EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION Workforce Investment Act
	CORRESPONDENCE SYMBOL OWI
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ADVISORY: **TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 35-10**

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE LIAISONS
STATE WORKFORCE INVESTMENT BOARD CHAIRS
LOCAL WORKFORCE INVESTMENT BOARD CHAIRS

FROM: JANE OATES
Assistant Secretary

SUBJECT: Transparency and Integrity in Workforce Investment Board Decisions

1. **Purpose.** To communicate expectations about integrity and transparency in decisions made by state and local workforce investment boards and officials, and requirements regarding conflict of interest.

2. **References.**
   - Workforce Investment Act of 1998 (29 United States Code 2801 et seq.), Public Law 105-220, as amended. Available at http://www.doleta.gov/usworkforce/wia/wialaw.pdf.
   - WIA Final Rule, 20 CFR Part 661, Fed. Reg. 49294 August 11, 2000. Available at http://www.doleta.gov/usworkforce/wia/finalrule.pdf.
   - Uniform Administrative Requirements (29 CFR Part 95 and 97). Available at http://www.access.gpo.gov/nara/cfr/waisidx_09/29cfr95_09.html and http://www.access.gpo.gov/nara/cfr/waisidx_09/29cfr97_09.html.
   - Wagner-Peyser Act, as amended (29 United States Code 49 et seq.)
   - Hatch Act (5 United States Code 1501-1508.) Available at http://www.osc.gov/documents/hatchact/ha_sta.pdf.
   - Planning Guidance for the Strategic State Plan for Title I of the Workforce Investment Act of 1998 and the Wagner-Peyser Act [(73 Federal Register 72853) (Dec. 1, 2008)], (Office and Management Budget No. 1205-0398).

3. **Background.** Providing responsible stewardship for and oversight of public funding for Federally-funded workforce programs must be accomplished in a way that demonstrates strong integrity, accountability, and transparency in order to preserve the public trust. The responsibility for this stewardship and oversight is shared in the devolved public workforce system by Federal, state and local entities. Workforce programs are largely governed under the Workforce Investment Act (WIA) by state and local workforce investment boards (WIBs)

RESCISSIONS	EXPIRATION DATE
None	Continuing

which are composed of individuals from the business community, education community, government agencies, organized labor, legislators, community service organizations, and others. The WIBs are responsible for multiple functions, including procurement decisions. Local WIBs select One-Stop Career Center operators and youth service providers, and develop a budget for carrying out the duties of the local WIB. These decisions often have significant implications for service providers and participants they serve, and thus must be made in a transparent and ethical manner. Members of state and local WIBs should be aware of the Federal, state and local laws and regulations which guide their conduct while serving on the WIB.

4. **Guiding Statutes and Regulations.** Local and state WIBs must make decisions in keeping with several laws and regulations. The relevant Federal laws and regulations include:

- *"Sunshine provision" regulations* for state WIBs (20 CFR 661.207) and local WIBs (20 CFR 661.307). Specifically, a state or local WIB must conduct its business in an open manner and make activities of the board available to the public, including the development of specific policies and the minutes of formal board meetings upon request.

- *Uniform Administrative Requirements* for procurement (29 CFR 97.36 and 29 CFR 95.42). The Uniform Administrative Requirements are government-wide standards around procurement that all Federal grantees must follow, including standards for conflict of interest. The Department of Labor codified these requirements at 29 CFR Part 97 for governmental grantees and at 29 CFR Part 95 for non-governmental grantees. These requirements describe specific instances which would constitute a conflict of interest, the types of characteristics that should be considered when making awards to contractors, requirements for procurement protest procedures, and other requirements.

- *Conflict of interest regulation* for entities receiving WIA title I funds (20 CFR 667.200(a)(4)). This part of the WIA regulations indicates that in addition to the uniform administrative requirements described above, a state WIB member or a local WIB member or a Youth Council member must neither cast a vote, nor participate in decision-making, on the provision of services by that member or any organization which that member directly represents. The WIB member also must not cast a vote, nor participate in decision-making, on any matter which would provide any direct financial benefit to that member or a member of his or her immediate family. WIA regulations note that, by itself, neither membership on a WIB or Youth Council alone, nor the receipt of WIA funds to provide training and related services, violates these conflict of interest provisions.

- *The Hatch Act and its regulations,* for individuals paid with Federal funds (5 CFR 151). The Hatch Act restricts the political activity of individuals principally employed by state or local executive agencies and who work in connection with programs financed in whole or in part by Federal loans or grants. Covered state and local employees may not, among other things, use their official authority or influence to interfere with or affect the results of an election or nomination; or directly or indirectly coerce, attempt to coerce, command, or advise a state or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes. More information about how the Hatch Act applies to state and local officials is available at http://www.osc.gov/documents/hatchact/ha_sta.pdf.

State and local WIBs are also governed by relevant state and local rules. Virtually all states have in place laws and regulations defining conflict of interest, establishing requirements for procurement decisions, and establishing ethics rules.

5. **Action Requested.** The Employment and Training Administration (ETA) encourages state and local boards to regularly review and be aware of the relevant Federal, state and local rules guiding procurement decisions and other board responsibilities.

   States should include in their monitoring of local areas a review of local adherence to the requirements described in this guidance. ETA also includes state policies related to these requirements in its oversight and monitoring of states, including its review of policies submitted with the WIA Strategic State Plans.

   ETA requests that states review this information with local boards, and all boards should consider including this guidance in orientations for new board members.

6. **Inquiries.** Inquiries should be directed to the appropriate ETA Regional Office.