



Mo. Division of Workforce Development
DWD Issuance 15-2011

Issued: May 30, 2012
Effective: May 30, 2012

Subject: Transparency and Integrity in Local Workforce Investment Board Decisions

1. Purpose: This Issuance is written to communicate expectations about integrity and transparency in decisions made by local Workforce Investment Boards (WIB), their staff, their service providers, and the Chief Local Elected Officials (CLEO), including clarification of a conflict of interest policy.
2. Background: Providing responsible stewardship for, and oversight of, federally funded workforce programs must be accomplished in a way that demonstrates integrity, accountability, and transparency in order to preserve the public trust. Since local workforce programs are largely governed under the Workforce Investment Act (WIA) by local WIB members and CLEOs, the highest levels of accountability should be upheld. Many local WIB members come from the business or education communities, government agencies, legislators, community service organizations, and others. Guidance on the various state and federal laws regarding transparency and integrity must be provided to them.
3. Substance: At a minimum, the following federal and state laws provide guidance for integrity and transparency:
 - The “Sunshine provision” of both federal and state law;
 - Uniform Administrative Requirements (UAR) for procurement (as a result of being a recipient of federal funds);
 - Federal Conflict of Interest regulations;
 - State Conflict of Interest Law; and
 - The Hatch Act.

The “**Sunshine provision**” for both state and local WIBs specifically states that they must conduct business in an open manner and make activities of the board available to the public, including the development of specific policies and the minutes of formal board meetings, upon request. The State Sunshine law explicitly details the instances when a meeting, record, or vote of a governing board may be closed, and when these exceptions are strictly interpreted to promote the public policy of openness.

UARs for procurement are government-wide standards surrounding procurement that all federal grantees must follow, including standards for conflict of interest. The receipt of WIA funding constitutes federal grantee status. The requirements at 29 CFR Part 97 and 29 CFR Part 95 particularly describe specific instances which would constitute a conflict of interest, the types of characteristics that should be considered when making awards to contractors, requirements for procurement protest procedures and other important requirements.

Conflict of Interest regulation is embedded in WIA at 20 CFR 667.200(a)(4). These provisions indicate that in addition to the UARs, a state WIB member, a local WIB member or a Youth Council member must not participate in the discussion and must abstain from voting on any issue that could directly benefit that member, his/her family, or any organization which that member directly represents. WIA regulations note that, by itself, neither membership on a WIB or Youth Council alone, nor the receipt of WIA funds to provide training and related services, violates these conflict of interest provisions.

Missouri Conflict of Interest State Law is found in RSMo. Section 105.452. These provisions of state law apply to both state and local government employees and “officials,” and includes WIB members. The statute aims to prohibit improper influence on government officials, to prohibit the use of government positions for private gain (political favor) and to limit business dealings between governmental entities and their employees and/or officials.

In addition, the Missouri Constitution addresses ethical behavior by prohibiting nepotism (the hiring of family members). Any public officer or employee, who by virtue of their office appoints a relative, shall thereby forfeit their own employment.

The Hatch Act has a long history as a very early federal law encompassing conflict of interest. Simply stated, the Hatch Act restricts the political activity of individuals principally employed by state or local agencies and who work in connection with programs financed in whole or in part by federal loans or grants. Covered state and local employees may not, among other things, use their official authority or influence to interfere with or affect the results of an election or nomination; or directly or indirectly coerce, attempt to coerce, command, or advise a state or local officer or employee to pay,

lend, or contribute anything of value to a political party, committee, organization, agency, or person for political purposes. More information about how the Hatch Act applies to state and local officials is available at: http://www.osc.gov/documents/hatchact/ha_sta.pdf.

4. Action: All workforce system professionals should be aware of these transparency, integrity, and ethical assurances. In particular, those officials as prospective citizen board members and administrative officials for WIBs should be closely familiar with these constitutional and legal provisions in the appointment and conduct of their duties.

In addition, the regions should ensure that organizational by-laws (Chief Local Elected Officials' Consortium, if applicable to the region, and the local WIB) and any contracts for any purpose must incorporate conflict of interest policies in accordance with the regulations cited in this Issuance.

5. Contact: Direct questions or comments regarding this Issuance to Clinton Flowers, Manager, Planning and Research, at clint.flowers@ded.mo.gov or 573-526-8261.

6. Reference: Workforce Investment Act of 1998, Public Law 105-220. Available at: <http://www.doleta.gov/usworkforce/wia/wialaw.pdf>
WIA Final Rule, 20 CFR Part 661, Fed. Reg. 49294, August 11, 2000. Available at: <http://www.doleta.gov/usworkforce/wia/finalrule.pdf>
Missouri Conflict of Interest (Ethics) Law, RSMo. 105.452-105.973
Missouri Constitution, Article VII, Section 6 Missouri Sunshine Law, RSMo. 610.10-610.027 (public bodies citation)
Uniform Administrative requirements (29 CFR Part 95 and 97). Available at: http://www.access.gpo.gov/nara/cfr/waisidx_09/29cfr95_09.html and http://www.access.gpo.gov/nara/cfr/waisidx_09/29cfr97_09.html
The Hatch Act (5 United States Code 1501-1508). Available at: http://www.osc.gov/documents/hatchact/ha_sta.pdf
[Training and Employment Guidance Letter 35-10, June 16, 2011](#)

7. Rescissions: None

8. Attachments: None



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