



TACOMA HOUSING AUTHORITY

RESOLUTION 2018-06-27 (4)

Date: June 27, 2018
To: THA Board of Commissioners
From: Michael Mirra
Executive Director
Re: Update of THA's Ethics and Conflicts of Interest Policy

This resolution would authorize an update to Tacoma Housing Authority's (THA) Ethics and Conflicts of Interest Policy (THA Policy G-10 Ethics and Conflicts of Interest).

Background

On this same date, the Board will consider Resolution 2018-06-27 (2) that would update THA's Procurement Policy. Legal Counsel advised THA to also update its Ethics and Conflicts of Interest Policy (THA Policy G-10 Ethics and Conflicts of Interest) at the same time. Both updates are necessary to comply with Housing and Urban Development (HUD) regulation 2 CFR Part 200. As HUD requires, the update to the Procurement Policy states that the policy intends to avoid "organizational conflicts of interest". This resolution would amend the Ethics and Conflicts of Interest Policy to explain what that means.

Recommendation

Approve Resolution No.2018-06-27 (4).



TACOMA HOUSING AUTHORITY

RESOLUTION 2018-06-27 (4) **(Approval of Update to THA's Ethics Policy)**

A **RESOLUTION** of the Board of Commissioners of the Housing Authority of the City of Tacoma

WHEREAS, The Housing Authority of the City of Tacoma (the "Authority") approved the update of THA's Procurement Policy; and

WHEREAS, In the course of revision of THA's Procurement Policy, Legal Counsel advised an update to THA's Ethics and Conflicts of Interest Policy to comply with HUD regulation 2 CFR Part 200; and

WHEREAS, A proposed revised Ethics and Conflicts of Interest Policy that satisfies the recommendation of Legal Counsel is attached hereto as Exhibit A; now, therefore, be it

Resolved by the Board of Commissioners of the Housing Authority of the City of Tacoma, Washington as follows:

1. THA adopts a new version of THA Policy G-10 - Ethics and Conflicts of Interest in substantially the form set forth in the attached draft. Staff may make further amendments to this policy without further Board review to make minor clarifications, format changes and visualizations and to reference forms.
2. This resolution shall be in full force and effect from and after its adoption and approval.

Approved: June 27, 2018

Janis Flauding, Chair

CERTIFICATE

I, the undersigned, the duly chosen, qualified and acting Executive Director of the Housing Authority of the City of Tacoma (the "Authority") and keeper of the records of the Authority, CERTIFY:

1. That the attached Resolution No. 2018-06-27 (4) (the "Resolution") is a true and correct copy of the resolution of the Board of Commissioners of the Authority as adopted at a meeting of the Authority held on the 27th day of June, 2018, and duly recorded in the minute books of the Authority.

2. That such meeting was duly convened and held in all respects in accordance with law, and, to the extent required by law, due and proper notice of such meeting was given; that a quorum was present throughout the meeting and a majority of the members of the Board of Commissioners of the Authority present at the meeting voted in the proper manner for the adoption of the Resolution; that all other requirements and proceedings incident to the proper adoption of the Resolution have been duly fulfilled, carried out and otherwise observed, and that I am authorized to execute this Certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of June 2018.

HOUSING AUTHORITY OF THE CITY OF TACOMA

By: Michael Mirra
Michael Mirra, Executive Director



TACOMA HOUSING AUTHORITY

Policy No.	G-10
Policy	Ethics and Conflicts of Interest
Date	June 27, 2018

1. Purpose

This policy seeks to define impermissible conflicts of interest or the appearance of such conflicts that directors, staff, and Commissioners must avoid. This policy supplements but does not replace any applicable state and federal laws governing conflict of interest.

2. Sources for Policy

- ▶ [THA Resolution 2018-6-27\(4\)](#)
THA Resolution 2008-01-23(3)
- ▶ RCW 35.82.050 Conflicts of Interest for Commissioners, Employees, and Appointees.
- ▶ Chap. 42.23 RCW Interest in Contracts Prohibited- Exceptions
- ▶ 24 CFR § 84.42
- ▶ 24 CFR § 85.36
- ▶ 24 CFR § 982.161
- ▶ 24 CFR § 92.356
- ▶ HUD Procurement Handbook for Public and Indian Housing Authorities 7460.8 REV 1, Ch. 10
- ▶ HUD's Annual Contribution Contract, § 19
- ▶ THA Statement of Values

3. Scope of Policy

This document is written to govern THA Commissioners and staff to assist them in determining when an actual or potential conflict of interest may exist, and to avoid and manage such conflicts when they do arise. Nothing in this policy is intended to prevent THA from complying with the terms and conditions of any grant, contract, gift, or bequest that is otherwise consistent with law.

