

Minnesota Department of Administration
Office of Grants Management
Operating Policy and Procedure
Issue Date: 7/15/08
Revised: 06/18/12
Policy Number: 08-01
Conflict of Interest Policy for State Grant-Making

Statutory References

This policy assumes adherence to the Code of Ethics for Employees in the Executive Branch (Minn. Stat. 43A.38), as well as to the following statutes:

Minn. Stat. 10A.07-Conflicts of Interest

Minn. Stat. 15.43-Acceptance of Advantage by State Employee; Penalty

Minn. Stat. 16C.04 – Ethical Practices and Conflict of Interest

Minn. Stat. 471.87-Public Officers, Interest in Contract; Penalty

Minn. Stat. 16B.97- Grants Management

Minn. Stat. 16B.98-Grants Management Process

Policy

Minnesota Statutes 16B.97 subd. 4(a)(1) provides that the Commissioner of Administration shall “create general grants management policies and procedures that are applicable to all executive agencies.”

Minnesota state agencies must work to deliberately avoid actual, potential and perceived conflicts of interest related to grant-making at both the individual and organizational levels. When a conflict of interest concerning state grant-making exists, transparency shall be the guiding principle in addressing it.

Every state employee and grant reviewer shall be responsible for identifying where an actual, potential or perceived conflict of interest exists and for informing appropriate parties. All state employees and grant reviewers involved in the review of grant applications must complete and sign a conflict of interest disclosure form for each grant review in which they participate

State agencies and employees must take affirmative actions to avoid, minimize or otherwise mitigate the impacts of actual, potential or perceived conflicts of interest.

Scope of Coverage

This policy applies to grant-making at all executive branch agencies, boards, committees, councils, authorities and task forces.

The policy applies to any state employees, appointees and grant reviewers who may be involved with any part of the grant-making process. This includes but is not limited to: developing requests for proposals, evaluating grant proposals, awarding a grant, drafting and entering into a grant agreement, evaluating grantee performance under a grant agreement, as well as authorizing payment under a grant agreement.

This policy also applies to organizations that are current state grantees or grant applicants.

Conflicts of interest may be actual, potential or perceived:

ACTUAL CONFLICT OF INTEREST:

An actual conflict of interest occurs when a decision or action would compromise a duty to a party without taking immediate appropriate action to eliminate the conflict.

POTENTIAL CONFLICT OF INTEREST:

A potential conflict of interest may exist if a grant reviewer has a relationship, affiliation, or other interest that could create an inappropriate influence if the person is called on to make a decision or recommendation that would affect one or more of those relationships, affiliations, or interests.

PERCEIVED CONFLICT OF INTEREST:

A perceived conflict of interest is any situation in which a reasonable third party would conclude that conflicting duties or loyalties exist.

This policy supersedes other state agency policies that concern conflicts of interest relating to outgoing grants except when the existing state agency policy is stricter.

Grant programs that seek an exception to this policy must complete a Grants Policy Exception Request and submit it to the Office of Grants Management for the approval of the Commissioner of Administration.

Definitions

Grant:

A grant is the transfer of cash or something of value to a recipient to support a public purpose authorized by law.

Conflict of Interest:

A conflict of interest, actual, potential, or perceived, occurs when a person has actual or apparent duty or loyalty to more than one organization and the competing duties or loyalties may result in actions which are adverse to one or both parties. A conflict of interest exists even if no unethical, improper or illegal act results from it.

Individual Conflict of Interest:

A conflict of interest that may benefit an individual employee or grant reviewer is any situation in which a state employee or grant reviewer's judgment, actions or non-action could be interpreted to be influenced by something that would benefit them directly or through indirect gain to a friend, relative, acquaintance or business or organization with which they are involved.

An individual conflict of interest occurs when any of the following conditions is present:

(a) A state employee or a grant reviewer uses his/her status or position to obtain special advantage, benefit, or access to the grantee or grant applicant's time, services, facilities, equipment, supplies, badge, uniform, prestige, or influence.

(b) A state employee or a grant reviewer receives or accepts money or anything else of value from a state grantee or grant applicant or has equity or a financial interest in or partial or whole ownership of an applicant organization.

(c) A state employee or a grant reviewer is an employee or board member of a grant applicant or grantee or is an immediate family member of an owner, employee or board member of the grantee or grant applicant.

