

# STATE CONTROLLER POLICY

## PROCUREMENT CONFLICTS OF INTEREST

The purpose of this policy is to provide direction regarding both individual and organizational procurement conflicts of interest.

**1) Definitions.** For the purposes of this policy, the following terms shall have the meanings ascribed to them below:

- a. **Actual Individual Conflict of Interest.** A situation where a financial, personal, or familial interest materially affects the Worker's duties to put the interest of the state first and compromises a Worker's objectivity, professional judgment, professional integrity, and/or ability to perform his or her duties.
- b. **Potential Individual Conflict of Interest.** A situation where a financial, personal, or familial interest could materially affect the Worker's duties to put the interest of the state first and may compromise a Worker's objectivity, professional judgment, professional integrity, and/or ability to perform his or her duties.
- c. **Perceived or Apparent Conflict of Interest.** A situation where a financial, personal, or familial interest appears that it could materially affect the Worker's duties to put the interest of the state first and may appear to compromise a Worker's objectivity, professional judgment, professional integrity, and/or ability to perform his or her duties; even if no conflict of interest exists.
- d. **Organizational Conflict of Interest.** Organizational Conflict of Interest arises when an organization that receives funds from the State of Colorado, carries out part of a federal or state program as a Subrecipient, has a parent, affiliate, or subsidiary organization, and is unable or potentially unable to be impartial in conducting a procurement action involving a related organization.
- e. **Individual.** A natural person.
- f. **Organization.** Includes multiple individuals and includes all forms of legal organization.
- g. **Subrecipient.** An Individual or Organization that receives federal or state funds from the State of Colorado to carry out all or part of a federal or state program.
- h. **Worker.** Managers, supervisors, permanent full-time and part-time employees, temporary employees, contractors, applicants, volunteers, interns and for the purposes of this policy, include any individual whose close association with the employee is the equivalent of a family relationship.

**2) Application of this Policy.** This policy applies to all employees and volunteers of the executive branch of state government as well as Subrecipients that receive funds from the State of Colorado.

Individual Conflict of Interest - This policy applies to the executive branch of state government and covers all Workers, and any individual who conducts business for the State of Colorado or is applying for a position. Nothing in this policy is intended to create an employee/employer relationship.

Organizational Conflict of Interest: Any Subrecipient that receives federal or State funds from the State of Colorado shall comply with the statement of policy regarding Organizational Conflict of Interest.

**3) Statement of Policy - Individual.** Each Worker has a duty of loyalty to the State of Colorado and shall act with good faith in furtherance and advancement of the State's interests. The Worker has a duty not to have an Actual Individual Conflict of Interest and not to act for persons or entities whose interest conflicts with those of the State in matters for which the Worker is employed. A Worker has a duty to avoid or mitigate Potential Individual Conflict of Interest and Perceived or Apparent Conflict of Interest.

**4) Statement of Policy – Organizational.** A Subrecipient that has a parent, affiliate, or subsidiary organization shall conduct a procurement in accordance with Office of Management & Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,

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commonly referred to as the "Uniform Guidance", consolidated in Title 2 of CFR subtitle A, Chapter II, Part 200, and shall not have an Organizational Conflict of Interest.

- 5) **Consequences for Non-Compliance with this Policy.** Any violation of this policy for Workers who are employees may result in the employee's appointing authority issuing a written warning identifying non-compliance and directing remedial action. If not addressed, request appointing authority to issue a corrective action recommended by the Office of the State Controller. Organizations that violate the organizational conflict of interest policy shall be subject to the remedies for non-compliance in the Uniform Guidance (2 CFR §200.338). Organizations and Workers who are non-employees that violate the individual or organizational conflict of interest shall be subject to contractual and other remedies available to the State.
- 6) **Policy Implementation.** State departments may develop a department-specific policy on conflict of interest that further clarifies the statewide policy.



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