractors or parties to subcontracts, or other parties to agreements.

(c) MEMBERS. –

WIOA and the California Unemployment Insurance Code describe mandatory and discretionary appointments that comprise local board membership. SDWP's appointed members provide valued input and represent the community on governance matters. As such, this COIC aims to provide clear guidance on when it is appropriate for Members to recuse themselves from voting on issues that may represent a conflict of interest.

Membership on the Workforce Development Board or one of its committees or the receipt of WIOA funds to provide training and related services does not violate the COIC. A member is in compliance with the COIC so long as he/she complies with the following restrictions:

(1) Under federal law a Member shall not participate in consideration or approval of a transaction in which he/she has an "interest." A Member has an "interest" in a proposed transaction if he/she has a substantial financial interest in it, or has a substantial financial interest in any organization involved in the proposed transaction, or holds a position as trustee, member of the board of directors, general manager, or principal officer in any such organization.

(2) Under state law, a Member shall not make, participate in making, or in any way attempt to use his/her official position to influence any decision (including a transaction) of the SDWP in which he/she knows or has reason to know that he/she has a "disqualifying financial interest." A Member has a "disqualifying financial interest" if it is reasonably foreseeable

that the decision will have a material financial effect, which is distinguishable from the effect on the public generally, directly on the official, or his/her immediate family.

(3) Members may not solicit or accept gratuities, favors, or anything of monetary value from awardees, potential awardees, contractors or parties to subcontracts, or other parties to agreements.

(4) PARTICIPATION (INCLUDING VOTING). –

Members must not cast a vote on, participate in any decision-making capacity, or influence any decision related to 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 the immediate family of that Member.

(A) RECUSAL. – Following the announcement of the agenda item to be discussed or voted upon but before either the discussion or vote commences, the Member must:

- (i) state the nature of the conflict; and
- (ii) recuse himself or herself from making, participating in making or in any way attempting to use his or her official position to influence a decision on the grant or grants.
- (iii) not participate in the discussion or vote on the matter. He or she will not be counted toward achieving a quorum while the item is discussed (see 2 CCR § 18707, Gov. Code, §1 091.2).

(B) EXCEPTIONS. –

- (i) PUBLIC GENERALLY. – A Member may vote on matters under consideration if the decision's financial effect on the Member's financial interest is indistinguishable from its effect on the public generally. In particular, it must be established that a significant segment of the public is affected and the effect on the Member's financial interest is not unique compared to the effect on the significant segment (see Public Generally, 2 CCR § 18703). Members must notify SDWP and are encouraged to consult legal counsel to determine if this exception applies.
- (ii) UNCONTESTED MATTERS. – For matters on the consent agenda, if a Member has a disqualifying financial interest in a matter the Member may remain in the room provided they meet the requirements of 2 CCR § 18707(a)(3)(A).
- (iii) SPEAKING AS A MEMBER OF THE PUBLIC. – A Member with a disqualifying financial interest may speak as a member of the public regarding an applicable personal interest so long as he/she meets the requirements of 2 CCR §18707(a)(3)(C).

References

- Conflict of Interest, 2 CFR §200.112
- General Procurement Standards, 2 CFR §200.318(c)(1,2)
- Conflict of interest regulation for entities receiving Workforce Investment Act (WIA) title I funds 20 CFR §667.200(a)(4)
- Codes of Conduct, 29 CFR §97.36(b)(3)
- Procurement, 29 CFR §95.42
- Workforce Investment Act of 1998 § 117 (g), 29 USC 283 2(g)
- Workforce Innovation and Opportunity Act, 29 USC 3122, §107(h)
- Workforce Innovation and Opportunity Act Notice of Proposed Rulemaking §§683.200, 679.430
- Political Reform Act, Government Code §87100, et seq.
- Interests in Contracts or Grants, California Government Code §§ 1090, 1091.2.
- Public Generally, 2 CCR § 18703
- Disqualification Requirements, 2 CCR § 18707
- Conflict of Interest Codes, 2 CCR § 18730.

