

**U.S. GREEN BUILDING COUNCIL**  
**CONFLICT OF INTEREST POLICY**

**Article I**

**Purpose**

The purpose of this Conflict of Interest Policy is to protect the U.S. Green Building Council's ("USGBC") interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an "Interested Person" (defined below) or might result in a possible excess benefit transaction. This policy is intended to supplement, but not replace, any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.

**Article II**

**Definitions**

**1. Interested Person**

Any director, corporate officer, member of a committee, panel, task force or other decision-making body convened by the USGBC (the "DMB") or other person serving in a leadership capacity, who has a direct or indirect financial interest, as defined below, is an "interested person."

**2. Financial Interest**

A person has a "financial interest" if the person has, directly or indirectly, through business, investment, or immediate family:

- A. An ownership or investment interest in any entity with which the USGBC has an existing or proposed transaction or arrangement,
- B. A compensation arrangement with the USGBC or with any entity or individual with which the USGBC has an existing or proposed transaction or arrangement, or
- C. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the USGBC is negotiating a transaction or arrangement.

"Compensation" includes direct and indirect remuneration as well as gifts or favors that are not insubstantial. Relationships and dealings of USGBC with corporations, partnerships, joint ventures, or other entities owned, controlled, or managed by USGBC shall not constitute Financial Interests under this definition. "Immediate family" shall mean the biological, foster or adoptive parent, a stepparent, spouse, biological, adoptive or foster child, a legal ward, biological adoptive or step sibling, grandparents, grandchildren of the Interested Person or their spouse.

A financial interest is not necessarily a conflict of interest. Under Article III, Section 2, a person who has a financial interest may have a conflict of interest only if the appropriate governing board or committee decides that a conflict of interest exists.

## Article III

### Procedures

#### 1. Duty to Disclose and Abstain

In connection with any actual or possible conflict of interest, an Interested Person must promptly, fully, and frankly disclose the existence of the financial interest and disclose all relevant and material facts known to the Interested Person to the directors and members of the DMB considering the proposed transaction or arrangement.

After an Interested Person discloses a conflict, she/he must abstain from making motions, voting, executing agreements or taking any other similar direct action of USGBC on matters which directly or predominantly involve the matter of conflict.

#### 2. Request for Review of Conflict of Interest

If, after disclosing a conflict, an Interested Person believes that she/he should be able to continue making motions, voting, executing agreements or taking any other similar direct action on behalf of USGBC on matters which predominantly involve the matter of conflict, without undermining the best interests of USGBC, the interested person may submit a written request to the Executive Committee of the Board of Directors to permit such conduct. By and large, such conduct will not be permitted, and it would only be under unusual circumstances that consent would be granted.

The Executive Committee shall examine written requests of interested persons who wish to continue making motions, voting, executing agreements or taking any other similar direct action on behalf of USGBC on matters which predominantly involve a matter of conflict pursuant to the following standards and procedures.

- A. The Executive Committee shall determine, by majority vote of its disinterested members, whether the disclosure shows that a conflict of interests exists, or can reasonably be construed to exist.
- B. The Executive Committee may request the person to provide additional factual information regarding the potential or actual conflict of interests and such proposed contract, transaction, or arrangement.
- C. If deemed appropriate, the Executive Committee may appoint a non-interested person or committee or subcommittee, respectively, to investigate whether it would be appropriate for the interested person to continue to make motions, voting, executing agreements or taking any other similar direct action on behalf of USGBC on the matter in light of all available information.
- D. The Executive Committee, in order to allow an interested person to continue to make motions, voting, executing agreements or taking any other similar direct action on behalf of USGBC on matters which predominantly involve the matter of conflict must first find, by majority vote of disinterested members:

- a. the Interested Person's continued direct action on behalf of USGBC on such matter will not result in a proposed contract, transaction, or arrangement which is not in USGBC's best interest and for its own benefit; and
  - b. the proposed contract, transaction, or arrangement is fair and reasonable to USGBC.
- E. The minutes of the meeting of the Executive Committee shall reflect the disclosure made, the persons present for the discussion and vote, the content of the discussion, the vote thereon (including any roll call), and, where applicable, the abstention from voting and participation. USGBC shall keep minutes of the discussions and deliberations as part of the minutes of USGBC.

### **3. Procedures for Addressing the Conflict of Interest**

While an Interested Person may not make motions, vote, execute agreements or take any other similar direct action on behalf of USGBC unless the Executive Committee reviews and approves of such action pursuant to Section 2 above, an Interested Person may still participate in the work of the DMB. Moreover, USGBC may still enter into transactions in which a conflict of interest exists pursuant to the following procedures:

- A. An Interested Person may make a presentation to the DMB regarding the transaction, but after the presentation, if directed by the Chair of the DMB, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.
- B. The chair of the DMB shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
- C. After exercising due diligence, the DMB shall determine whether USGBC can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.
- D. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the DMB shall determine by a majority vote of the disinterested members of the DMB whether the transaction or arrangement is in USGBC's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination it shall make its decision as to whether to enter into the transaction or arrangement.

- E. Documentation that the cost or payment associated with such transaction or arrangement reflects the normal range of arms-length costs for comparable services shall be obtained and retained in the records of the USGBC.

#### **4. Violations of the Conflicts of Interest Policy**

- a. If a DMB has reasonable cause to believe an Interested Person has failed to disclose actual or possible conflicts of interest, it shall inform the Interested Person of the basis for such belief and afford them an opportunity to explain the alleged failure to disclose.
- b. If, after hearing the individual's response there is any question or if there is a likelihood that actions have been taken without proper declaration of a conflict of interest, the matter shall be referred to the Ethics Panel.

### **Article IV**

#### **Records of Proceedings**

The minutes of each board meeting or DMB meeting shall contain:

- a. The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest.
- b. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes and abstentions taken in connection with the proceedings.

### **Article V**

#### **Compensation**

A voting member of the Board who receives compensation, directly or indirectly, from the USGBC for services is precluded from voting on matters pertaining to that member's compensation.

A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the USGBC for services is precluded from voting on matters pertaining to that member's compensation.

No voting member of the governing board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the USGBC, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

## **Article VI**

### **Annual Statements**

Each director, corporate officer and member of a DMB shall annually sign a statement which affirms such person:

- a. Has received a copy of the conflict of interest policy,
- b. Has read and understands the policy,
- c. Has agreed to comply with the policy, and
- d. Understands USGBC is charitable and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

Any Interested Person will also make a full and frank disclosure of his or her interest along with the annual statement.

## **Article VII**

### **Periodic Reviews**

To better ensure that the USGBC operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- a. Whether compensation arrangements and benefits are reasonable, based on competent survey information and the result of arm's length bargaining.
- b. Whether partnerships, joint ventures, and arrangements with management organizations conform to USGBC's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit or in an excess benefit transaction.

## **Article VIII**

### **Use of Outside Experts**

When conducting the periodic reviews as provided for in Article VII, USGBC may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the governing board of its responsibility for ensuring periodic reviews are conducted.

**Approved by the Board of Directors: November 17, 2008**

(date)