What are Conflicts of Interest?

- Conflicts of interest arise when officials or staff stand to benefit--either directly or indirectly through business partners or relatives--from the awarding or contracting of grant funds.

- In general, conflicts occur when private interest and public duties overlap, causing a real or perceived lack of impartiality.

- Problem arises when conflict issues are overlooked or hidden.

- When conflicts arise: Identify, disclose, and manage them.
Procurement of Goods & Services

- Must comply with 2 CFR 200.318.
- Employee or officer of agency cannot participate in the contract process if they, their immediate family, partner (or an organization employing or about to employ them) has a financial interest or benefit in the vendor.
- Employee or officer cannot solicit or accept gratuities, favors, or anything of monetary value from contractors or subcontractors.
- Agencies must maintain written standards of conduct, including disciplinary actions for violations.
Employees cannot benefit from program

- Employees of your agency (who are involved in HUD funded activities or may participate in decision-making processes or gain inside information about the activities) **cannot** benefit from such funded activity or have a financial interest in a contract or proceeds regarding the activity.
  - Nor for one year following the employment

- Exceptions
- Need to think about policies
Nonprofit Law: OCGA 14-3-860 et seq.

- Board Director conflicting interest: Director or relative is a party to the transaction, or benefits from it, or it is so closely linked and of such financial significance that it would reasonably be expected to exert an influence on the director’s judgment.
  - Included: (1) a business where the director is a director, partner, agent or employee; (2) a person or connected business who controls the business where the director is a director, partner, agent or employee; or (3) an individual who is a general partner, principal or employer of the director.

- Officer conflicting interest: A transaction between a corporation and an officer or his/her relative. Exception: Transaction approved by board or members after required disclosure.
CoC-specific

- 578.95
  - No CoC board member may participate in or influence discussions or decisions concerning the award of a grant or other financial benefits to the organization that the member represents.
  - Organizational conflict = Agency or employee is unable to be impartial in the provision of assistance due to activities/relationships with other persons or organizations (ex: employee owns or benefits from property that is receiving rental assistance).
What should you do?

- Develop policy
- Train employees annually
- Appoint someone to head up conflict-of-interest
- Board and leadership create a culture of compliance and honesty – encourage disclosure by have a well-defined process for reporting possible conflicts & ask for guidance without fear of retaliation
Questions

- Any Questions?
EQUAL ACCESS
Equal Access Rule

- Feb 2012: Equal Access Rule published
- Oct 2016: Gender Identity Rule published

- Addresses how transgender and non-conforming individuals should be accommodated in shelters
Inclusive Language

- **Gender Identity**
  - Internal or innate sense of being male, female or other gender
  - May or may not match their assigned sex at birth
  - May not be visible based on outward appearance
  - Staff should always refer to participants and residents by the name and pronoun that match their gender identity

- **Gender Expression**
  - External expression of gender identity (note that many times people do not feel they can safely express their gender identity)
  - Exhibited through: behavior, clothing, hairstyle, body language and voice
  - Does not always correspond with gender identity
  - May change over time
Inclusive Language

- **Sexual Orientation**
  - Physical or emotional attraction to the same and/or opposite sex
  - Distinct from one’s gender expression or identity

- **Transgender**
  - Umbrella term for people whose gender identity is different from their assigned sex
  - Occasionally, an individual may determine they no longer identify as transgender after they transition

- **Gender Non-Confirming**
  - Someone who does not conform to traditional gender roles/stereotypes
Highlights of the Rule

- Housing is made available without regard to actual or perceived sexual orientation, gender identity or marital status
- Individuals are placed according to their gender identity
- There are no requirements to prove gender identity
- Providers must update policies and procedures
- Staff, contractor and volunteer training
Examples of Discrimination

- Management of housing projects or facilities failing to address complaints from LGBT individuals regarding harassment by other residents.
- Project staff revealing an individual’s status as transgender and requiring special procedures for households with a transgender person.
- Project staff excluding individuals based on family composition.
- Hanging up on a caller identifying as transgender.
- Shelter worker inquires about an individual’s anatomy.
- Enforcing project rules different from single-father households than for single-mother households.
- Refusing to enroll an individual because they will make other residents uncomfortable.
- Separate housing or conditions for transgender persons.
Inclusive Requirements

- Project must serve all individuals eligible for the project.
- If project is permitted to segregate services based on gender, must create policies that ensure housing and services to all eligible individuals identifying with that gender, including those whose gender identity does not match the sex assigned at birth.
  - Cannot ask questions or otherwise seek information or documentation about a person’s anatomy or medical history.
  - If client does not identify as either male or female, staff can explain that the shelter houses based on the two genders and ask the client to choose which one they most closely identify.
Families

- Facilities serving families cannot exclude families based on the gender of the head-of-household.
- Projects serving ANY families with children must serve ALL families with children.
- If you serve women with children, you must also serve men with children.
  - However, you can serve only families with minors and not childless adults.
Policies

- Anti-discrimination policy should incorporate gender identity, gender expression and sexual orientation as protected classes.

- Policy should reflect the agency’s obligation and commitment to maintain a healthy and safe environment for all occupants and respect individual privacy. Required:
  - Equal access provided in accordance with gender identity
  - Individuals are placed, served and accommodated in accordance with gender identity
  - No intrusive questioning allowed
  - Eligibility for programs is made without regard to actual or perceived sexual orientation, gender identity or marital status

- A list of unacceptable language and behavior

- Clear protocol to educate, discipline or expel anyone (staff, volunteer, and residents) who violates the rules
Make your policies consistent

- Policies must reflect your obligation and commitment to maintain a healthy and safe environment for all occupants and respect privacy.