I have read, understand and agree to be bound by the terms of this agreement:

Name (Printed)

Signature

Date

ADDENDUM A

CONFLICT OF INTEREST CODE OF THE SAN DIEGO WORKFORCE PARTNERSHIP

DESIGNATED POSITIONS

The positions listed in this section are "Designated Positions" for the purposes of the COIC and individuals occupying those Designated Positions shall disclose in the manner provided in the COIC, those reportable financial interests which are within each of the categories represented by the numerals following each listed position. Each "Disclosure Category" is identified by a number and is described in Addendum B.

For the purpose of the COI Code, any employee holding a position as Director, Manager or Vice President from any department shall be included in the list of Designated Employees and shall disclose pursuant to the broadest disclosure category in their Code.

Designated Positions	Reportable Interest Categories	Forms Involved	Filed With
1. San Diego Consortium Policy Board:			
a. Elected Policy Board Members – County Board of Supervisors	1, 3	700, A-E	Filing Officer (County Clerk)
b. Elected Policy Board Members – City of San Diego/ Municipalities			
c. Non-elected Member & Alternate of the Policy Board – Charitable Organization			
2. Consortium Officers:			
a. City Attorney	1, 3	700, A-E	Filing Officer (County Clerk)
b. County Counsel			
3. Workforce Development Board Members			
a. Workforce Development Board Officer	1, 3	700, A-E	Filing Officer (County Clerk)
b. Workforce Development Board Member			
4. San Diego Workforce Partnership Employees by Position Classification:			
a. President and CEO	1, 3	700, A-E	Filing Officer (SDWP)
b. Chief Financial Officer			
c. Chief Operating Officer			
d. Vice President			
e. Director	1, 2	700, A-E	Filing Officer (SDWP)
f. Manager			
5. Consultants			
	See Below	700, A-E	Filing Officer (SDWP)

Approved and/or authorized by the
Board of Supervisors of the County of San Diego.
Meeting Date: 12/11/2018 Minute Order No. 41
By: *[Signature]* Date: 12/11/2018
Deputy Clerk of the Board of Supervisors

Consultants

Fair Political Practices Commission regulations [see 2 Cal. Code of Regs. § 18700.3 (a)] define "consultant" as an individual who, pursuant to a contract with a state or local governmental agency:

- (a) Makes a governmental decision whether to:
 - (A) Approve a rate, rule or regulation;
 - (B) Adopt or enforce a law;
 - (C) Issue, deny, suspend, or revoke a permit, license, application, certificate, approval, order, or similar authorization or entitlement;
 - (D) Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract that requires agency approval;
 - (E) Grant agency approval to a contract which requires agency approval and in which the agency is a party or to the specifications for such a contract;
 - (F) Grant agency approval to a plan, design, report, study, or similar item;
 - (G) Adopt, or grant agency approval of, policies, standards, or guidelines for the agency, or for any subdivision of the agency; or
- (b) Serves in a staff capacity with the agency and in that capacity, participates in making a governmental decision or performs the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position specified in the agency's local conflict of interest code.

Disclosure required

Disclosure required by consultants shall be determined on a case-by-case basis by the President and CEO, or in the case of legal service contracts, by the General Counsel. The President and CEO, in consultation with the General Counsel, or General Counsel shall determine whether a person is a consultant and what disclosure, if any, is required by the consultant. The determination shall be in writing and shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The written determination is a public record and shall be retained for public inspection by SDWP. The written determination may be made as a part of the contract pursuant to which the consultant provides services to SDWP. Subject to the foregoing, consultants that meet the definition of paragraph (b), above, generally will disclose financial interests in the same manner as is required for the designated position the duties of which are performed, in whole or in part, by the consultant.

ADDENDUM B

CONFLICT OF INTEREST CODE OF THE SAN DIEGO WORKFORCE PARTNERSHIP

DISCLOSURE CATEGORIES

Individuals holding Designated Positions must report their interests according to their assigned disclosure category(ies).

Category Number	Reportable Financial Interest
1	Investments, business positions and income, including gifts, loans and travel payments, from sources that: 1. currently receive or within the past two (2) years have received grants or other monies from or through SDWP, or 2. are located or doing business in the County of San Diego and of the type that receives grants or other monies from or through SDWP.
2	Investments, business positions and income, including gifts, loans and travel payments, from sources that currently provide or within the past two (2) years have provided leased facilities, goods, equipment, vehicles, machinery or services, including training or consulting services, to SDWP.
3	Interests in real property in the County of San Diego.