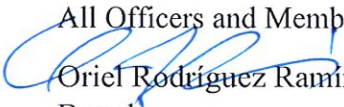




ÁREA LOCAL
DE DESARROLLO LABORAL
GUAYNABO / TOA BAJA

PO BOX 7885, GUAYNABO, PUERTO RICO 00970
TEL: (787) 720-4040 Ext. 6209 Fax: (787) 731-0731

Conflict of Interest Policy and Disqualification Mechanism #17-01:

Date: April 27, 2017
To: All Officers and Members of the Local Board.
From:  Oriol Rodríguez Ramírez – Chairman of the Workforce Development Board

At the Guaynabo-Toa Baja Local Workforce Development Area, we are dedicated to upholding high moral and ethical standards in our commitment to providing excellent public service. The objective of our Public Policy on Conflict of Interest and Disqualification Mechanism is to foster an ethical culture within our work environment.

The promotion of ethics in the work environment has always had positive results in terms of organizational climate, productivity, and professional growth. In the public service sector, the Puerto Rico Government Ethics Act (Act 1-2012) provides the framework for promoting ethics. This legislation governs the conduct of public servants within the Executive Branch, including public corporations, municipalities, consortiums, and special municipal development corporations.

There are times when, by misfortune, some public servants engage in improper actions that clearly violate ethical standards, thereby compromising the moral integrity of our administration. It is unacceptable for a public servant representing the LWDA to engage in personal gain, and any appearance of a conflict of interest is equally intolerable.

Considering these factors, we recognize the approval of a public policy on Conflict of Interest for employees and officials of the Guaynabo-Toa Baja Local Workforce Development Area as a measure of paramount importance.

Article 1 – Definitions.

For the purpose of this policy, the following terms shall have the meanings ascribed to them, unless the context clearly indicates otherwise:

*"We are an equal opportunity employer/program.
We have support services for people with disabilities, upon request."*

- (a) **Official Action** – refers to the activities and procedures associated with the responsibilities and duties assigned to an employee of the local workforce development area or within the authority granted to the Local Area. This includes tasks such as providing advice, conducting investigations, filing charges, performing audits, adjudicating matters, formulating rules and regulations concerning specific parties. Additionally, it encompasses all processes related to issuing orders, granting authorizations, exemptions, resolutions, contracts, and permits, as well as franchises, accreditations, privileges, and licenses.
- (b) **Political Activity** – refers to an event in which one or more individuals advocate, support, or oppose a particular candidacy, political party, or issue that will be considered by the electorate.
- (c) **Agency** – refers to the entities within the Executive Branch of the Government, including public corporations, municipalities and their legislatures, special corporations for municipal development, municipal consortiums, local areas, boards, and any other entities under the jurisdiction of this Branch.
- (d) **Promotion** – denotes any appointment to a position or office that entails higher economic or hierarchical remuneration.
- (e) **Matter** – pertains to an event involving specific parties in which the public servant participates, either personally and substantially, or where their decision, approval, recommendation, or investigation is required. It does not include the public servant’s involvement or participation in the enactment of rules or regulations of general application or abstract guidelines and instructions that do not pertain to situations or specific cases.
- (f) **Audit** – refers to a procedure that commences with the electronic submission of the financial report and involves an analysis of economic solvency.
- (g) **Forensic Audit** – denotes a specialized audit that incorporates techniques aimed at preventing and potentially detecting conduct that is contrary to public service, based on the analysis of economic solvency.
- (h) **Appointing Authority** – pertains to the individual or individuals whose inherent function involves the appointment, promotion, remuneration, or contracting of individuals.
- (i) **Benefit** – encompasses any advantage, utility, profit, or gain, without limiting the term to pecuniary or material gain, but denoting any form of advantage.
- (j) **Candidate** – refers to an individual who publicly announces their intention to run for elective public office or, without being affiliated with a political party, publicly announces their intention to run for office or appears on an electoral ballot.

