

APPENDIX A: REGIONAL STEERING COMMITTEE CONFLICT OF INTEREST IDENTIFICATION, REPORTING AND AVOIDANCE PROCESS

STATE OF LOUISIANA
DIVISION OF ADMINISTRATION
OFFICE OF COMMUNITY DEVELOPMENT (OCD)

LOUISIANA WATERSHED INITIATIVE

This document provides the procedures relative to the programs of the Louisiana Watershed Initiative (LWI), by which regional steering committees (RSC) in the LWI should identify, disclose and manage all potential and actual conflicts of interest through elimination, mitigation or waivers if allowed.

This procedure is intended to assist the RSC and its members in understanding, anticipating and addressing any potential or actual conflict issues that may arise as a result of the member's role on the RSC.

1. Conflicts of Interest Provisions Addressed in this Process

The Louisiana Code of Governmental Ethics, La. R.S. 42:1102 *et seq* ("Ethics Code") applies to independent the RSC members and contractors that are "engaged in a governmental function." Therefore, the RSC members may be considered "public employees" and the provisions of the Ethics Code are applicable to them.

"Public employee" is anyone, whether compensated or not, who is engaged in the performance of a governmental function or is under the supervision or authority of an employee of the government entity. Public employees are not limited to payroll employees of OCD, but include the RSC members in connection with the LWI.

The HUD conflict of interest rules at 24 CFR 570.611 generally apply to persons who assist an LWI partner agency, who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.



This document does not address specialized conflict of interest provisions that may apply to particular trades, relationship, or professions (i.e. Louisiana Rules of Professional Conduct.)

2. General Prohibitions

In general, conflicts of interest occur when one's private interest and public duties overlap, resulting in a real or perceived lack of impartiality or the public perception that the RSC member is either not acting in the best interest of the State or inappropriately using the relationship for undue enrichment or influence.

In avoiding these conflicts, the RSC member must be familiar with the following general prohibitions:

A. Participation:

The RSC member shall not participate in any transaction involving OCD in which the RSC member has an economic interest, other than participation in transactions arising solely out of The RSC member's performance of its contractual responsibilities to OCD.

The RSC member shall not participate in any transaction involving OCD in which, to its actual knowledge or through reasonable due diligence could ascertain that any of the following persons have a financial interest:

- Any legal entity in which the RSC member owns any ownership interest;
- Any legal entity in which an officer, director, partner or trustee of the RSC member owns an ownership interest in excess of 25%;
- Any member of the immediate family of a person who is an officer, director, partner, trustee or employee of the RSC member;
- Any legal entity owned by a member of the immediate family of a person who is an officer, director, partner trustee or employee of the RSC member;
- Any legal entity with which the RSC member has an existing contract and who by reason thereof is in a position to affect directly the economic interests of the RSC member.

"Participate" is to take part in or to have or share responsibility for action of a governmental entity or a proceeding personally, as a public servant of the governmental entity, through approval, disapproval, decision, recommendation, the rendering of advice, investigation, or the failure to act or perform a duty.

"Immediate Family Member" is the public employee's children, the spouses of his children, his brothers and their spouses, his sisters and their spouses, his parents, his spouse and the parents of his spouse.

B. Prohibited Transactions

A The RSC member is prohibited from entering into any contract, subcontract, or other transaction that is under the "supervision and jurisdiction" of the RSC member's "agency." This restriction also applies to



the immediate family members of the RSC member and to legal entities in which the RSC member's family members own an interest in excess of 25%.

"Transaction" is any proceeding, application, submission, and/or request for a ruling or other determination, contract, claim, case or other such particular matter. ***For the purposes of the LWI, Transaction also includes any program or project that is funded in whole or in part by the LWI.***

"Supervision and jurisdiction" is those things over which the RSC member has the power to exercise authority."

The "agency" of the RSC member includes **only the services under the scope of their contract** and not to the entire governmental agency. ***If the contract with the LWI partner agency is a task order-based contract, agency shall be determined based on task orders and assignments actually used by the LWI partner agency. However, in accepting any such task order or assignment, it is the RSC member's responsibility to identify based on diligent inquiry of all persons involved through the RSC member that the task order or assignment does not present a conflict of interest with any past or existing activity or relationship.***

C. Gifts:

Generally, the RSC member is prohibited from soliciting or accepting a gift from persons who have an economic interest in the RSC member's provision of services to an LWI partner agency.

In particular, the RSC member is prohibited from receiving any thing of economic value from any person whose economic interests will be affected by the performance or non-performance of the RSC member's contractual responsibilities.

Generally, the gift prohibition of the Louisiana Government Code of Ethics does not prohibit food or drink consumed as the personal guest of the person providing the food or drink. The person providing the food and drink may not provide the RSC member with more than \$64 of food and drink.

However, ***as a matter of policy*** no RSC member should accept a gift, including of food or drink, from any person or entity that is seeking financial assistance of CDBG-MIT funds for a project within the geographic boundaries of the RSC.

3. Disclosure of Conflicts

EXISTING ACTUAL OR POTENTIAL CONFLICTS: As soon as the RSC member becomes aware of the existence of an actual or potential conflict, it shall disclose all known or potential conflicts of interest to OCD by promptly informing OCD of the circumstances giving rise to the potential or actual conflict.

The RSC member in coordination with OCD and any other affected agencies will develop and implement a Disqualification Plan. The Disqualification Plan will be a written document that identifies the alternative measures available to OCD and the RSC member to prevent participation in prohibited transactions.



FUTURE CONFLICTS: The RSC member shall refrain from entering any new relationship or undertaking any new or additional services that present an actual or potential conflict of interest.

The RSC member shall report to OCD ***any circumstance*** under which it can anticipate that potential receipt of monies or other assets, as compensation for services or otherwise, which in whole or in part are funded directly or indirectly by CDBG-MIT funds administered by the OCD. This disclosure requirement is not limited to whether a task order has been issued or is anticipated to be issued involving those circumstances.

ALL DISCLOSURES REQUIRED UNDER THIS PROCESS SHALL BE DIRECTED IN WRITING TO OCD as follows:

Via email to LWI-Round1@la.gov

The subject line of the e-mail shall include “**LWI COI POLICY DISCLOSURE**” in addition to any further description of the subject.

Caution must be exercised at all levels of governmental contracting to identify, avoid and manage any perceived or apparent conflict of interest. The identification of any conflict of interest warrants immediate attention by all parties.