



Personnel and Administrative Policy and Procedure

SUBJECT: Conflicts of Interest	EFFECTIVE DATE: July 1, 2003 REVIEWED: May 2011 REVISED:
CATEGORY: 200 POLICY NUMBER: 200.10	CROSS REFERENCE:

Purpose: To ensure public officials are able to protect themselves from violations of the Oregon Government Standards and Practices Commission (OGSPC) laws in ORS Chapter 244 relating to conflicts of interest.

Definitions

Conflict of Interest: Taking official action that may result in financial benefit or avoiding a negative financial effect on the public official, the official's relative, or a business with which the official or the official's relative is associated. There are two types of conflicts of interest – actual and potential.

- An actual conflict occurs when such action would **definitely** affect the financial interests of the public official, or the official's relative, or associated business
- A potential conflict **could** affect the financial interests of the public official, or the official's relative, or associated business.

Public Official: Any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body of the state as an officer, employee, agent or otherwise, and irrespective of whether the person is compensated for such services. (ORS 244.020(15))

Relative: The spouse, parents, children, brothers and sisters of either the public official or the officials' spouse.

Member of a household: Any relative who resides with the public official.

Objective: To ensure the integrity of decisions made while public officials are acting in their official capacities.

Scope: This policy applies to all elected city officials, employees, agents, and volunteer members of appointed advisory boards.

Policy: Certain decisions before public officials may, or will, result in financial benefit for themselves, their relatives, or business with which they or their relatives are associated. The public official should ask certain questions before taking an official action – could my making this decision in an official capacity result in an actual or potential conflict of interest?

A potential conflict exists when an official is faced with acting, deciding, or recommending an action that could result in a financial benefit or detriment. For example, a Councilor acts as an independent

contractor for a company that comes before the Council for a bid award. The Council decision could result in a financial benefit to the public official; however, the result of the action is not certain.

An actual conflict of interest occurs when the action is reasonably certain to result in a financial benefit or detriment. It will occur when an action is taken that directly and specifically affects land, a business, or any other financial interest of the public official or public official's relative. For example, a Councilor is a principal of an architectural firm that staff is recommending for a new public project in the city. The Councilor's decision will certainly have the effect of a financial benefit to his company.

When faced with the likelihood that an action will result in a conflict of interest, either potential or actual, the public official must make a public declaration prior to the discussion, recommendation, vote, or other official action on an issue. The official must explain the nature of the conflict, and all must be duly noted in the meeting minutes. If the conflict is potential, an official may participate in the action once the announcement has been made.

In the case of an actual conflict of interest, the official must declare the actual conflict and the reasoning behind it and refrain from taking any official action on the issue. The public official must make the same public declaration at each meeting the issue is considered if it is not decided at one session. One announcement at each meeting is sufficient even if the issue involves a series of votes.

Appointed officials, including public employees, must disclose actual or potential conflicts of interest in writing to the person who appointed them and ask that person to handle the issue. The appointing authority may designate another person to be responsible or may give the appointed official specific instructions on resolving the issue.

Responsibilities

Public officials are responsible for weighing the decision before them prior to taking official action to determine if there is any financial benefit or detriment as a result. The public official must not only take him/herself into consideration but, their relatives, or a business with which the official or the official's relative is associated. The public official is responsible for publicly declaring any potential or actual conflicts of interest, so they may be duly noted in the minutes of the proceedings.

The person designated to take public meeting minutes is responsible for accurately reflecting any stated conflicts of interest in the official record as well as detail the outcome of any vote. The minutes will verify that the appropriate declaration was made in the event an action is questioned.

Oregon Government Standards and Practices Commission (GSPC) is responsible for assisting public officials in determining whether or not an action is a potential or actual conflict of interest. The GSPC is also responsible for investigating any complaints related to conflicts of interest and are authorized to impose civil penalties.

General: The law has identified certain exemptions. If the public official's action would affect other members of a large class of people as it would him/her, no conflict exists. Some committees may have a position for which being a business owner, for example, is a requirement for membership. In this case, a decision made that affects business owners as a class does not constitute a conflict of interest.

The GSPC periodically updates its publication, *Guide for Public Officials*, and it is wise to remain informed of any changes or opinions the Committee may make.