- (k) **Case** – denotes any lawsuit or controversy brought before any Branch of the Government for the purpose of obtaining a decision.
- (l) **Conflict of Interest** – signifies a situation in which the personal or economic interest are or may reasonably conflict with the public interest.
- (m) **Contract** – denotes an agreement or legal transaction to perform or abstain from performing a certain act, entered into with the consent of the contracting parties, pertaining to a specific object and based on a designated cause. It includes, but is not limited to, agreements for goods, works, services, and purchase and service orders.
- (n) **Control** – signifies the authority to manage a person's assets, liabilities, income, or expenses.
- (o) **Executive Director** – pertains to the Executive Director of the Office of Government Ethics of Puerto Rico.
- (p) **Government** – refers to the Government of Puerto Rico.
- (q) **Confidential Information or Document** – refers to information or documents that:
 - (1) Are declared as confidential by law.
 - (2) Are protected by any of the privileges of the Evidence Law.
 - (3) Whose disclosure may harm the fundamental rights of third parties or violate the right to privacy and private life of public servants.
 - (4) If disclosed, would constitute a violation of executive privilege.
 - (5) Are part of a deliberative process in the formulation of public policy.
 - (6) Whose disclosure could endanger the life or physical integrity of a public servant or another person, jeopardize national security, or affecting ongoing business transactions or official government actions.

This category includes reports, memoranda, or any written material prepared by a public servant in the exercise of their office or employment for their superior or for the purposes of departmental decisions and actions.

- (r) **Financial Report** – refers to the official electronic form adopted and provided by the Office, and in the case of the Judicial Branch, the official form adopted by the Supreme Court. It also includes any additional information required by the Office or provided by the public servant or former public servant. The term “financial report” encompasses the annual financial report, the taking office report, or the termination report.
- (s) **Income** – refers to all funds received from any source, whether lawful or unlawful, exempt, or taxable.

- (t) **Electoral Interests** – defined as the platform, agenda, ideals, formulas, or tendencies of a political party or candidate.
- (u) **Appoint** – refers to an official designation or assignment of any nature to perform specific functions or duties.
- (v) **Office** – refers to the Office of Government Ethics of Puerto Rico.
- (w) **Relative** – refers to individuals who are related to the public servant by blood or marriage. This includes grandparents, parents, stepparents, stepchildren, children, grandchildren, aunts, uncles, brothers, nephews, nieces, first cousins, spouse, in-laws, and brothers-in-law. It also includes the children and grandchildren of the public servant’s spouse.
- (x) **Political Party** – refers to groups, entities or organizations governed by the Puerto Rico Elections Act, as amended, or any law that may replace it.
- (y) **Private Person** – refers to a natural or legal person who is not a public entity.
- (z) **Gift** – refers to money, goods, objects, economic opportunities, gratuities, discounts, or any other form of benefit provided to a public servant.
- (aa) **Remuneration** – refers to the pay or reward received for performing work. It includes any improvements in economic conditions related to employment, such as raises, merit steps, differentials, and other forms of compensation.
- (bb) **Public Servant** – refers to an employee or official of the LWDA.
- (cc) **Family Unit** – refers to individuals whose financial affairs are under the control of the public servant.

Article 2 - Jurisdiction and Scope.

This Policy regulates the conduct of employees and officers of the Guaynabo-Toa Baja LWDA.

Article 3 - General Ethical Prohibitions.

- (a) An employee or officer is prohibited from soliciting a benefit for their agency, either directly or indirectly, from a private person, business, or public entity that is regulated by or has a contract with the agency or engages in activities that could lead to obtaining a contract.

A benefit for the agency may only be accepted from a private person, business, or public entity that is not regulated by or contracted with the agency, or that does not engage in

activities conducive to obtaining a contract, provided that the regulations established for this purpose are fully complied with.