- Anti-discrimination policy should incorporate gender identity, gender expression and sexual orientation as protected classes.

- Make sure your policies meet the following requirements:
  - Equal access provided in accordance with gender identity
  - Individuals placed, served & accommodated per gender identity
  - No intrusive questioning
  - Eligibility for programs is made without regard to actual or perceived sexual orientation, gender identity or marital status

- List of unacceptable language/behavior & clear protocol to educate, discipline or expel staff, volunteers, or residents who violate the rules.
How to increase privacy

- You must take steps to address privacy concerns.
- Facilities may consider:
  - Installing temporary or permanent curtains
  - Installing locks, doors or partitions to toilet stalls
  - Staggered shower times

- Other options for clients who feel vulnerable:
  - Offer a room, floor or bed that is in proximity to staff workstations or is otherwise set aside for residents with increased vulnerability.
  - Suggest an alternate project that provides comparable services. Refer.
  - Last strategy: hotel-motel voucher. But must be comparable (offered for the full period of time the person would have been eligible to stay at the project). Client must also still have access to services.
- Consider making single-use facilities all-gender
Conflict Strategies

- How to address and resolve conflicts that escalate between residents
  - Focus corrective actions on aggressors who violate project rules, not on the subject of their harassment. Conflict resolution should not involve expulsion of the victim.
  - Possible solutions: Require that the harassing resident stay away from the victim; Change sleeping arrangements without limiting the transgender individual’s freedom; Pursue other interventions that do not result in expulsion of the harassing resident.
  - Staff training should discuss multiple ways to address and resolve conflicts
Confidentiality

- Status as transgender
- Sex assigned at birth
- Medication

CPD programs impose strict confidentiality requirements to ensure the privacy of individuals that are housed (574.440; 576.500(x); 578.103(b) and (d)(2) and 578.23(c)(4)(i)).
Improving Practices

- Avoid gendered greetings such as “sir” and “ma’am”
- Ensuring forms allow optional transgender and gender non-conforming selections by clients
- Having a space on forms for people to indicate preferred name and pronouns
- Using inclusive language on signage in the project and publications
Questions

- Any Questions?
What is VAWA?

- Provides protections for victims of domestic violence, sexual assault, dating violence, stalking in federally assisted programs

- 2016: New VAWA Rules effective
  - Establishes and revises definitions
  - Notice requirements
  - Emergency Transfer Plan
VAWA applies to federal funding

- Balance of State CoC-funded projects **MUST** follow the Balance of State CoC VAWA Policies & Procedures:
  - Rapid Re-Housing (RRH)
  - Permanent Supportive Housing (PSH)

- ESG, HOPWA and other housing programs must adhere to the VAWA regulations and contractual requirements with their grantor.
Who is Protected by VAWA?

- Victims of domestic violence, sexual assault, dating violence, stalking who are
  - Applicants OR
  - Current program participants

- General Rule: An individual’s status as a victim is not an appropriate basis to deny assistance or terminate/evict.
  - Including: Cannot deny admission due to adverse factors that are a direct result of domestic violence, sexual assault, dating violence or stalking
  - Exception? If denial required by statute (ex subject to lifetime sex offender registration)
VAWA and Current Participants

- **CANNOT TERMINATE OR EVICT a VICTIM:**
  - Merely because the person is a victim; OR
  - For adverse factors resulting from the fact they are a victim; OR
  - For criminal activity *directly* relating to domestic violence, dating violence, sexual assault, or stalking — if (1) criminal activity committed by a household member or guest and (2) the victim is a tenant or guest; OR
  - For an actual or threatened DV incident (*cannot construe such incident as a serious or repeated lease violation nor as good cause to terminate*).

- **CAN STILL TERMINATE OR EVICT:**
  - For a violation not premised on a DV act; OR
  - Where there is an actual and imminent threat to other tenants or those employed or working at the property (**but have to show other efforts!**).
Verifying Victim Status

- If require written documentation to verify victim status, must make a written request to victim.
- Victim has the choice to submit:
  - Certification form (on HUD’s website)
  - Third party documentation (see 24 CFR 5.2007)
  - At property’s discretion, other evidence
- Property must accept certification form or third party documentation as defined in 24 CFR 5.2007
- Property cannot conduct further fact finding – example, conduct interviews with neighbors
Other Protections

- LEASE BIFURCATION — Landlord may split a lease to evict the perpetrator of the violence and continue to house remaining family members.

- EMERGENCY TRANSFERS — transfer to a safe unit (property must have a written Emergency Transfer Plan) See PIH 2017-05 for specifics.
  - The tenant asks to transfer; AND
  - The tenant believes there is risk of imminent harm; OR
  - The tenant or household member was victim on the premises within 90 days of the transfer request.

- NOTICE & CERTIFICATION FORMS — Must give HUD’s notice and certification forms to applicants and participants when: (1) assistance or admission is provided; (2) assistance or admission is denied; (3) through 12-15-17, at each annual recertification (to make sure all current participants have it); (4) eviction or termination.
Confidentiality and Access

- Provider must keep confidential any information about an individual’s status as a victim or documentation the victim provides
  - Can’t enter info about victim status into shared database
  - Confidential record keeping
  - Employees cannot have access to information unless explicitly authorized for reasons that specifically require the employee to access it under the law
  - Think through how you will communicate with the victim (ex: if the abuser lives with the victim)
  - Discuss personal information with victim in a private setting
Any Questions?

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