



**POLICY  
NUMBER**

G125

## **Administrative Policy**

<b>Title:</b>	Local Workforce Development Board Conflict of Interest and Contracting Policy
<b>Program:</b>	Workforce Innovation and Opportunity Act
<b>Effective:</b>	09/24/2024

### **I. PURPOSE AND SCOPE**

This policy sets forth requirements for ensuring transparency and accountability for local workforce development board actions where a conflict of interest may exist between a board member and a related party, and the procedural requirements for approving contracts in which a potential conflict may exist.

### **II. KEY PROGRAM OBJECTIVES**

- Ensure local board members are informed and aware of their statutory obligations to declare conflicts of interest prior to and before local boards enter into contracts specified in section 445.007(11)(a), Florida Statutes (F.S.).
- Ensure local boards obtain the prior approval of the Florida Department of Commerce (FloridaCommerce) before executing such contracts.
- Ensure local boards follow the voting requirements in section 445.007(11)(a), F.S., related to such contracts.

### **III. BACKGROUND**

Recognizing that local board membership is comprised of key providers and leaders from the business, workforce, self-sufficiency, and education communities, WIOA allows a local boards to contract with its members and members of its standing committees for the provision of WIOA-funded services as long as processes are in place that prevent or resolve a conflict of interest. This policy sets forth the criteria and procedures to be used to prevent

or eliminate potential conflicts of interest in compliance with WIOA, and sections 112.3143 and 445.007(11), Florida Statutes (F.S.).

Section 112.3143(4), F.S., provides that no appointed public officer shall participate in any matter which would inure to the officer's special private gain or loss; which the officer knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained; or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer, without first disclosing the nature of his or her interest in the matter.

To increase transparency for state and local board actions where a conflict of interest may exist between a local workforce development board, its board members and/or board employees, the CareerSource Florida Board of Directors approved a Conflict of Interest Policy to ensure local board compliance with sections 112.3143 and 445.007(11), F.S. This policy adopted procedures for approving contracts in which a conflict of interest may exist, and established criteria and procedures used to address potential conflicts of interest.

Signed into law July 1, 2021, the Reimagining Education and Career Help (REACH) Act strengthens oversight, accountability, and transparency measures for the workforce system. The REACH Act contains governance directives and administrative requirements that impact local boards including transferring administrative oversight for Related Party Contracts to FloridaCommerce.

CareerSource Florida and FloridaCommerce consulted with local board staff to ensure the seamless transition of CareerSource Florida's role in this process and the development of administrative policy for Related Party Contracts submitted for approval by FloridaCommerce.

#### **IV. POLICIES AND PROCEDURES**

Outlined below are procedures and requirements to prevent or eliminate potential conflicts of interest in accordance with WIOA and state law.

##### **A. Requirements Before Entering a Related Party Contract**

Federal procurement regulations provide that no employee, officer, or agent of a local board may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest.<sup>1</sup> A local board must comply with the requirements of this policy and section 445.007(11), F.S., before contracting with a member of the local board; a relative of a local board member; an organization or individual represented on the local board; a relative of an employee of the local board, or an employee of the local board. Such contracts, along with supporting documentation, must be submitted to FloridaCommerce for review and **may not be executed without the prior approval of FloridaCommerce**, except as set forth

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<sup>1</sup> 2 C.F.R. § 200.318(c)(1).

below.

All conflicts of interest must be disclosed to the local board in compliance with the procedures in section 112.3143(4), F.S., prior to any vote on a Related Party Contract. Such disclosure, indicating the nature of the conflict, must be made in written form filed with the board prior to the meeting in which consideration of the matter will take place.

The written document must immediately be provided to the other members of the board and must be read publicly at the next board meeting and incorporated into the meeting minutes. If the conflict is unknown prior to a board meeting and becomes known at the meeting, the disclosure must be made orally during the meeting and written documentation disclosing the nature of the conflict must be filed with the board within 15 days after the oral disclosure. A contract subject to these requirements may not be included on the board's consent agenda.

After establishment of a quorum, the Related Party Contract must be approved by two-thirds vote of the board. The board member who may benefit from the contract, or whose organization or relative may benefit from the contract, must abstain from the vote.

A Related Party Contract under \$10,000 is not required to have the prior approval of FloridaCommerce but must be approved by a two-thirds vote of a quorum of the local board and must be reported to FloridaCommerce and CareerSource Florida within 30 days after approval.

## **B. Required Documents**

For each Related Party Contract that is approved by two-thirds vote of a quorum of the board, the board must submit the following to FloridaCommerce at [worfor@commerce.fl.gov](mailto:worfor@commerce.fl.gov):

- a. A board membership roster listing all members of record at the time of the vote and documentation of each listed member's attendance and vote (approving, denying, abstaining) on the Related Party Contract for any board meeting, committee meeting, and subcommittee meeting.
- b. A draft copy of the contract and amendments, as applicable.
- c. Documentation supporting the method of procurement of the Related Party Contract.
- d. A copy of the board meeting and committee minutes that document the discussion and approval of the Related Party Contract.; and

e. Duly executed originals of Exhibits C and D from the Grantee Subgrantee Agreement:

- i. Exhibit C – Contract Information Form
- ii. Exhibit D – Disclosure and Certification of Conflict of Interest in a Contract.