- (b) A public servant is prohibited from using their office duties, powers, public property, or funds to obtain, directly or indirectly, any benefit that is not permitted by law, either for themselves or for a private person or business.
- (c) A public servant may not accept or solicit, directly or indirectly, a benefit from a private person or business as payment for performing, expediting, delaying, or failing to perform their employment duties and responsibilities.
- (d) A public servant may not accept or solicit, directly or indirectly, a benefit for themselves or for another person, business, or entity, in exchange for performing acts that are influenced in favor of that private person or business.
- (e) A public servant may not obtain or claim to have influence over the functions of another public servant in exchange for obtaining or seeking a benefit.
- (f) A public servant may not disclose or use confidential information or documents obtained through their employment to directly or indirectly obtain a benefit for themselves or for a private person or business.
- (g) A public servant is prohibited from intervening, directly or indirectly, in any matter in which they have a conflict of interest that would result in obtaining a benefit for themselves. Furthermore, a public servant may not intervene, directly or indirectly, in any matter in which a member of their family unit, relative, partner or a person who shares their residence has a conflict of interest that would result in obtaining a benefit for any of them.

If a relationship as mentioned above has ended during the two (2) years prior to the public servant's appointment, they may not intervene, directly or indirectly, in any matter related to that relationship until two (2) years after their appointment.

The prohibition remains in effect as long as there is a beneficial relationship for the public servant. Once the beneficial relationship ends, the public servant may not intervene, directly or indirectly, in the aforementioned matter until two (2) years have elapsed.

- (h) The appointing authority or a public servant who has the power to decide or influence the appointment, promotion, remuneration or hiring of their relative. It is considered that a public servant has the power to decide or influence when it is provided by law, regulation, job description, or designation. However, this prohibition does not apply in cases when, based on the discretion of the Executive Directorate, exceptional circumstances have been

evaluated before the appointing authority or the public servant with the power to decide or influence exercises such power.

Additionally, this prohibition does not apply in the following cases:

- (1) Career positions where the principle of merit is adhered to.
- (2) Promotions, transfers, or personnel transactions required by law.
- (3) General revisions of a classification plan.
- (4) Receipt of program benefits.
- (5) Public auctions that meet all the legal requirements.
- (6) Participation in summer programs.
- (7) Receipt of services or incentives granted under the criteria of a state, federal, or municipal program.

However, it is important to note that under the aforementioned exceptions, the general rules must be complied with, and the appointment authority or public servant with the power to decide or influence should not intervene and should certify their abstention through a formal process.

- (i) A public servant is prohibited from using, on the movable or real property of the Local Area, any symbol, slogan, image, photograph, pin, logo, sticker, decal, sign, insignia, technological application, written message or any other distinctive element that directly or indirectly identifies or promotes the electoral interests of any political party or candidate.
- (g) Furthermore, while performing their duties, a public servant is not allowed to use any symbol, slogan, image, photograph, pin, logo, sticker, decal, sign, insignia, technological application, written message or other distinctive on their person, property or any other property under their custody that directly or indirectly identifies or promotes the electoral interests of any political party or candidate.
- (k) While carrying out their official duties, a public servant is prohibited from organizing or endorsing activities that directly or indirectly promote the electoral interests of any political party or candidate.
- (l) A public servant is not allowed to make financial contributions or allocate their time to conduct or participate in any political activity while performing their duties.
- (m) It is prohibited for a public servant, while in the performance of their duties, to demand or request financial contributions or time commitments from other public servants for engaging in or participating in political activities.

- (n) A public servant is prohibited from soliciting or accepting, either directly or through a private individual or business, any benefit from a contractor or entity regulated by their agency for the purpose of supporting a political activity.
- (o) A public servant may not usurp a position or assignment for which they have not been appointed or designated, nor may they exercise it without possessing the required qualifications.
- (p) A public servant may not stubbornly perform the functions of their office or assignment after their term has expired or after receiving an official communication ordering the termination or suspension of their functions.
- (q) A public servant may not alter, destroy, mutilate, remove or conceal, in whole or in part, public property in their custody.
- (r) A public servant, authorized by law to issue certifications and other documents, may not issue as true a certification or a document containing statements that they know to be false.
- (s) A public servant may not omit to perform a duty imposed by law or regulation, if doing so would result in the loss of public funds or damage to public property.
- (t) A public servant may not carry out an action that casts doubt on the impartiality and integrity of the governmental function.

Article 4 - Prohibitions related to other employment, contracts, or businesses.

