INDIANA
WORKFORCE
DEVELOPMENT
AND ITS WorkOne CENTERS

TO: Indiana's Workforce Investment System

FROM: Ron Miller
Chief Ethics and Compliance Officer
Acting General Counsel

DATE: September 22, 2010

SUBJECT: DWD Policy 2010-03
Financial Interest and Conflict of Interest in DWD Transaction Decisions

Purpose
To explain that under Indiana law, State officers, employees or special state appointees engaged in Indiana Department of Workforce Development (DWD) decisions for purchase, sale, lease, contract, option, or other transaction between the Indiana Department of Workforce Development (DWD) and any person or vendor ("Transaction") shall have no financial interest or conflict of interest in those transactions and to explain the expected requirements for such transactions. To explain the role of the Department of Workforce Development's Ethics Officer when a potential conflict of interest is identified.

Rescission
DWD Policy 2009-05, Financial Interest and Conflict of Interest in DWD Transaction Decisions

Contents
In accordance with Indiana law, a State officer, employee, or special state appointee[1] may not knowingly have a financial interest in a contract made by an agency.

The term "financial interest" is defined in Indiana Code 4-2-6-1(10) to mean "an interest (A) in a purchase, sale, lease, contract, option, or other transaction between an agency and any person; or (B) involving property or services. The term includes an interest arising from employment or prospective employment for which negotiations have begun."

Further, "A state officer, an employee, or a special state appointee may not participate in any decision or vote if the state officer, employee, or special state appointee has knowledge that any of the following has a financial interest in the outcome of the matter: (1) The state officer,

[1] Special state appointees are individuals elected or appointed to an authority, a board, a commission, a committee, a council, a task force, or other body that is authorized by statute or executive order. They function in a policy or an advisory role in the executive department of state government. Indiana Code 4-2-6-1(a)(16)

employee, or special state appointee; (2) A member of the immediate family of the state officer, employee, or special state appointee; (3) A business organization in which the state officer, employee, or special state appointee is serving as an officer, a director, a trustee, a partner, or an employee; (4) Any person or organization with whom the state officer, employee, or special state appointee is negotiating or has an arrangement concerning prospective employment." (Indiana Code 4-2-6-9)

Any employee, or special state appointee, who will participate in a decision or vote to make a purchase, sale, lease, contract, option, or other transaction between the Indiana Department of Workforce Development (DWD) and any person or vendor ("Transaction") should notify DWD's Legal department and seek an advisory opinion from the State Ethics Commission if he or she believes there might be a conflict of interest. After disclosure of the potential conflict of interest, State Ethics Commission will issue a written determination whether the conflict affects the integrity of the services the State expects from the individual. Until the State Ethics Commission issues its determination, the individual will be asked to abstain from discussion, decision, and votes regarding the matter.

To comply with this requirement and avoid potential conflicts of interest between the duties of DWD employees, special state appointees to the State of Indiana, and their personal financial interests, DWD will adhere to the following policy and procedures regarding conflict of interest:

1. In each financial transaction in which DWD engages, the Deputy Commissioner responsible for the transaction will provide the DWD Procurement Manager with a checklist to identify the individual(s) who:
    a. decided to procure the product or service;
    b. will prepare the Request for Proposal (RFP) or other evaluative documents;
    c. will review and evaluate the responses to the RFP or decide which vendor will be selected;
    d. will manage and evaluate the performance of the vendor; and
    e. will supervise each of the parties identified above.

2. Each of the persons named above will complete a **Financial Disclosure Statement** (SF40876) ("Statement") and affirm that they have no financial interest in the selected vendor before the contract is signed or any payments are made to the vendor.

3. On an **annual** basis, the DWD Procurement Manager will:
    a. identify anyone responsible for managing and evaluating the performance of any vendor that contracts with DWD and all individuals who supervise such persons;
    b. require all persons so identified to prepare a Statement and affirm they have no financial interest in the vendors they manage or evaluate by April 1 each year;
    c. ensure that no additional payments are made on any contract if the individuals responsible for the contract have not provided the Statement and affirmation by May 1.

4. The DWD Monitoring Unit will monitor compliance with all of the required reporting between June 1 and September 1 each year.

5. If a potential conflict of interest is identified, the person shall notify the DWD Ethics Officer, seek an advisory opinion from the State Ethics Commission, and follow the disclosure procedures outlined in 42 IAC 1-5-6.

Review Date
September 1, 2012

Ownership
DWD Legal
Indiana Department of Workforce Development
10 North Senate Avenue, Room SE 117
Indianapolis, Indiana 46204
Telephone: 317.232.0198

Effective Date
Immediately

Action
All Indiana Department of Workforce Development officers, employees, and special state appointees shall follow the guidance contained in this policy.