

Tompkins County Industrial Development Agency

Administration provided by Ithaca Area Economic Development

**Governance Committee
Meeting Agenda
December 1, 2022 – 2:30 PM
IAED Office
119 E. Seneca Street, Suite 200
Ithaca NY**

LIVE STREAM LINK: <https://tinyurl.com/weo3tkk>

1. Code of Ethics and Conflict of Interest Policy for TCIDA
2. Authority Budget Office (ABO) Guidance Checklist
3. October 25, 2022 committee minutes

**TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY
CODE OF ETHICS AND CONFLICT OF INTEREST POLICY**

The members of the board (the “Board”) of Tompkins County Industrial Development Agency (the “Agency”), a duly established public benefit corporation of the State of New York (the “State”), along with the officers and staff of the Agency, shall comply with and adhere to the provisions of this Code of Ethics (“Code”) adopted pursuant to and in accordance Section 2824 of the Public Authorities Law and Article 18 of the General Municipal Law of the State.

**ARTICLE I
CONFLICTS OF INTEREST**

A conflict of interest is a situation in which the financial, familial, or personal interests of a director, officer or employee come into “actual” or “perceived” conflict with their duties and responsibilities with the Agency. “Perceived” conflicts of interest are situations where there is the appearance that a director, officer or employee can personally benefit from actions or decisions made in their official capacity, or where a director, officer or employee may be influenced to act in a manner that does not represent the best interests of the Agency. The perception of a conflict may occur if circumstances would suggest to a reasonable person that a director, officer or employee may have a conflict. “Actual” conflicts of interest are situations where a director, officer or employee can personally benefit from actions or decisions made in their official capacity, or where a director, officer or employee is influenced to act in a manner that does not represent the best interests of the Agency. Perceived and Actual conflicts of interest should be treated in the same manner for purposes of disclosure under Article IV herein.

**ARTICLE II
STANDARDS OF CONDUCT**

Each director, officer, and employee of the Agency shall: (1) not accept other employment which will impair his or her independence of judgment in the exercise of his or her official duties; (2) not accept employment or engage in any business or professional activity which will require him or her to disclose confidential information which he or she has gained by reason of his or her official position of authority; (3) not disclose confidential information acquired by him or her in the course of his or her official duties nor use such information to further his or her personal interests; (4) not use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself, herself or others; (5) not engage in any transaction as a representative or agent of Agency with any business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with proper discharge of his or her official duties; (6) not, by his or her conduct, give reasonable basis for the impression that any person can improperly influence him or her or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by the kinship, rank, position or influence of any party or person; (7) abstain from making personal investments in enterprises which he or she has reason to believe may be directly involved in decisions to be made by him or her or which will otherwise create substantial conflict between his or her duty in the public interest and his or her private

interest; and (8) endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.

ARTICLE III GIFTS

Pursuant to and in accordance with Section 805-a of the General Municipal Law, no director, officer or employee of the Agency shall directly or indirectly, solicit any gift, or accept or receive any gift having a value of seventy-five dollars or more under circumstances in which it could reasonably be inferred that the gift was intended to influence such individual, or could reasonably be expected to influence such individual, in the performance of the individual's official duties or was intended as a reward for any official action on the individual's part. Inferences that gifts having a value of less than seventy-five dollars can influence or reward directors, officers or employees of the Agency is deemed to be unreasonable.

ARTICLE IV PROCEDURES FOR DISCLOSURE

All directors, officers or employees of the Agency shall adhere to the following procedures:

1. All Actual and Perceived conflicts of interest shall be disclosed in writing to the Ethics Officer as soon as practicable after learning of the Actual or Perceived conflict of interest. The written disclosure must (i) identify the matter before the Agency, (ii) identify the Standard of Conduct in question and (iii) contain sufficient facts and circumstances in order to accurately convey the extent of the director's, officer's or employee's interest in such matter. In addition, in the event a director on the board of the Agency has a conflict, he or she shall verbally disclose the conflict during a public session of a board meeting at which the matter creating the conflict appears on the agenda. Such verbal disclosure shall be recorded in the minutes of the meeting and be made part of the public record.

