

Housing Authority of the City and County of Denver

ETHICS POLICY/STANDARD OF CONDUCT

PROCEDURES

The following procedures shall be utilized and interpreted in tandem with the Ethics Policy/Standard of Conduct.

1.0 APPLICABILITY

The provisions contained herein shall apply to the Commissioners, employees and agents of DHA. With respect to professional services performed by contractors for DHA (e.g., legal, accounting, or others), it is assumed that they will abide by the ethical standards of their particular profession.

2.0 DEFINITIONS

“Employee” shall mean any person hired by DHA to fill an unlimited or limited position, whether full or part time, temporary, or special program.

“Family” shall mean mother, father, sister, brother, spouse, child, (including stepchild and adopted child) legal guardian, grandparents, grandchildren, father-in-law, mother-in-law, sister-in-law, brother-in-law, aunt, uncle, niece, nephew, etc. Family may also include a common-law spouse or a domestic partner, after the Commissioner, employee, or agent has submitted written documentation as required by the DHA and a notarized form, *Affidavit of Spousal Equivalents*.

“Interest” shall mean a benefit or advantage of an economic or tangible nature that a Commissioner, employee, agent or a member of his or her Family or an organization which employs or is about to employ any of the preceding individuals would gain or lose as a result of any decision, or action or omission to decide or act, on the part of DHA, its Commissioners, employees, or agents.

“Person” shall mean any individual, corporation, partnership, limited liability company, joint venture, entity, association, organization, commissioner, officer, agent or DHA employee.

3.0 ETHICAL STANDARDS FOR COMMISSIONERS, EMPLOYEES AND AGENTS

Commissioner Disclosure Forms

The Board of Commissioners of DHA is the architect of policies governing the operations of DHA and they retain legal and fiscal responsibility for DHA. Recognizing that the Commissioners are chosen from a broad range of fields, professions and community interests renders difficult the circumscription of external interests and activities of the Commissioners. However, it is expected that a Commissioner will voluntarily and fully disclose his or her personal interests and potential conflicts of interest prior to assuming their seat on the Board, and while serving on the Board, by completing the Board of Commissioner Disclosure Form ("Form"). See Attachment 1.

Commissioners currently serving on the Board must submit the Form to the Board Chairperson within ninety (90) calendar days after receipt of the Form. Individuals who have recently been appointed to the Board must submit the Form to the Board Chairperson within ninety (90) calendar days after the City ordinance, approving their appointment to the Board, has been signed. The Form should be submitted to the Chairperson of the Board and will be reviewed by the Ethics Review Committee ("Committee"), in consultation with Agency Counsel.

Commissioner Fiduciary Duties

In carrying out their responsibilities for DHA, Commissioners are subject to two primary fiduciary obligations: the Duty of Care and the Duty of Loyalty. These terms are common terms for the standards, which guide all actions of the Commissioners.

The Duty of Care requires a Commissioner to participate in the decisions of the Board and to be informed as to data relevant to such decisions. The Duty of Loyalty requires Commissioners to exercise their powers in the interest of DHA, not in their own interest or the interest of another entity or person. Commissioners must avoid conflicts of interest.

Commissioners of DHA are stewards of public funds. Consequently, Commissioners must act for the benefit of the public and DHA, and not favor a few individuals or themselves. Commissioners should not engage in any activity that would appear to conflict with their duties as a Commissioner.

Conflict of Interest Guidelines

Commissioners, employees and agents should be sensitive to conflicts of interest which include, but are not limited to, the following:

- * No Commissioner, employee or agent shall participate in selection, or in the award or administration of a contract supported by Federal and non-federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:
 - A. The Commissioner, employee or agent,
 - B. Any member of his/her family,
 - C. His or her partner, or
 - D. An organization which employs, or is about to employ, any of the above, has a financial or other Interest in the firm selected for the award.

- * No Commissioner shall acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any DHA project; nor shall he/she have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used in connection with any DHA project. If any Commissioner owns or controls an interest, direct or indirect, in any property included in any DHA project, he/she shall immediately disclose the same in writing to DHA, and such disclosure shall be entered into the minutes of DHA. Failure to so disclose such interest shall constitute misconduct in office.

No Commissioner shall discuss, vote upon, decide or take part in (formally or informally) any matter before DHA, in which he/she has a conflict of interest.

