

Conflict of Interest Policy

WIFA Policy #: I.13

Purpose:

To set the minimum standards expected of public officers and employees who, in their official capacities, are faced with a decision or contract that might affect their pecuniary or proprietary interests or those of a relative.

Policy:

Section 1: Definitions

“Public Officer” means all elected and appointed officers of a public agency established by charter, ordinance, resolution, state constitution or statute. (A.R.S. §38-502(8)). This definition includes members of advisory commissions, boards, councils, and committees.

"Employee" means all persons who are not public officers and who are employed on a full-time, part-time or contract basis by an incorporated city or town, a political subdivision or the state or any of its departments, commissions, agencies, bodies or boards for remuneration (A.R.S. §38-502(2)). For the purposes of the conflict of interest laws, an employee may be on a full-time, part-time, or contract basis.

“Relative” means the spouse, child, child's child, parent, grandparent, brother or sister of the whole or half blood and their spouses and the parent, brother, sister or child of a spouse. (A.R.S. §38-502(9))

Section 2: Assessing a Conflict of Interest

When assessing whether a public officer or employee has a conflict of interest, the starting point is to evaluate whether the official or the official's relative has a “substantial interest” in the matter under consideration. An interest is “substantial” if it is not defined by statute as “remote” and if it is “any pecuniary or proprietary interest, either direct or indirect,” of public officers or employees or their relatives. A.R.S. § 38-502(11). The term interest does not mean a mere abstract interest in the general subject or a contingent interest but is a pecuniary or proprietary interest, by which a person will gain or lose something, as contrasted with a general sympathy, feeling, or bias.

The Legislature has determined that certain economic interests are so remote that they do not impermissibly influence a person's decision or actions. These “remote interests” are listed in A.R.S. § 38-502(10). Unless the interest at issue falls within one of the statutorily specified situations declared by the Legislature to be remote, the interest is substantial and creates a conflict of interest.

To determine whether a substantial interest exists, the public officer should ask the following questions:

1. Will the decision affect, either positively or negatively, an interest of the officer or employee or the officer's or employee's relative?
2. Is the interest pecuniary or proprietary interest?
3. Is the interest other than one statutorily designated as a remote interest?

If the answer to each of these questions is yes, then a substantial interest exists and requires compliance with Section 3 of this policy.

Section 3: Conflict of Interest Compliance

Once a public officer or employee determines that a substantial interest may be affected, the officer or employee must disclose the interest and withdraw from all participation in the decision or contract (See Appendix A). A.R.S. § 38-503(A), (B). Even though public officers or employees may believe that they can be objective in making a decision and that the public interest would not be harmed by their participation, they do not have discretion to ignore the statutory mandate.

Arizona's conflict of interest statutes are broadly construed in favor of the public, and the Legislature has provided substantial civil and criminal penalties for failure to comply with the statutory mandates.

Section 4: Sanctions for Violations of Conflict of Interest Laws

Criminal Penalties

Knowingly or intentionally violating any provision of the conflict of interest laws is a class 6 felony. A.R.S. § 38-510(A)(1).

Negligent or reckless violation of the law is a class 1 misdemeanor. This means that public officers or employees may be prosecuted if they fail to disclose a conflict of interest even those of which they only should have know. A.R.S. § 38-510(A)(1).

Knowingly falsifying, concealing, or covering up a material fact as part of a scheme to defraud in any matter related to the business conducted by WIFA is a class 5 felony. A.R.S. § 13-2311.

Forfeiture of Public Office

Upon conviction of a violation of the conflict of interest laws, a public officer or employee forfeits the public office or employment. A.R.S. § 38-510(B)

Contract Cancellation

Any contract made by WIFA is subject to cancellation by the Governor if anyone significantly involved in the contract process on behalf of the state was or is also employed by or acted as a consultant to any other party to the contract while the contract or contract extension is in effect. A.R.S. § 38-511(A).

Responsibility: Business Manager

Statutory Reference: A.R.S. Title 38, Chapter 3, Article 8


Rule Reference: N/A; Arizona Agency Handbook, 2001

Original Issue Date: December 17, 2003

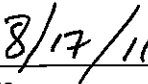
Previous Amendment Date(s): N/A

Most Recent Amendment Date: August 17, 2011 (*Replaces All Previous Versions*)

Approval:



Executive Director



Date

CONFLICT OF INTEREST DISCLOSURE MEMORANDUM

TO: (WIFA Executive Director)

FROM: (Name and position of employee or officer)

RE: CONFLICT OF INTEREST DISCLOSURE PURSUANT TO
A.R.S. Title 38, Chapter 3, Article 8

1. Identify the decision, case, investigation, or other matter in which you or your relative may have a "substantial interest" under A.R.S. Title 38, Chapter 3, Article 8.

2. Describe the "substantial interest" referred to above.

Statement of Disqualification

To avoid any possible conflict of interest under A.R.S. Title 38, Chapter 3, Article 8, I will refrain from participating in any manner in the matter identified above.

Date

Signature

Cc: (supervisors)