

## **Monitoring and Oversight Policy No. MP-301, Change 1**

**Subject: Code of Conduct Policy and Procedures**

**Effective: PY12 – 02/25/2013**

### **BACKGROUND:**

Workforce Connection of Central New Mexico (WCCNM) must assure and certify that in administering programs under federal and state law, it will fully comply with the Workforce Investment Act of 1998 (“WIA”), the Wagner-Peyser Act of 1933, other applicable laws, and all regulations promulgated under such laws.

### **OBJECTIVE:**

The objective of this policy is to establish a Code of Conduct Policy and Procedures for the WCCNM, its agents, contractors and committees, and the Youth Council, in accordance with the policies and procedures set forth by the USDOL and NMDWS.

### **POLICY:**

- A. **Prevention of Fraud and Abuse.** Fraud, under this policy, refers to the intentional misrepresentation or distortion of factual data or other information in order to obtain an illicit benefit and/or to attempt to conceal such activity. Abuse, under this policy, refers to the intentional misuse of program funds and services.
- 1) The WCCNM, its agents and contractors, shall establish, maintain, and implement internal management procedures for activities funded in whole or in part under the WIA program.
  - 2) In addition to the requirements imposed elsewhere in this policy, the WCCNM, its agents and contractors, shall insure that sufficient, auditable and otherwise adequate records are maintained to support the expenditures of all funds received through the WIA program. Such records shall be sufficient to allow the United States Department of Labor (USDOL), the New Mexico Department of Workforce Solutions (also known as the State Administrative Entity or SAE) to audit and monitor the WCCNM, its agents and contractors. The records will include financial and participant data systems maintained in accordance with WIA and applicable federal, state and WCCNM regulations and policies attendant to procurement, audit record keeping, reporting and related requirements.
  - 3) The WCCNM, its agents and contractors, shall establish and implement their own monitoring and control systems sufficient to insure compliance with the WIA, applicable federal, state and WCCNM laws, regulations, policies and procedures pertaining to financial and participant records management, procurement and reporting requirements.

- 4) The WCCNM will periodically monitor its agents' and contractors' activities. Monitoring activities may include management (data) and on-site reviews of all program activities. The USDOL, SAE or WCCNM reserves the right to request and review all pertinent records, data, observe program activities, interview WCCNM members, agents, contractors, staff, and program participants, review training and worksite activities, and conduct related monitoring functions to ensure compliance with all subgrant provisions and program requirements.
- 5) The WCCNM, its agents and contractors, shall be notified in writing of any suspected fraud, abuse, or misapplication of WIA funds upon discovery of such.

**B. Conflict of Interest.** For the purpose of this subsection, a Conflict of Interest refers to the act of an individual (employed or funded through WIA funds or serving on the WCCNM, a WCCNM committee or Youth Council) participating in decisions relating to policy, agreements, contracts, or subgrants in which that individual, a business associate, family member or other personal acquaintance will financially benefit or which participation has the appearance or perception of a conflict of interest.

- 1) The WCCNM, its agents and contractors, and the Youth Council will assure that conflict of interest or the appearance of a conflict of interest will not occur in awarding financial assistance and in the conduct of any procurement activities.
- 2) Members of the WCCNM, its employees, agents and contractors, and members of the Youth Council shall not participate in any decision-making process relating to the action that could benefit them or their organizations, business associates, family members, or other personal acquaintances and shall not participate in the development of the request for proposals, statements of work, evaluations and selection criteria.
- 3) The WCCNM, its agents and contractors, shall assure that funds received under the WIA program will not be used for hiring or paying any nongovernmental individual, institution, or organization to conduct an evaluation of any program if such individual, institution, or organization is associated with that program as a consultant or technical advisor.
- 4) Members of the WCCNM, its agents and contractors, and members of the Youth Council agree that they or their employees or officers, do not have a financial interest and will not acquire any interest, direct or indirect, that might conflict in any manner or degree with the performance of any activities or functions required under a WIA program. The WCCNM, its agents and contractors, also agree that in performance under a WIA program, they will not employ a person having such interest. The WCCNM, its agents and contractors, shall establish safeguards to prevent its officers, staff members,