4. Who is Responsible for Implementing Policy

Who	Responsibilities
All Staff	All staff has the responsibility to comply with this policy.
Supervisors	Monitor the conduct of their staff and to act affirmatively to prevent and address violations of this policy.
Department Directors	Respond to complaints regarding violations of this policy. Participate in meetings to create plans to eliminate conflicts or the potential for conflicts, with Employees, and the Executive Director as necessary.
Executive Director [or designee]	Respond to complaints regarding violations of this policy. Create plans to allow individual staff to eliminate conflicts or the potential for conflicts.
Human Resources Director	Compile <i>Disclosure of THA Employee's Conflicts of Interest Forms</i> that have gone through this process, ensure these Disclosures are entered in the THA Record of Conflicts, and retain the Disclosures on file.
Executive Assistant	Collect <i>Disclosure of THA Commissioner's Conflicts of Interest Forms</i> on a yearly basis from Commissioners, disclosing whether they have any real or perceived conflicts of interest, ensure these Disclosures are entered in the THA Record of Conflicts, and retain the Disclosures on file.

5. Definitions

Employee	A person that THA employs.
Immediate Family	The term "immediate family member" means the spouse, domestic partner, parent, sibling, or child (whether related in these ways as a full blood relative, or as a "half or "step" relative, e.g., a half-brother or stepchild); foster children; or spouse's parents or siblings
Resident THA Commissioner	A THA Commissioner who is a THA housing resident or a participant in THA's Housing Choice Voucher Program.
Beneficial Interest	A beneficial interest is a financial, ownership or management interest, direct or indirect. It does not include "remote interests."

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Remote Interest

A remote interest is:

- (1) that of a non-salaried officer of a nonprofit corporation;
- (2) that of an employee or agent of a contracting party where the compensation of such employee or agent consists entirely of fixed wages or salary or other compensation that would not vary because of the contract;
- (3) that of a landlord or tenant of a contracting party;
- (4) that of a holder of less than 1 percent of the shares of a corporation, limited liability company or other entity which contracts with THA.

To count as a remote interest that does not disqualify its owner from participating in a decision or other activity, the owner must disclose the existence and extent of the interest in advance and recuse him or herself from the decision.

HUD

U.S. Department of Housing and Urban Development

THA Record of Conflict

Record of THA Employee or Commissioners' Conflicts of Interest to be kept in the Executive Office.

6. Forms Associated with this Policy

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|--------------------------|---|
| <i>THA Form G-10 (1)</i> | <i>Disclosure of THA Employee's Conflicts of Interest</i> |
| <i>THA Form G-10 (2)</i> | <i>Disclosure of THA Commissioner's Conflicts of Interest</i> |

7. Policy

7.1 General Ethical Standards

THA staff and Commissioners, in the exercise of agency business, will seek to conduct themselves in accord with the highest ethical standards.

7.2 Precluded Interest in THA Property or Contract

THA employees or Commissioners or members of their immediate family shall not possess or acquire any beneficial interest in any THA property or contract during their service to THA or for one year afterward, PROVIDED THAT this section shall not preclude the following types of beneficial interests:

- (a) interest as participants in THA's housing programs allowed under section 7.4 below;

- (b) THA's employment or contracting with family members of employees or Commissioners, subject to section 7.3 and THA's Policy on Nepotism.

7.3 Contracting Decision or Management

None of the following persons shall participate either in a decision to hire someone or to award a contract or in the management of a contract:

- (a) THA staff person or Commissioner or any other person who has a beneficial or remote interest in the decision.
- (b) Any public official, member of the local governing body, or state or local legislator, or any member of their immediate family, who exercises functions or responsibilities with respect to the contract in question or THA generally.

7.4 Organizational Conflict of Interest

- (a) THA must avoid organizational conflicts of interest. Organizational conflicts of interest exist when, because of relationships with a parent company, affiliate, or subsidiary organization, THA is unable to appear to be unable to be impartial in conducting a procurement action involving a related organization. To that end, in the event of any dealing with a parent, affiliate, or subsidiary organization that is not a state, local government or Indian tribe, the person directly responsible to the Executive Director for conducting the procurement must examine any potential organizational conflicts of interest, make written findings concerning whether such conflicts exist or not, and record such findings in the procurement file.
- (b) In the event there is no potential conflict, the procurement may proceed without any further ethical screening.
- (c) In the event of a potential conflict of interest, THA must follow the provisions of Section 7.11.3.