2. The director, officer or employee with the conflict of interest shall refrain from participating in discussions or decisions on the matter creating the conflict. In addition, in the event a director on the board of the Agency has a conflict, he or she shall recuse him or herself from any deliberations and abstain from voting on such matter creating the conflict.

3. The director, officer or employee with the conflict of interest shall refrain from directly or indirectly attempting to influence the discussions, decisions, deliberations or vote on the matter giving rise to such conflict.

ARTICLE V PROHIBITED CONFLICTS OF INTEREST

General Municipal Law ("GML") Article 18 regulates financial conflicts of interest of directors, officers and employees of the Agency. Therefore, notwithstanding any other provision contained in this Policy, financial conflicts of interest shall be governed solely by this Article V.

Prohibition: No director, officer or employee shall have a direct or indirect financial interest in a contract with the Agency where such director, officer or employee has some form of control over the contract (“Prohibited Interest”).

No Cure: Disclosure and recusal will not cure a Prohibited Interest. In order to avoid a violation of a “Prohibited Interest” the contract may not be acted upon or the director, officer or employee would have to resign.

Violations: Any director, officer or employee who is determined to have “willfully and knowingly” violated the Prohibited Interest provisions of Article 18 of the GML may be found guilty of a misdemeanor. In addition, the contract, if willfully entered into, may be determined “null, void and wholly unenforceable”/

Exceptions: Article 18 of the GML provides fifteen exceptions to the Prohibited Interest provision. One of the more commonly claimed exceptions comes into play when the director, officer or employees (“officials”) interest in the contract is prohibited solely by reason of the official’s employment with the entity that has the contract with the Agency. This exception applies provided: (a) the official’s compensation from the private employer is not contingent upon the contract between the employer and the Agency and (b) the official’s duties for the private employer do not directly involve the procurement, preparation or performance of any part of the contract. [Note: This exception does not cover an Agency official who is a director, partner, member, or shareholder of the private employer.] The second most commonly claimed exception is where the official has an interest in a contract that was entered into with the Agency prior to the time the official was elected or appointed as such director, officer or employee of the Agency. Provided, however, this exception does not authorize the renewal of any such contract.

Disclosure of Exception: Disclosure of Interest that falls within one of the Exceptions: The official is required to publicly disclose the nature and extent of his or her prospective, existing or subsequently acquired in any actual or proposed contract. This disclosure must be made in writing and must be placed, in its entirety, in the official record. The official must recuse him or herself from participating in any discussion or action on the contract.

Notification of Potential Conflict due to a Financial Interest: Every director, officer or employee shall immediately notify the Agency’s Ethics Officer of any potential conflict of interest due to a direct or indirect financial interest in any matter coming before the Agency where such director, officer or employee has the power or duty to negotiate, prepare, authorize or approve the matter before the Agency. The Ethics Officer shall review the potential financial conflict of interest pursuant to the provisions of Article 18 of the GML in consultation with Agency counsel.

ARTICLE VI PENALTIES

Any employee that fails to comply with this Policy may be subject to termination. In addition, any director, officer or employee that fails to comply with this Policy may be penalized in a manner provided for in law.

**ARTICLE VII
ETHICS OFFICER**

The Agency's Board shall designate an officer, director or employee of the Agency to serve as the Ethics Officer of the Agency. In the event of a vacancy, the Agency Administrative Director shall serve as the Ethics Officer until such time as the Agency Board appoints a successor.

The Ethics Officer shall report to the Governance Committee. The Ethics Officer shall have the powers and duties set forth below, and such other powers and duties as may be prescribed by the Board:

1. Advise in confidence each director, officer or employee of the Agency who seeks guidance regarding ethical behavior.
2. Receive and record disclosures of conflicts of interest in the record of the Agency.
3. Receive and investigate complaints about possible violations of this Code of Ethics. Dismiss complaints found to be without substance.
4. Prepare investigative reports of his or her findings to be submitted for action by the Board.
5. Seek consultation and guidance from Agency Counsel.