Instances in which the state employee or grant reviewer works in a volunteer capacity for a grant applicant or grantee organization should be evaluated on a case by case basis. Volunteer status has the potential to but does not necessarily create a conflict of interest, depending on the nature of the relationship between the two parties.

Procedures to Avoid Individual Conflicts of Interest:

1. All state employees and grant reviewers involved in the review of grant applications must complete and sign a conflict of interest disclosure form for each grant review in which they participate. On the conflict of interest disclosure form, each reviewer must identify any grant applicant with which they have an actual, potential or perceived conflict of interest, although they do not need to provide the reason for the conflict on the disclosure form.
2. State agency personnel or grant reviewers must act immediately upon any suggestion, inquiry, or intimation that a conflict of interest exists at any point in the grants process. Upon identification, such matters are referred to appropriate agency or grant program personnel (the employee's immediate supervisor, RFP contact person, or grant program manager) for additional discussion to identify and mitigate any potential conflicts. If the conflict involves the employee's immediate supervisor, grant program manager, or RFP contact person, the employee or grant reviewer should instead contact the agency's ethics officer or a manager, director, assistant commissioner or agency head.
3. If it is determined that an actual, potential or perceived conflict of interest exists, as defined by this policy or other relevant law, it is important that appropriate steps must be taken to avoid the conflict. These steps may include:
 - reassigning the duties associated with that particular applicant, grant or grantee to another employee or grant reviewer
 - requiring the state employee or grant reviewer to remove themselves from the discussion or decision about a particular applicant(s) that is affected by the conflict and avoid discussing the applicant and/or applications from organizations with which the reviewer has disclosed a conflict of interest with other reviewers

At a minimum, all internal parties who are involved in the grant review or grant management process must be made aware that an actual, potential or perceived conflict has been disclosed and evaluated, even if it is not serious enough to remove or reassign the employee or grant reviewer.

4. Any disclosed conflicts and their resolution should be noted in meeting minutes, documents or records that the state agency keeps as a regular part of its grants process.

Organizational Conflict of Interest:

A conflict of interest can also occur with an organization that is a grant applicant or grantee of a state agency.

Organizational conflicts of interest occur when:

- a grantee is unable or potentially unable to render impartial assistance or advice to the State due to competing duties or loyalties
- a grantee's objectivity in carrying out the grant is or might be otherwise impaired due to competing duties or loyalties
- a grantee or potential grantee has an unfair competitive advantage through being furnished unauthorized proprietary information or source selection information that is not available to all competitors.

Particular attention should be paid to any proposed grant agreement requirements that provide for the rendering of planning, consultation, evaluation, or similar activities that may inform decisions on future grant awards.

Procedures to Avoid Organizational Conflicts of Interest:

1. Conflicts of interest should be prevented as early in the grants process as possible. This includes writing requests for proposals in a manner that avoids conflicts and creates a level playing field for all grant applicants. Agencies may also consider including questions as part of the Request for Proposals (RFP) process to identify how potential grant applicants manage conflicts of interest, which may include information such as the applicant's conflict of interest policies or procedures.
2. If an organizational conflict of interest is suspected, disclosed or discovered agency staff must immediately notify the agency's ethics officer or a supervisor, manager, director, assistant commissioner or commissioner.
3. In cases where an organizational conflict of interest is suspected, disclosed or discovered, the grantee or grant applicant organization should be notified by the state agency regarding the actual or potential conflict and allowed a reasonable opportunity to respond. Based on a review of the response and other relevant facts, one of the following actions may be pursued:
 - The potential grantee is disqualified from eligibility for the grant award
 - A current grantee's grant agreement is terminated
 - The grantee is disqualified from subsequent state grant awards if it is determined that it improperly failed to disclose a known organizational conflict of interest or misrepresented information regarding such a conflict
 - The responsibility for the grant or grant program is reassigned to a different state employee
 - Actions should be taken to mitigate or neutralize perceived or actual organizational conflicts of interest. This may include: revising the grantee's duties so that the conflict is mitigated; allowing the grantee to propose the exclusion of task areas that create a conflict, if appropriate; asking the grantee to submit an organizational conflict of interest avoidance or mitigation plan; or making all information available to all grantees and/or potential grantees in order to eliminate favoritism toward any one grantee.