7.47.5 Participation in THA Housing Programs Allowed

Employees, Commissioners of THA, and their immediate family members may participate in subsidy programs administered by THA but only if the employee or Commissioner does not have or is removed and screened from (i) senior management responsibility for the program's administration or the creation of program policies that affect that participation specifically or (ii) specific responsibility to manage the participation in question.

Notwithstanding any other provision of this policy, a THA Commissioner who, pursuant to 24 C.F.R. § 964.415, participates in THA's assistance programs may also participate in any matter before the Board, unless the matter clearly applies specifically to his or her personal interests or that of his or her immediate family in ways that does not also apply generally to other participants in the program.

THA shall not treat or offer to treat such participants any differently, either more or less favorably, because of their status as an employee, Commissioner or an immediate family member of an employee or Commissioner.

7.57.6 Prohibition of Contingent Fees

Contractors shall not retain a person to solicit or secure a THA contract for a commission, percentage, brokerage, or contingent fee, except for bona fide employees or bona fide established commercial selling agencies.

7.67.7 Waiver of Contracting Conflicts

A present or former THA employee may be eligible for a waiver of a conflict of interest from THA and HUD not otherwise precluded by state law. THA and HUD may grant this waiver to employees or Commissioners who immediately disclose the conflicting interest to THA and if the disclosure is entered on THA's Record of Conflicts. The individual with the waived conflict may not thereafter participate in any THA action relating to the contract, subcontract, or arrangement in question.

7.77.8 General Depository Agreements

The provisions of 7.4 shall not apply to the General Depository Agreement entered into with an institution regulated by a federal agency, or to utility service for which the rates are fixed or controlled by a state or local agency.

7.87.9 No Bribes, Gratuities, Kickbacks, Influence or Use of Confidential Information

THA staff or Commissioners may not solicit, receive, offer or give gifts, entertainment, advantage, influence or confidential information of any value that are or appear to be in exchange for an unfair advantage in the provision or management of THA services, contracts, policy making, hiring or resources.

7.97.10 Outside Activities or Interests

No employee may have other employment, "free-lancing" or "moonlighting" activity or outside interest that (i) adversely affects the quality or quantity of his or her work performed at THA; (ii) implies sponsorship or support by THA of the outside employment or activity; or that (iii) adversely affects THA's good name. Employees may not use THA time, facilities, resources or supplies for outside activity, interest or work.

No employee or Commissioner may engage in any business, transaction, professional or personal activity or possess an outside interest that conflicts or

appears to conflict with his or her official duties at THA, that would secure or appear to secure unwarranted privileges or advantages for him or her regarding THA business, and/or that would prejudice or appear to prejudice his or her independent judgment in his or her official THA duties.

7.107.11 Reporting and Managing Conflicts

7.10.17.11.1 Employee

If any THA employee or Commissioner or his or her immediate family has an interest that this policy would preclude, he or she shall disclose to their Department Director or to the Executive Director in writing. To do this, they may use the Disclosure of THA Employee's Conflicts of Interest Form, *THA Form G-10(1) Disclosure of Employee's Conflicts of Interest*.

THA shall enter this disclosure into THA's Record of Conflicts (that will be kept in the Executive Office). The disclosure itself will be retained in a file in the Human Resources Department at THA.

7.10.27.11.2 *Commissioner*

On or about every August 1st, each THA Commissioner must certify in writing, using *THA Form G-10(2) Disclosure of Commissioner's Conflicts of Interest*, whether they have complied with this policy during the past year.

If the reviewing Commissioner determines to the best of his or her information and belief that he or she failed to comply with this policy and that a conflict of interest occurred during the past year, he or she shall acknowledge the conflict and provide a detailed explanation as part of the certification. In that event, THA shall promptly deliver a copy of the Certification to the other Commissioners and the Mayor of the City of Tacoma.

7.10.37.11.3 *Managing Conflicts*

If THA determines there is an actual or potential conflict of interest, the Staff person or Commissioner and the Executive Director or his/her designee will create a plan for eliminating the conflict or potential for a conflict. Such plan will also be entered in the THA Record of Conflicts and filed with the original disclosure form.

For Commissioners, this plan may include the Commissioner's recusal from discussions pertaining to the issue, preclusion of a contract, or resignation from the Board.

7.117.12 **Duty to Report Violations**

If any THA Staff knows of any violation of this policy, he or she shall report it to his or her supervisor or to the HR Director.

7.127.13 **Consequences of Violations**

Any person whom THA determines has violated this policy may be liable to disciplinary action, including termination of employment, debarment from contracting and, if applicable, referral to the appropriate civil or criminal authorities.