- 5) subcontractors, or employees, or the Youth Council from using their positions for purposes that appear to be motivated by desire for private gain for themselves or others, particularly those with whom they have family, business or other ties. The WCCNM shall assure that agents, contractors, subcontractors, entire staff and the Youth Council will comply with this paragraph as a condition of being a WIA official or contractor.
  - 6) Officers and Chairpersons of Committees. For purposes of this policy all officers and chairpersons of committees may not have any contractual relationship with the WCCNM. The WCCNM will not enter into any procurement contract for services, construction, or property with a WCCNM or Youth Council member or with a business in which the member has an interest unless the member has disclosed his or her interest and unless the contract is awarded in accordance with the New Mexico Procurement Code and WCCNM policy.
  - 7) Should a conflict of interest or potential conflict of interest arise, the WCCNM member, Youth Council member, contractor, staff, or other person covered by this policy shall notify the WCCNM chair immediately upon learning of such conflict or potential conflict.
- C. **Nepotism.** For purposes of this policy, nepotism refers to the bestowing of special favors or showing of favoritism to a relative (wife, husband, father, mother, son, daughter, grandparent, brother, sister, aunt, uncle, niece, nephew, step child and in-law) by providing benefits or giving an appointive position on the basis of such relationship. The WCCNM, its agents and contractors, assures that it will adhere to applicable funding rules or policies prohibiting nepotism or appearance of nepotism in the awarding of WIA funds, and in its sub-granting or contracting practices.
- D. **Child Labor.** The WCCNM, its agents and contractors, shall comply with applicable federal, state and local Child Labor laws.
- E. **Bribes, Gratuities, and Kickbacks. Members,** officials, employees, or agents of the WCCNM, members of the Youth Council and contractors are prohibited from soliciting or accepting gratuities, favors, or anything of monetary value from any actual or potential recipient or supplier. The state Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and misdemeanor criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kick-backs.
- F. **Political Activity.** A participant in a WIA program may not participate in any political activity while participating in the WIA program, and may not be solicited, or rewarded for any political activity, whether such political activity is partisan or nonpartisan. The WCCNM, its agents and contractors, and the Youth Council, shall comply with all prohibitions on political activity as specified under 5 USC 15 (referred to as the Hatch Act), and any applicable SAE and WCCNM policies.

- 1) The practice of selecting or advancing employees as a reward for political service or patronage, or advancing/selecting in employment based on a person's political affiliation or beliefs is discriminatory and is prohibited. This prohibition also applies to the selection and referral of WIA applicants and participants for employment and training activities or services. This prohibition is extended, but not limited, to the following situations:
  - a) Participant or employee participation in partisan or nonpartisan political activities during work hours;
  - b) Participant or employee participation in partisan or nonpartisan political activities in which such participant or employee represents himself/herself as a spokesperson for a WIA program;
  - c) Employing or out stationing participants in offices of political officials including the offices of Congresspersons, state legislators, or legislative committees or staffs for the purpose of conducting political activities including campaigning on behalf of such officials; and
  - d) Employing or out stationing participant(s) in the offices of any elected executive officers, chief elected officers, or officers of a state or unit of general local government, for the purpose of conducting political activities including campaigning on behalf of such officials.
- 2) Persons employed in the administration of a WIA funded program shall not engage, in any manner, in the conduct of any political activities prohibited under the Hatch Act, nor shall WIA funds be used for such purposes.
- 3) Funds provided under the WIA shall not be used to attempt to influence in any manner, a member of Congress to favor or oppose any legislation or appropriation by Congress, or for lobbying with a state or local legislature. The WCCNM, its agents and contractors, and the Youth Council must provide to the NMDWS SAE, or applicable funding authority, a USDOL Lobbying Disclosure Certification.

**G. Unionization/Anti-Unionization Activities.** The WCCNM, its agents and contractors, and the Youth Council are prohibited from any promotion of, or involvement in, unionization or anti-unionization activities. Specifically:

- 1) Funds administered under the WIA program may not be used in any way to either promote or oppose unionization;
- 2) Individuals will not be required to join or become members of a union as a condition for enrollment in a program funded under the WIA program; and
- 3) Participants may not be placed or remain working in any position affected in labor disputes involving a work stoppage.

H. **Criminal Provision.** This provision pertains to the theft, embezzlement from WIA funds, improper inducement and obstruction of investigations. The WCCNM, its agents and contractors, and the Youth Council, shall be aware of and held accountable for complying with the criminal provisions of Section 665 of Title 18 USC as amended, and any applicable state statutes.

**PROCEDURE:**

Should a conflict of interest or potential conflict of interest arise, the WCCNM member, staff or other individual, or Youth Council member shall notify the WCCNM chair immediately upon learning of the conflict or potential conflict. The procedure to deal with a conflict of interest or potential conflict of interest with WCCNM or Youth Council members, should one arise, as follows:

- A. Each new WCCNM and Youth Council member will complete a Conflict of Interest questionnaire and returns that to staff;
- B. In the event of a conflict or perceived conflict, the WCCNM or Youth Council member, staff or other individual who learns of the conflict or potential conflict shall notify the WCCNM chair immediately upon learning of such conflict or potential conflict;
- C. the Executive Committee will serve as the Conflict of Interest committee and will:
  - 1) Instruct a WCCNM or Youth Council member not to vote on a matter if there is a perceived conflict of interest in which he or she is involved;
  - 2) Develop a written admonishment to a member in the case of a conflict of interest and/or recommend to the WCCNM removal of a member in the event of a conflict of interest from the WCCNM or Youth Council.
- D. If the Executive Committee, acting as the Conflict of Interest Committee, determines from a questionnaire that a conflict exists, the Executive Committee shall inform the WCCNM or Youth Council member who shall then comply with this procedure.
- E. A WCCNM or Youth Council member or other individual may also resign on his own accord before any notice or action is taken by Executive Committee.

**APPLICABILITY:**

WCCNM Board, officers, committees, Youth Council, contractors and staff.

**INQUIRIES:** WIA Administrator 505-247-1750