

Health Center Program Site Visit Protocol: Conflict of Interest

Last updated: August 20, 2018

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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 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 (e.g., articles of incorporation, bylaws, board manual, employee manual, policies and procedures, disclosure forms)
- Sample of written disclosures with respect to real or apparent conflicts of interest completed by officers, employees, board members and agents of the health centers (e.g., forms, signed statements, employment contracts)
- Sample of supporting documentation for one to two procurements supported with federal funds from the past 3 years (can be same sample as used for Contracts and Subawards)
- Agreements with parent corporation, affiliate, subsidiary, or subrecipient organization (if applicable)

Demonstrating Compliance

Element a: Standards of Conduct

NOT APPLICABLE FOR LOOK-ALIKES⁶⁵

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:

⁶⁵ Because look-alikes do not receive federal funding under section 330 of the PHS Act, any aspects of the requirement that relate to the use of Health Center Program federal award funds are not applicable to look-alikes.

- Apply to all health center employees, officers, board members and agents⁶⁶ involved in the selection, award, or administration of such contracts;
- Require written disclosure of real or apparent conflicts of interest;
- Prohibit individuals with real or apparent conflicts of interest with a given contract from participating in the selection, award, or administration of such contract;⁶⁷
- 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);⁶⁸ and
- Enforce disciplinary actions on health center employees, officers, board members, and agents for violating these standards.

Site Visit Team Methodology

- Review relevant documents where standards of conduct relative to procurement are contained.
- Review sample of written disclosures with respect to real or apparent conflicts of interest completed by officers, employees, board members and agents of the health center.

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

If No, an explanation is required:

2. Do these written standards of conduct:
 - Apply to all health center employees, officers, board members and agents?
 YES NO NOT APPLICABLE
 - Require 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
-

⁶⁶ 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.

⁶⁷ 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.

⁶⁸ 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.

- 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. Was the health center able to provide a sample of written disclosures with respect to real or apparent conflicts of interest completed by officers, employees, board members and agents of the health centers?
 YES NO

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 interest⁶⁹ 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
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⁶⁹ 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).

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.

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 officers, employees, 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 HR 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 below, please note:

For look-alikes, the questions under this element are 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." If a look-alike has a parent, affiliate, or subsidiary that is a State, local government, or Indian tribe as identified in the assessment of element "b," select "Not Applicable" in answer to the question(s) under this element.

7. Does the health center inform employees, officers, board members, and agents of its conflict of interest standards of conduct?
 YES NO

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 supporting documentation for one to two procurement actions supported by federal funds in the past 3 years.
- Review audits and management letters for any findings related to conflicts of interest.

Site Visit Findings

In responding to the questions below, please note:

For look-alikes, the questions under this element are 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." If a look-alike has a parent, affiliate, or subsidiary that is a State, local government, or Indian tribe as identified in the assessment of element "b," select "Not Applicable" in answer to the question(s) under this element.

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
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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?
- YES NO NOT APPLICABLE

If No, an explanation is required:
