Health Center Program Site Visit Protocol:

Conflict of Interest

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CONFLICT OF INTEREST

Primary Reviewer: Fiscal Expert
Secondary Reviewer: Governance/Administrative Expert

Authority: *Section 330(a)(1) and 330(k)(3)(D) of the Public Health Service (PHS) Act; 42 CFR 51c.113 and 42 CFR 56.114; and 45 CFR 75.327*

Document Checklist for Health Center Staff

Documents Provided Prior to Site Visit:

- ☐ Procedures for purchasing and procurement, including, if applicable or separate, procedures for contracting and contract management
- ☐ Two most recent annual audits and management letters

Documents Provided at the Start of the Site Visit:

- ☐ Documentation containing the health center's standards of conduct (for example, articles of incorporation, bylaws, board manual, employee manual, policies and procedures, disclosure forms)
- ☐ For contracts that support the HRSA-approved scope of project, sample of half or five (whichever is less) contracts AND related supporting procurement documentation for actions of $25,000 or more that **utilize federal award funds**
  Note: *The same sample of contracts/agreements is to be utilized for the review of both Contracts and Subawards and Conflict of Interest*
- ☐ In cases where a real or apparent conflict of interest was identified in the procurement action, related written disclosures (for example, board minutes documenting disclosure(s), standard form(s) to report disclosure(s)) completed by employees, officers, board members, and agents of the health centers
- ☐ Agreements with parent corporation, affiliate, subsidiary, or subrecipient organization (if applicable)

Demonstrating Compliance

Is this a Look-Alike Site Visit?
☐ YES ☐ NO

NOTE*: Because look-alikes do not receive federal funding under section 330 of the PHS Act, any aspects of a requirement that relate to the use of Health Center Program federal award funds are not applicable to look-alikes.*

Element a: Standards of Conduct

NOT APPLICABLE FOR LOOK-ALIKES

The health center has and implements written standards of conduct that apply, at a minimum, to its procurements paid for in whole or in part by the federal award. Such standards:

- Apply to all health center employees, officers, board members, and agents[1] involved in the selection, award, or administration of such contracts;
- Require written disclosure of real or apparent conflicts of interest;[2]
- Prohibit individuals with real or apparent conflicts of interest with a given contract from participating in the selection, award, or administration of such contract;[3]
- Restrict health center employees, officers, board members, and agents involved in the selection, award, or administration of contracts from soliciting or accepting gratuities, favors, or anything of monetary value for private financial gain from such contractors or parties to sub-agreements (including subrecipients or affiliate organizations);[4] and
- Enforce disciplinary actions on health center employees, officers, board members, and agents for violating these standards.

Site Visit Team Methodology

- Interview health center Project Director/CEO, board member(s), and other relevant staff involved in procurement and/or Human Resources regarding the health center's standards of conduct.
- Review relevant documents where standards of conduct relative to procurement are contained.
- Review process for disclosing real or apparent conflicts of interest in writing by employees, officers, board members, and agents of the health center (for example, board minutes documenting disclosure(s), standard form(s) to report disclosure(s)). ***Note:*** *Signed disclosure statements or forms from all health center staff and board members are NOT required to demonstrate compliance. The purpose of the review is to assess whether the health center has a mechanism in place for health center staff and board members to disclose real or apparent conflicts of interest when they arise.*

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[1] An agent of the health center includes, but is not limited to, a governing board member, an employee, officer, or contractor acting on behalf of the health center.
[2] A conflict of interest arises when the employee, officer, or agent (including but not limited to any member of the governing board), any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. See: 45 CFR 75.327(c)1.
[3] This includes, but is not limited to, prohibiting board members that are employees or contractors of a subrecipient of the health center from participating in the selection, award, or administration of that subaward. This also includes prohibiting board members who are employees of an organization that contracts with the health center from participating in the selection, award, or administration of that contract.
[4] Health centers may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. See *Related Considerations* in [Health Center Program Compliance Manual] Chapter 13: Conflict of Interest.

Site Visit Findings

1. Was the health center able to provide document(s) that contain its written standards of conduct for the selection, award and administration of contracts that, at a minimum, apply to its procurements paid for in whole or in part by the federal award?
   ☐ YES ☐ NO ☐ NOT APPLICABLE

   If No, an explanation is required:

   _____

2. Do these written standards of conduct:

   - Apply to all health center employees, officers, board members, and agents involved in the selection, award, or administration of such contracts?
     ☐ YES ☐ NO ☐ NOT APPLICABLE
   - Require written disclosure of any real or apparent conflicts of interest?
     ☐ YES ☐ NO ☐ NOT APPLICABLE
   - Prohibit individuals with a real or apparent conflict of interest with a given contract from participating in the selection, award, or administration of such contract?
     ☐ YES ☐ NO ☐ NOT APPLICABLE
   - Prohibit accepting gratuities, favors, or anything of monetary value?
     ☐ YES ☐ NO ☐ NOT APPLICABLE
   - Provide for disciplinary actions for violating the conflict of interest requirements?
     ☐ YES ☐ NO ☐ NOT APPLICABLE

   If No was selected for any of the above, an explanation is required, including specifying which areas were not addressed:

   _____

3. Does the health center have a process for disclosing real or apparent conflicts of interest in writing by employees, officers, board members, and agents of the health center should such conflicts arise?