- (a) A public servant may not accept or maintain additional employment, contracts, or business relationships that, although legally permissible, undermine their independence, and impartiality in the performance of their official duties.
- (b) A public servant may not accept or maintain employment or contractual relations that results in an undue advantage with a private person or business regulated by, or having contractual, commercial, or financial relations with the agency where the public servant works, if they have the power to decide or influence official actions related to that private person or business.
- (c) A public servant who has the authority to contract or approve/recommend contract awards on behalf of their agency may not intervene or participate in the execution of a contract with a private person or business in which they, a member of their family unit, their relative, their partner or a person who shares their residence has or had a direct or indirect financial interest within the last two (2) years prior to their appointment.

If one of the aforementioned relationships ended within the two years before the public servant's appointment, they may not participate or otherwise intervene in the execution of the contract until two (2) years after their appointment.

The prohibition remains in force as long as there is a beneficial relationship for the public servant. Once the beneficial relationship has ended, the public servant may not intervene or participate in the referred contract until two (2) years have elapsed.

- (d) The appointing authority is prohibited from entering into a contract with a public servant of the LWDA or with a member of their family unit, relative, partner or person sharing their residence who has or had, directly or indirectly, a financial interest during the last two (2) years prior to their appointment. However, this prohibition does not apply when, at the discretion of the Executive Directorate, exceptional circumstances have been evaluated prior to the appointing authority entering into the contract.

This prohibition also does not apply to the receipt of program benefits; public auctions that meet all legal requirements, participation in summer programs, or the receipt of services or incentives granted under the criteria of a state, federal or municipal program. Provided, however, that under the foregoing exceptions, the eligibility rules of general application are complied with.

- (e) It is prohibited for a public servant to approve or authorize a contract with a private person or business when they have knowledge that it involves cases or matters that create a conflict of interest between the contracting agency and the private interests represented by that private person or business. To address this, a clause must be included in the contract requiring the private person or business to certify that they are not involved in a conflict of interest.

Article 5 - Prohibitions relating to the representation of private interests conflicting with official duties.

- (a) A public servant may not represent, directly or indirectly, a private person or business, in connection with an official action, if he, a member of his family unit, his relative, his partner or a person sharing his residence has participated, participates or is likely to participate in the disposition of that official action. This prohibition does not apply when the public servant's participation is required by law.
- (b) A public servant may not represent a private person or business before an agency, in connection with any official action, if the appointing authority of that agency is their relative, a member of their family unit, their partner or a person who shares their residence.
- (c) A public servant may not, in their private capacity, represent or provide advice, directly or indirectly, to a private person or business before any agency, in cases or matters involving

a conflict of interest or public policy between the Government and the interests of such private person or business.

- (d) A full-time public servant may not, during working hours, represent, provide advice to, or serve as an expert witness for a private person or business in litigation, public hearings or any case or matter before a court of law, quasi-judicial body, or agency.

Article 6 - Duty to report situations of possible unethical actions or conflicts of interest.

Any public servant who is required to take any official action contrary to the prohibitions set forth in Articles 3, 4 and 5 of this Policy must report the situation to the Government Ethics Office prior to taking the action. In their statement, the public servant may request to be relieved from intervening in the matter or participating in agency deliberations related to the official action.

The public servant is also required to provide a copy of the report filed with the Office of Government Ethics to the appointing authority of their agency.

Upon evaluating the situation, the Government Ethics Office will notify both the public servant and the appointing authority whether a conflict of interest exists. If a conflict of interest is identified, the public servant must be disqualified from participating in the matter.

Article 7 - The duty of every public servant.

It is a fundamental principle in all government management that no public servant, while performing their official duties, should engage, either directly or indirectly, in any matter in which they have a personal or economic interest. This principle also applies when a member of their family unit, relative, partner, or someone sharing their residence has an interest in the matter. In this regard, Article 4.2 (g) of the Government Ethics Law provides that:

"A public servant may not intervene, directly or indirectly, in any matter in which he has a conflict of interest that results in obtaining a benefit for him. Nor may a public servant intervene, directly or indirectly, in any matter in which a member of his family unit, his relative, his partner or a person who shares his residence has a conflict of interest that results in obtaining a benefit for any of them.

