



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Labor and Training

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WORKFORCE INVESTMENT NOTICE: 11-04

TO: WORKFORCE INVESTMENT AREAS

FROM: David Tremblay, Administrator-Workforce Investment Office

SUBJECT: Transparency and Integrity in Workforce Investment Board Decisions

DATE: September 19, 2011

1. Purpose To communicate expectations and transparency in decisions made by state and local workforce investment boards and officials, and requirements regarding conflict of interest.

2. References

- Workforce Investment Act of 1998 (29 United States Code 2801 et seq.), Public Law 105-220, as amended.
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>.
- 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.
- Wagner-Peyser Act, as amended (29 United States Code 49 et seq.)
- Hatch Act (5 United States Code 1501-1508.)
Available at http://www.osc.gov/documents/hatchact/ha_sta.pdf.
- Planning Guidance for the Strategic State Plan for Title I of the Workforce Investment Act of 1998 and the Wagner-Peyser Act [(73 Federal Register 72853) (Dec. 1, 2008)], (Office and Management Budget No. 1205-0398).
- Training and Employment Guidance Letter NO. 35-10
- Rhode Island General Laws (RIGL) 36-4-51-54; 36-14 et seq; 38-2 et seq; 42-46 et seq.

3. Background Providing responsible stewardship for and oversight of public funding for Federally-funded workforce programs must be accomplished in a way that demonstrates strong integrity, accountability, and transparency in order to preserve the public trust. The responsibility for this stewardship and oversight is shared in the devolved public workforce system by Federal, state and local entities. Workforce programs are largely governed under the Workforce Investment Act (WIA) by state and local workforce investment boards (WIBs) which are composed of individuals from the business community, education community, government agencies, organized labor, legislators, community service organizations, and others. The WIBs are responsible for multiple functions, including procurement decisions. Local WIBs select One-Stop Career Center operators and youth service providers, and develop a budget for carrying out the duties of the local WIB. These decisions often have significant implications for service providers and participants they serve, and thus must be made in a transparent and ethical manner. Members of state and local WIBs should be aware of the Federal, state and local laws and regulations which guide their conduct while serving on the WIB.

4. Guiding Statutes and Regulations Local and state WIBs must make decisions in keeping with several laws and regulations. The relevant Federal laws and regulations include:

- *“Sunshine provision” regulations* for state WIBs (20 CFR 661.207) and local WIBs (20 CFR 661.307). Specifically, a state or local WIB must conduct its 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.
- *Uniform Administrative Requirements* for procurement (29 CFR 97.36 and 29 CFR 95.42). The Uniform Administrative Requirements are government-wide standards around procurement that all Federal grantees must follow, including standards for conflict of interest. The Department of Labor codified these requirements at 29 CFR Part 97 for governmental grantees and at 29 CFR Part 95 for non-governmental grantees. These requirements 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 requirements.
- *The Hatch Act and its regulations*, for individuals paid with Federal funds (5 CFR 151). The Hatch Act restricts the political activity of individuals principally employed by state or local executive 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 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.

State and local WIBs are also governed by relevant state and local rules. Virtually all states have in place laws and regulations defining conflict of interest, establishing requirements for procurement decisions, and establishing ethics rules. The following are the applicable Rhode Island State laws that Board members and employees must adhere to:

- It is the policy of the State of Rhode Island that public officials and employees must adhere to the highest standard of ethical conduct, respect the public trust and the rights of all persons, be open, accountable, responsive, avoid the appearance of impropriety and not use their position for private gain or advantage. *The RI Code of Ethics* found in *RIGL 36-14 et seq* sets the standard to ensure this.
- A democratic society requires that that public business be performed in an open and public manner and that the citizens be advised of and aware of the deliberations and decisions that go into the making of public policy. Rhode Island's statutory scheme on *Open Meetings Law* is found in *RIGL 42-46 et seq*.
- The public's right to access public records and the individual's right to dignity and privacy are both recognized to be important principles in a free society. To facilitate access to public records while protecting individuals from an unnecessary invasion of personal privacy, Rhode Island has passed the *Access to Public Records Law* found in *RIGL 38-2 et seq*.
- Individuals who are classified employees of the state are restricted as to political activity by *RIGL 36-4-51 through 36-4-54*.

4. Action Required All Workforce Investment Boards are encouraged to regularly review and be aware of the relevant Federal, state and local rules guiding procurement decisions and other board responsibilities.

The Department of Labor and Training will include in the monitoring of local areas a review of local adherence to the requirements described in this guidance.

All boards should consider including this guidance in orientations for new board members.

5. Inquiries Questions concerning this WIN may be directed to me at 462-8784 or to Mavis McGetrick at 462-8791.