   ☐ YES ☐ NO ☐ NOT APPLICABLE

   If No, an explanation is required:

   _____

Element b: Standards for Organizational Conflicts of Interest

If the health center has a parent, affiliate, or subsidiary that is not a state, local government, or Indian tribe, the health center has and implements written standards of conduct covering

organizational conflicts of interest[5] that might arise when conducting a procurement action involving a related organization. These standards of conduct require:

- Written disclosure of conflicts of interest that arise in procurements from a related organization; and
- Avoidance and mitigation of any identified actual or apparent conflicts during the procurement process.

Site Visit Team Methodology

- Review agreements with parent corporation, affiliates, subsidiaries, and subrecipients (if applicable).
- Review two most recent annual audits and management letters for any references to related party transactions.

Site Visit Findings

4. Does the health center have a parent, affiliate or subsidiary that is not a state, local government, or Indian tribe?
   ☐ YES ☐ NO

5. **If Yes:** Was the health center able to provide document(s) that contain its written standards of conduct for the selection, award, and administration of contracts that involve the related party or organization?
   ☐ YES ☐ NO ☐ NOT APPLICABLE

   If No, an explanation is required:
   _____

6. Do the health center's organizational conflict of interest standards prevent or mitigate any identified or apparent conflicts of interest?
   ☐ YES ☐ NO ☐ NOT APPLICABLE

   If No, an explanation is required:
   _____

Element c: Dissemination of Standards of Conduct

The health center has mechanisms or procedures for informing its employees, officers, board members, and agents of the health center's standards of conduct covering conflicts of interest, including organizational conflicts of interest, and for governing its actions with respect to the selection, award and administration of contracts.

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[5] Organizational conflicts of interest mean that because of relationships with a parent company, affiliate, or subsidiary organization, the health center is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization. See: 45 CFR 75.327(c)(2).

Site Visit Team Methodology

- Review documentation containing the health center's standards of conduct, including, if applicable, those covering organizational conflict of interest.
- Review sample of written disclosures with respect to real or apparent conflicts of interest completed by employees, officers, board members, and agents of the health centers.
- Interview health center Project Director/CEO, board member(s), and other relevant staff involved in procurement and/or Human Resources regarding mechanisms or procedures for informing employees, officers, board members, and agents of the health center's standards of conduct.

Site Visit Findings

In responding to the question(s) below, please note:

- *For look-alikes, this element is applicable ONLY for those look-alikes that have a parent, affiliate, or subsidiary that is not a state, local government, or Indian tribe as identified in the assessment of element "b."*
- *For all other look-alikes, select "Not Applicable."*

7. Does the health center inform employees, officers, board members, and agents of its conflict of interest standards of conduct?
   ☐ YES ☐ NO ☐ NOT APPLICABLE

   If No, an explanation is required:
   _____

Element d: Adherence to Standards of Conduct

In cases where a conflict of interest was identified, the health center's procurement records document adherence to its standards of conduct (for example, an employee whose family member was competing for a health center contract was not permitted to participate in the selection, award, or administration of that contract).

Site Visit Team Methodology

- Review sample of half or five (whichever is less) contracts AND related supporting procurement documentation for actions of $25,000 or more that **utilize federal award funds.**
  Note: *The same sample of contracts/agreements is to be utilized for the review of both Contracts and Subawards and Conflict of Interest.*
- In cases where a real or apparent conflict of interest was identified in the procurement action, review related written disclosures (for example, board minutes documenting disclosure(s), standard form(s) to report disclosure(s)) completed by employees, officers, board members, and agents of the health centers.
- Review audits and management letters for any findings related to conflicts of interest.

Site Visit Findings

In responding to the question(s) below, please note:

- *For look-alikes, this element is applicable ONLY for those look-alikes that have a parent, affiliate, or subsidiary that is not a state, local government, or Indian tribe as identified in the assessment of element "b."*
- *For all other look-alikes, select "Not Applicable."*

8. Were any conflicts of interest (real or apparent), including organizational conflicts of interest, identified in the past 3 years that were associated with procurement involving federal funds?
   ☐ YES ☐ NO ☐ NOT APPLICABLE

9. **If Yes**: Was the health center able to produce documentation that it adhered to its standards of conduct related to the identified conflict(s) of interest, including the completion of written disclosures?
   ☐ YES ☐ NO ☐ NOT APPLICABLE

   If No, an explanation is required:
   _____