In the case of one of the aforementioned relationships, which has ended during the two years prior to the appointment of the public servant, they may not intervene, directly or indirectly, in any matter related to them until two years after their appointment.

The prohibition remains in force as long as there is a beneficial relationship for the public servant. Once the beneficial relationship ends, the public servant may not intervene, directly or indirectly, in the referred matter until two years have elapsed".

Article 8 - Disqualification mechanism.

The Office of Government Ethics has consistently emphasized that when a conflict of interest arises, it is the duty of the public servant to disqualify themselves from participating in the matter that gives rise to the conflict of interest. The purpose of the disqualification mechanism is to prevent a public servant, as well as their family unit, relatives, partners, or personas sharing their residence, from being involved in matters where a conflict of interest exists. This mechanism is crucial in maintaining public confidence in the integrity and honesty of government institutions.

The disqualification mechanism is appropriate in cases where the official action in question is isolated and sporadic, rather than in situations that are constant, repetitive, or ongoing. Furthermore, it may not be advisable to rely on disqualification when the situation is of such significance that it could undermine the essence of the action to be taken.

In harmony with the above, Article 6 contemplates the duty of all public servants to report any situation that represents a possible unethical action or conflict of interest. It states that:

"Any public servant who has to take any official action contrary to the prohibitions set forth in Articles 3, 4 and 5 of this Policy must report the situation to the Government Ethics Office, prior to taking the action. In their statement, the public servant may request to be relieved from intervening in the matter or participating in agency deliberations that are related to the official action.

The public servant shall provide their agency's appointing authority with a copy of the statement they file with the Office of Government Ethics. Once the situation has been evaluated, the Office of Government Ethics shall notify the public servant and the appointing authority that a conflict of interest does not exist, or that, if it does exist, the mechanism of disqualification is available."

Pursuant to the foregoing, all public servants must follow the following steps for the proper handling of the disqualification mechanism:

1. Draft an official document, addressed to the appointing authority of the agency, in which they state their disqualification in any matter that generates a conflict of interest.

a. It must specifically include clauses to express that, as part of their official duties, they shall not be present at meetings in which matters related to the natural or legal person or situation that represents the conflict of interest are discussed.

b. In addition, when a public servant disqualifies themselves from participating in a meeting due to a conflict of interest, they should clearly specify in the disqualification document that if a matter giving rise to the conflict of interest arises during the meeting, they will excuse themselves from the discussion and leave the meeting until the deliberations and determinations

on that matter are concluded. It is important to note that their presence should not be considered for the purpose of establishing a quorum for voting on the conflicted matter.

The minutes of the meeting should accurately record the public servant's absence, the reasons for their absence, the execution of the waiver, and the agency's determination on the matter being voted upon. By documenting these details, the agency ensures transparency and accountability in handling conflicts of interests, as well as maintaining a clear record of the decision-making process related to the conflicted matter.

c. In the document of disqualification, it should be clearly stated that the public servant will not rejoin the meeting until the discussion on the matters related to the individual or entity, or the matter causing the conflict of interest, has concluded.

d. Furthermore, the document should specify that the public servant will refrain from advising or counseling, whether officially or unofficially, directly or indirectly, their agency on any aspect related to the aforementioned individual, entity or matter that gives raise to the conflict of interest.

e. All the above must be stated in the Deed of Disqualification submitted to our Office.

2. The public servant must send the original document of disqualification to our Office and submit a copy to their appointing authority.

3. It is important to note that the public servant is not prohibited from participating in the discussion and evaluation of other matters. However, if a situation arises during the evaluation of other matters where the public servant may have a conflict of interest, they shall promptly register their disqualification, as indicated in the previous steps.

Article 9 - Applicability of Policy.

This public policy governs the conduct of case managers and program monitoring officers of the Guaynabo-Toa Baja Local Area program. It is subject to amendment in accordance with any new guidelines provided by federal WIOA law.

Article 10 - Effectiveness.

Revised on April 27, 2017, this public policy is effective immediately.