- * No Commissioner, employee, officer or agent shall accept, gratuities, favors, or anything of monetary value worth more than \$100.00 from contractors, potential contractors, or parties to subagreements, nor shall a Commissioner, employee, officer, or agent solicit gifts, gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Attendance at an event including, but not limited to, a closing dinner that is reasonably related to a Commissioners', employees' or agents' official or ceremonial duties is permissible. Commissioners, employees and agents may accept appropriate gifts for special and infrequent occasions, such as weddings, funerals and illnesses.

* Required by federal or state law or contract.

No Commissioner, employee or agent shall disclose non-public information concerning any aspects of the operations of DHA, nor shall he/she use such information to the advantage or benefit of himself, herself or any other person.

No Commissioner may use his/her position on the Board to intimidate, influence or coerce, any of the activities or decisions of employees or agents of DHA.

- * No Commissioner, employee, agent, consultant, (excluding an independent contractor), who exercises or has exercised any functions or responsibilities with respect to activities under a HOPE VI grant, or who is 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 the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter. (A person who is, or was, an independent contractor to DHA is not covered by this conflict provision and therefore, is not barred by this provision from competing for future contracts.)
- * No present or former Commissioner, or employee or any member of their immediate family, shall enter into a contract, subcontract or arrangement with DHA or any of DHA's contractors or subcontractors during his or her tenure or for one-year thereafter. However, this prohibition does not apply to any present or former tenant Commissioner who does not serve on the governing body of a resident corporation, and who otherwise does not occupy a policy making position with the resident corporation, DHA or a business entity.

Copies of the applicable statutes and regulations are attached and labeled as Attachments 2 - 11.

Examples of conflicts of interest are:

- a) Fred Fabulous, a former DHA Commissioner, who left the Board less than one (1) year ago, now wishes to contract with DHA. Can Fred Fabulous receive a DHA contract? No, the Annual Contributions Contract with HUD prohibits a Commissioner from contracting with DHA during their tenure or for one (1) year after.

- b) A DHA vendor gives Connie Commissioner two (2) tickets to a sporting event that are worth \$75.00 each. Can Connie Commissioner accept the gift? No, 24 C.F.R. 85.36 prohibits officers, employees or agents of a housing authority from soliciting or accepting gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements that exceed nominal value.
- c) Emily Employee is a 25% owner of a company that is responding to a DHA RFP. Can Emily Employee participate on the selection committee? No, 24, C.F.R. 85.26 provides that no employee shall participate in the selection, award or administration of a contract supported by federal or non-federal funds, if the employee has a financial interest in the company selected or to be selected. Also, Section 3.7.15 (Conflict of Interest) of the Personnel Policy provides, in relevant part, that “No employee shall have an interest, direct or indirect. . . in any Contract or proposed Contract for materials or services to be used by DHA.”

Appearance of Conflict of Interest

Commissioners, employees and agents shall avoid situations where their private interests, financial and non-financial, may affect or appear to affect their objectivity, independence, or honesty in performing their duties. Commissioners and agents shall disclose such matters to the Chairperson, and the Ethics Review Committee will investigate the matter in accordance with paragraph 6 herein. Employees shall follow the procedures set forth in the Personnel Policy.

4.0 REPORTING REQUIREMENTS

Commissioners

If any Commissioner becomes aware of an ethical issue involving an employee or agent, he/she shall notify the Executive Director. If any Commissioner or Agency Counsel becomes aware of an ethical issue involving another Commissioner, he/she shall notify the Chairperson. The Chairperson shall immediately inform the Commissioner of their duty to declare their conflict of interest during the next regular, emergency, or special board meeting. If the next meeting is the annual meeting, the Commissioner shall declare his/her conflict prior to the election. Should the Commissioner fail to declare their conflict of interest during the required timeframe, the Chairperson shall declare the conflict of interest during the next regular, emergency, or special board meeting. If the next meeting is the annual meeting, the Chairperson shall declare the conflict prior to the election of officers.

Employees and Agents

If any employee or agent of DHA becomes aware of an ethical issue involving an employee, agent or a Commissioner, he/she shall notify the Executive Director or Agency Counsel so that appropriate action may be taken.

5.0 REPORTING PROCEDURES

Commissioners

If any Commissioner becomes aware of an ethical issue involving an employee or agent, he/she shall notify the Executive Director. If any Commissioner or Agency Counsel becomes aware of an ethical issue involving another Commissioner, he/she shall notify the Chairperson. The Chairperson shall immediately inform the Commissioner of their duty to declare their conflict of interest during the next regular, emergency, or special board meeting. If the next meeting is the annual meeting, the Commissioner shall declare his/her conflict prior to the election. Should the Commissioner fail to declare their conflict of interest during the required timeframe, the Chairperson shall declare the conflict of interest during the next regular, emergency, or special board meeting. If the next meeting is the annual meeting, the Chairperson shall declare the conflict prior to the election of officers.