### **C. Related Party Contract Review and Approval Process**

Upon submission of the required documentation, FloridaCommerce will review all Related Party Contracts with a value greater than or equal to \$10,000. In considering whether to approve a contract under this policy and section 445.007(11), F.S., FloridaCommerce will review and consider all documentation provided by the local board, including:

- the performance of the entity with which the local board is proposing to contract, if applicable.
- the nature, size, and makeup of the business community served by the local board, including whether the entity with which the local board is proposing to contract is the only provider of the desired goods or services within the area served by the local board.

FloridaCommerce will notify the local board of approval or disapproval within five business days of receipt of all required documentation.

### **D. Public Disclosures and Transparency**

Local boards must comply with public disclosure and transparency requirements in 445.007(11), F.S. All approved Related Party Contracts must be published on the local board's website within 10 days after approval by the local board or FloridaCommerce, whichever is later, and must remain published on the board's website for at least one year after termination of the contract.

## **V. AUTHORITY**

[Public Law 113-128, Workforce Innovation and Opportunity Act, Section 107\(h\)](#)

[Section 112.3143, Florida Statutes \(F.S.\)](#)

[Section 445.007\(11\), F.S.](#)

[2 Code of Federal Regulations \(CFR\) Part 200](#)

[20 CFR 683.200\(c\)\(5\)](#)

## **VI. DEFINITIONS**

1. **Conflict or conflict of interest** means a situation in which regard for a private interest tends to lead to disregard of a public duty or interest. § 112.312(8), F.S.
2. **Contract** – a relationship, transaction, expenditure, or written agreement which results in or could result in an expenditure of state or federal funds, to which a local board is one of the parties. It includes the proposed contract, initial contract and all amendments, and renewals and extensions thereto. This term does not include:
  - a. Retail purchases in the ordinary course of business.
  - b. The purchase of utility services for use by the local board.
  - c. Staff employment contracts (other than the contracts with members of a local board or relatives of board members or board employees); or
  - d. Membership fees and sponsorships to professional organizations.
3. **Related Party** –
  - a. Local board member(s).
  - b. Board employee(s).
  - c. Relatives (as defined in s. 112.3143(1)(c), F.S.), of any local board member or employee.
  - d. Any organization represented by or employing a local board member, their relative, or a board employee or their relative; or
  - e. Any organization, the board of directors of which a local board member, their relative, or a board employee or their relative holds a board position.
  - f. Any vendor with which a Board member has a relationship.
4. **Related Party Contract** – a contract between a local board and one of its own members, an organization represented by one of its own members, a board member's relatives, an employee of the local board or the employee's relative, or any entity in which board members, their relatives, or board employees or their relatives has any relationship with the contracting vendor.
5. **Relative** – as defined in s. 112.3143(1)(c) – any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law.
6. **Special Private Gain or Loss** – as defined in s. 112.3143(d) – an economic benefit or harm that would inure to the officer, his or her relative, business associate, or principal, unless the measure affects a class that includes the officer, his or her relative, business associate, or principal, in which case, at least the following factors must be considered when determining whether a special private gain or loss exists:
  - a. The size of the class affected by the vote.
  - b. The nature of the interests involved.
  - c. The degree to which the interests of all members of the class are affected by the vote.

- d. The degree to which the officer, his or her relative, business associate, or principal receives a greater benefit or harm when compared to other members of the class.

The degree to which there is uncertainty at the time of the vote as to whether there would be any economic benefit or harm to the public officer, his or her relative, business associate, or principal, and, if so, the nature or degree of the economic benefit or harm must also be considered.

## VII. REVISION HISTORY

Date	Description
09/24/2024	Updated to comply with 2020 and 2021 legislative updates to Chapter 445.007(11), F.S. which shifted prior approval responsibilities solely to the Department of Economic Opportunity; requires contracts exceeding \$10,000.00 to undergo the Department's prior approval process.
01/07/2021	Issued by the Florida Department of Economic Opportunity.
12/03/2020	Revised and approved by CareerSource Florida Board of Directors.
02/20/2020	Revised and approved by CareerSource Florida Board of Directors.
06/08/2016	Issued by the Florida Department of Economic Opportunity. This administrative policy superseded and replaced FG-OSPS-073, Regional Workforce Board Composition, Certification and Decertification, issued June 29, 2013.
2012	Updated to comply with the Legislature's adoption of <a href="#">Chapter 2012-29, Laws of Florida</a> .
2011	Created to prohibit a contract between a board, its members, other persons, or entities that may benefit financially from a contract. However, four exemptions were granted to allow the boards to provide statutorily required services.

## VIII. ATTACHMENTS

FloridaCommerce-Local Workforce Development Board Grantee-Subgrantee Agreement

## IX. RESOURCES

[Exhibit Forms C & D](#)