**ARTICLE VIII
WHISTLEBLOWER POLICY**

In accordance with Title 12 of Article 9 of the Public Authorities Law, the Agency adopted a Whistleblower Policy to afford certain protections to individuals who, in good faith, report violations of the Agency's Code of Ethics or other instances of potential wrongdoing within the Agency. This Policy provides Agency directors, officers, and employees with a confidential means to report credible allegations of misconduct, wrongdoing, or unethical behavior and to protect those individuals, when acting in good faith, from personal or professional retaliation. The Whistleblower Policy is available to all directors, officers, and employees of the Agency.

Approved and adopted this ____ day of _____, 2022.

Requirements – ABO Policy Guidance	Tompkins
Annual Reports	
Report on Operations and Accomplishments	X
Financial Reports	X
Authority Mission Statement & Performance Measurement Report	X
Schedule of Debt	Included in Financial Report
Personal and Real Property Transactions	Does not have any real property
Authority Code of Ethics	X
Management’s Assessment of the Authority’s Internal Control Structure & Procedures	X
Enabling Statute	X
List of Authority Board Members & Exec Team	X
List of Committees, Committee Members, & Committee Meetings	X
Board Meetings	X
Board Meetings – Video Recordings	X Click on link
Authority By-laws	X
Subsidiaries, Affiliates & Major Authority Units	X
Authority Organization Chart	X
List of Projects	X
Budget Report	
Annual Budget Report	X
Independent Audit and Audit Reports	
Certified Financial Audit	X
Part 250.1 of Title 19 NYCRR – Applicable to IDAs only	
Blank Standard Application Form	X
Uniform Tax Exemption Policy	X
Uniform Evaluation & Selection Policy	X
All Approved Applications	X
Policies for the Suspension, Discontinuance or Modification of Financial Assistance	Contained in recapture policy
Policies for the Return of All or Part of the Financial Assistance Provided for the Project	Contained in recapture policy
Annual Compliance Report Regarding State Sales Tax Recapture	X
List of Active Projects	X

An Assessment of the Progress of Each Active Project	X
Chapter 109 of the Laws of 2020 – Section 858 of GML – Applicable to IDAs only	
Grants Provided by the Authority	X
Loans Provided by the Authority	N/A
Other Documents to be Posted on Website	
Procurement Policies and Annual Procurement Report	X
Investment Policies and Annual Investment Report	X
Conflict of Interest Policy	X Needs Updating
Whistleblower Policy	X
Fee Schedules (if applicable)	Included in Preamble and UTEP

Tompkins County

Industrial Development Agency

Administration provided by Ithaca Area Economic Development

Governance Committee Meeting Minutes
October 25, 2022 1:30 PM
IAED Offices
119 E. Seneca Street, Suite 200
Ithaca NY

Members present: Faith Vavra, Mike Sigler (via zoom)

Members excused: Rich John

Staff present: Heather McDaniel, Ina Arthur (IAED), Russ Gaenzle (Harris Beach via zoom)

Heather McDaniel reviewed the public meeting video conference policy for both the TCIDA and TCDC. These policies allow board members to attend meetings remotely (via video conference) when there are extraordinary circumstances. If a board member attends via video conference in a public location that has been identified and that is open to the public, that member may count towards quorum and may vote. If a board member attends via video conference in a private location that is not open to the public, that member will not count towards quorum but may vote.

Faith Varva asked for clarification on the public location. If the public can be accommodated at the public location (such as a conference room at City Hall), then the member may count towards quorum and may vote.

The policy also outlines that the entity administrator and board chair must make the determination if extraordinary circumstance criteria are met and then notice must be posted on the entities website of the member attending via video conference and the location as soon as possible.

It was the sense of the committee members present that these policies should be recommended for approval to the TCIDA and TCDC boards.

Heather McDaniel reported that the IDA's policies are being reviewed by Bob Ryan of Harris Beach.

Heather McDaniel also updated the committee that the IDA's Enhanced Energy Incentive Policy will be updated soon. The policy was designed to be tied to the City of Ithaca's energy code and to incentivize a higher level of energy savings than the code. The language and dates need to be adjusted as the City's final energy code was delayed by COVID and the IDA's policy is out of sync.

The meeting was adjourned at 2:00 pm.