

CITY OF LOS ANGELES

CALIFORNIA

JAN PERRY
GENERAL MANAGER



ERIC GARCETTI
MAYOR

ECONOMIC AND WORKFORCE
DEVELOPMENT DEPARTMENT

1200 W. 7TH STREET
LOS ANGELES, CA 90017

DATE: January 10, 2017

TO: All Economic and Workforce Development
Department Contractors

FROM: Jan Perry *Jan Perry (MPC)*
General Manager

**SUBJECT: WDS DIRECTIVE NO. 17-08
POLICY ON CONFLICT OF INTEREST**

EFFECTIVE DATE

This directive is effective upon date of issue.

PURPOSE

The purpose of this Directive is to re-issue the Economic and Workforce Development Department's policy on Conflict of Interest previously issued on October 15, 2013 as WDS DIRECTIVE NO. 14-05.

WDS Directive 17-08 supersedes WDS Directive No. 14-05.

BACKGROUND

The Economic and Workforce Development Department (EWDD) is funded by several grant sources, each with different regulations related to prohibiting conflicts of interest. The City of Los Angeles (City) is required to apply conflict of interest laws cumulatively, meaning the strictest law is what controls a given situation. In an effort to assist EWDD contractors and their various staffing situations, EWDD will review each reported case of conflict of interest on an individual basis, to the extent allowed by the specific grant regulations for the benefit of the grant and its beneficiaries. If approval of an exception/waiver is recommended by EWDD and approved by the City, it must then be approved by the funding source. The request to review conflict of interest situations must be made prior to the execution of your Agreement or Amendment.

DIRECTIVE

Please note that the City's Agreement and this Directive prohibits Contractors from allowing employees to be members of its Board of Directors if the employee receives any financial benefit from the City Agreement.

All Contractors/Sub-Contractors are required to notify the City immediately upon discovery that a potential conflict of interest situation exists or may come into existence due to upcoming contractual/business dealings prior to each year's execution of a new City Agreement or Amendment.

If an existing or pending conflict of interest situation(s) is not brought to the attention of the City prior to execution of the agreement/contract or amendment, and subsequent audit or monitoring visits determine that a conflict of interest does exist, the City will **NOT** approve a Contractor/Sub-Contractor's request for waiver/exception of the conflict of interest. Further, the City will question and may disallow any and all costs associated with that conflict of interest.

All exceptions/waivers to conflicts of interest that have been previously granted must be reviewed before execution of a new City-funded Agreement or Amendment.

No City-funded Employees as Board Members

The City will not execute any agreements/contracts and/or amendments with Contractors where an employee (an individual who is paid or receives any financial benefit from funds from the agreement/contract with the City), is a member of the Board of Directors. The Board minutes must reflect this requirement.

Code of Conduct

The City requires that all Contractors/Sub-Contractors adopt a Code of Conduct which at minimum reflects the constraints discussed in this Directive. No agreements/contracts and/or amendments will be executed without City approval of this Code of Conduct.

Further, the City requires compliance for all City-funded contractors with the conflict of interest requirements listed below.

Conflict of Interest

A. Prior to obtaining the City's approval of any subcontract, the Contractor shall disclose to the City any relationship, financial or otherwise, direct or indirect, of the Contractor or any of its officers, directors or employees or their immediate family with the proposed Sub-Contractor and its officers, directors or employees.

B. The Contractor covenants that none of its directors, officers, employees, or agents shall participate in selecting, or administering any sub-contract supported (in whole or in part) by City funds (regardless of source) where such person is a director, officer, employee or agent of the Sub-Contractor; or where the selection of Sub-Contractors is or has the appearance of being motivated by a desire for personal gain for themselves or others such as family business, etc.; or where such person knows or should have known that:

1. A member of such person's immediate family, or domestic partner or organization has a financial interest in the subcontract; or
 2. The Sub-Contractor is someone with whom such person has or is negotiating any prospective employment; or
 3. The participation of such person would be prohibited by the California Political Reform Act, California Government Code §87100 et seq. if such person were a public officer, because such person would have a "financial or other interest" in the subcontract.
- C. Definitions:
1. The term "immediate family" includes but is not limited to domestic partner and/or those persons related by blood or marriage, such as husband, wife, father, mother, brother, sister, son, daughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law.
 2. The term "financial or other interest" includes but is not limited to:
 - a. Any direct or indirect financial interest in the specific contract, including a commission or fee, a share of the proceeds, prospect of a promotion or of future employment, a profit, or any other form of financial reward.
 - b. Any of the following interests in the subcontractor ownership: partnership interest or other beneficial interest of five percent or more; ownership of five percent or more of the stock; employment in a managerial capacity; or membership on the board of directors or governing body.
 3. A subcontract is any agreement entered into by Contractor for the purchase of goods or services with any funds provided by this Agreement.
- D. Minutes of Board Meetings must reflect disclosure of transactions where Board Members may have had a direct or indirect interest/benefit in the action.
- E. No director, officer, employee (or agent) of the Contractor may be on the Board of Directors if they receive any financial benefit provided by any City Agreement.
- F. The Contractor further covenants that no officer, director, employee, or agent shall solicit or accept gratuities, favors, anything of monetary value from any actual or potential subcontractor, supplier, a party to a sub agreement, (or persons who are otherwise in a position to benefit from the actions of any officer, employee, or agent).
- G. The Contractor shall not subcontract with a former director, officer, or employee within an one-year period following the termination of the relationship between said person and the Contractor.

- H. For further clarification of the meaning of any of the terms used herein, the parties agree that references shall be made to the guidelines, rules, and laws of the City of Los Angeles, State of California, and Federal regulations regarding conflict of interest.
- I. The Contractor warrants that it has not paid or given and will not pay or give to any third person, any money or other consideration for obtaining this Agreement.
- J. The Contractor covenants that no member, officer or employee of Contractor shall have interest, direct or indirect, in any contract or subcontract or the proceeds thereof for work to be performed in connection with this project during his/her tenure as such employee, member or officer or for one year thereafter.
- K. The Contractor shall incorporate the foregoing subsections of this Section into every agreement that it enters into in connection with this project and shall substitute the term "subcontractor" for the term "Contractor" and "Sub-Subcontractor" for "Sub-Contractor".

CONTACT

Please contact your assigned Analyst to discuss the different options for eliminating existing conflict of interest situations. If you require technical assistance regarding this Directive, please contact Christopher Rajapakse, Community Program Director at (213)744-7175, TTY (213) 744-9395.

JP:RS:GR:CR

SAMPLE A:

(MAY BE USED WHEN ADOPTING CITY'S CODE OF CONDUCT/ print on letterhead – delete notes)

CERTIFICATION OF BOARD RESOLUTION

Whereas (legal name of your corporation) shall continue to operate and provide services to the Los Angeles community; and

Whereas adoption of a Code of Conduct shall be needed in order for (legal name of your corporation) to continue to contract with the City and its funding sources; and

Whereas (legal name of your corporation) has amended its corporate policies and procedures by reference to and incorporation of said City Code of Conduct;

NOW THEREFORE, BE IT RESOLVED that the Board of Directors of (legal name of your corporation) hereby adopted the City of Los Angeles Code of Conduct (WDS Directive No. 17-08, effective upon its issue date of January 10, 2017) with respect to all agreements (legal name of your corporation) might enter into with the City of Los Angeles; Said adoption will remain in effect unless amended by a future Board Resolution.

I, the undersigned, do hereby certify:

1. That I am the duly elected Secretary of (legal name of your corporation); and
2. That the foregoing constitutes a Resolution of the Board of said corporation, as duly adopted at a meeting of the Board of Directors thereof, held on the _____ th day of _____, 20__.

IN WITNESS WHEREOF, I have hereunto subscribed by name and affixed the seal of said corporation, this _____ th day of _____, 20__.

(AFFIX CORPORATE SEAL HERE)

(Name of Corporate Secretary)
Corporate Secretary,
(Name of your Corporation)