Employees and Agents

If any employee or agent of DHA becomes aware of an ethical issue involving an employee, agent or a Commissioner, he/she shall notify the Executive Director or Agency Counsel so that appropriate action may be taken.

6.0 ETHICS REVIEW COMMITTEE

In accordance with the provisions of Article IV, Section 1 of DHA's bylaws, there shall be established an Ethics Review Committee for the Commissioners consisting of two (2) Commissioners appointed by the Chairperson. This Committee shall also include Agency Counsel.

The purpose of the Committee shall be to review and render decisions on any matters involving ethical conduct, or breach of ethical conduct, by Commissioners. Employees' and agents' conduct shall be reviewed by the Personnel Department, in consultation with Agency Counsel, and appropriate action will be taken.

The Committee is empowered by the Board to:

- A. Investigate and call witnesses in the performance of its duties.
- B. Call for provision of appropriate records, files or tapes relative to the performance of its duties.
- C. Review any records maintained by DHA.

The Committee shall, upon receiving a written request for an ethics opinion regarding Commissioner conduct or activity, respond in writing within thirty (30) days after receipt of the request unless the Committee determines that additional time is required. If additional time is required, the Committee shall notify the person requesting the opinion of the approximate time a decision will be rendered.

The Committee shall submit a report to the Board of Commissioners at the next regular Board meeting after the Committee has met and present the Board of Commissioners with recommendations regarding action to be taken regarding any conflicts of interest. The Committee may recommend that the Board, by majority vote, determine whether a waiver should be requested from the Department of Housing and Urban Development (“HUD”) for a particular conflict of interest. See Attachment 12. Any Commissioner may request that a request for waiver be submitted to HUD on their behalf and then the Committee may recommend that the Board do so.

7.0 SANCTIONS

Commissioners

Upon recommendation of the Committee, and a majority vote of the Board, sanctions may be imposed. These sanctions may include, but are not limited to, the following:

Letter of Reprimand: A letter is sent to the Commissioner notifying them that they have violated the Policy, that the Board disapproves of such conduct, and that if such conduct is repeated in the future, it may be cause for more serious sanctions; or

Letter to Mayor: A letter is sent to the Mayor of the City and County of Denver, notifying him/her that the Commissioner has violated the Ethics Policy and requesting that the Mayor take action pursuant to Section 29-4-208 of the Colorado Revised Statutes, as amended.

In determining whether a sanction should be imposed, the following factors may be considered: the nature of the violation, frequency of the violation, and any other factors which bear upon the seriousness of the violation. The written sanction shall be subject to the Colorado Open Records Act.

Agents

Agents who violate this policy may have their contractual relationship with DHA terminated.

Employees

Employees who violate this policy will be subject to disciplinary action in accordance with DHA's personnel policy up to and including termination.

8.0 STARTUP PROCEDURES

Within thirty (30) calendar days of the adoption of this Policy, the members of the Committee shall be appointed and the then current Commissioners shall submit the Form to the Chairperson of the Board for review by the Committee, in consultation with Agency Counsel.

ATTACHMENTS

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| Attachment 1 | Board of Commissioner Disclosure Form |
| Attachment 2 | Terms and Conditions, Constituting Part A of the Consolidated Annual Contributions Contract, Section 19 – Conflict of Interest |
| Attachment 3 | 24 CFR § 964.145 – Conflict of Interest – Resident Council |
| Attachment 4 | 24 CFR § 941.602 (d) – Applicability of requirements pursuant to 24 CFR part 85 |
| Attachment 5 | 24 CFR §982.161 – Conflict of Interest – Section 8 |
| Attachment 6 | Housing Assistance Payments Contract – 13. Conflict of Interest |
| Attachment 7 | ACC: Section 8 Moderate Rehabilitation SRO Program, Section 1.18 – Conflict of Interest Provisions |
| Attachment 8 | 24 CFR §85.36 – Procurement |
| Attachment 9 | FY 1998 HOPE VI Revitalization Grant Agreement, Article XIV – Conflict of Interest |
| Attachment 10 | FY 2002 HOPE VI Revitalization Grant Agreement, Article XVIII – Conflict of Interest |
| Attachment 11 | Colorado Revised Statutes, 29-4-207, Interested commissioners or employees |
| Attachment 12 | Request for a Public Housing ACC Waiver or Section Exception for a Conflict of Interest Prohibition |