WBR’s Organizational Conflict of Interest Policy

Effective date:	November 2020
Approved by:	Dave Neiswander, CEO

Background

Certain US government regulations require entities that receive federal awards to address potential organizational conflicts of interests. An organizational conflict of interest (OCI) differs from an individual conflict of interest, which is addressed in WBR’s Conflicts of Interest Policy.

This standard operating procedure addresses WBR’s established process for addressing three types of OCI:

- Services conducted by WBR
- WBR-issued procurement contracts to affiliated entities
- WBR-issued subawards to affiliated entities

Guidance:

WBR is committed to identifying, avoiding, mitigating, and/or managing actual or perceived OCIs relating to its activities consistent with federal laws and regulations. Employees have a responsibility to comply with this Guidance. For the purposes of this Guidance, an OCI is defined as any relationship, interest, activity, commitment, or obligation that may adversely affect WBR’s ability to be impartial or to appear to be impartial in carrying out its responsibilities under Federal awards.

Services conducted by WBR

This type of OCI can exist when WBR assists the federal government in developing the specifications for a product or service and then competes for an award to provide that product or service. Employees may be invited to provide advice and technical assistance to a federal agency. If an employee is on a panel that provides input for a new Request for Applications “RFA”), under the OCI requirements, WBR must ensure that employee involvement does not give WBR an unfair advantage in subsequent submissions for the resulting RFA.

This type of OCI may exist in three basic categories:

Unequal Access to Information: This type of OCI arises when WBR gains an unfair competitive advantage because of an employee’s access to information not generally available to other parties competing for the same federal funding. For example, an employee may have had access to budgets, statements of work, or evaluation criteria in the proposal submission and award process

Impaired Objectivity: This type of OCI arises when an employee's work on a government award places WBR in a situation of evaluating itself or a related entity. For example, WBR's work under one government award could require it to evaluate its own activities. In this case, the concern is that WBR is unable to render impartial advice under a federal award.

Biased Ground Rules: This type of OCI arises when WBR provides consultation, advice or technical assistance relating to a federal funding opportunity and WBR then applies for that same funding opportunity.

In accordance with 2 CFR 200.112, WBR is required to disclose to the federal government any potential OCI. This disclosure may also include the steps that WBR proposes to take to address the OCI. To collect the information needed to make these mandated disclosures, WBR requires all employees annually to disclose any relationships, interests, commitments, or obligations relating to the Federal Government that may give rise to an OCI. Employees will be asked to disclose every January to the director of finance any conflicts of interest that would affect any award using the Organizational Conflict of Interest Form. This will apply to any, procurement, or subaward regardless of the amount of funding.

WBR-issued procurement contracts to affiliated entities

WBR generates social enterprise sales from its wholly owned, Mauritius-based, for-profit subsidiary, Buffalo Bicycles Limited (BBL). BBL operates retail locations that sell bicycles and related services. As part of its programmatic activities, WBR exclusively purchases bicycles from BBL for distribution to program beneficiaries. The bicycles sold by BBL are designed and manufactured to be suitable for the terrain and to carry up to 100kg. After-sale support is available from BBL through their network of retail locations, where WBR's beneficiaries can make warranty claims, obtain spare parts, and receive repair services from BBL-trained mechanics. There are less expensive bicycle models available from other sources, but they are less durable than BBL bicycles, which would lead to higher repair and replacement costs for beneficiaries over time. The quality of the BBL bicycles and the availability of after-sale support ensures value-for-money for WBR's donors and justifies WBR's exclusive use of BBL bicycles.

WBR is cognizant of its responsibility to funders to demonstrate that the procurement of bicycles and related services from BBL is conducted transparently. WBR is aware that purchasing from BBL could create an organizational conflict of interest that makes those transactions less-than-arm's-length and distorts the prices paid to BBL. To mitigate that risk and to test the arm's-length nature of WBR's purchases from BBL, WBR and BBL have instituted a regular transfer pricing study that evaluates the price that WBR pays BBL against the prices that BBL's third party customers pay. The study is conducted every two years by an audit firm. A study may be initiated outside of this cycle due to extraordinary circumstances.

The study is performed according to the Transfer Pricing Guidelines issued by the Organization of Economic Cooperation and Development (OECD). The comparable uncontrolled price (CUP) method is used in the study because BBL sells the same products and services to third party customers that it sells to WBR under similar circumstances. The audit firm analyzes BBL's sales data, which lists the prices paid to BBL by all customers during the period covered by the survey. The study report presents the audit firm's opinion of whether BBL transacted with WBR in a manner consistent with the arm's-length transaction principle. If variances are identified, the audit firm evaluates qualitative factors that could lead to pricing variance between BBL's third party sales and sales to WBR, including supply chain differences, volume differences, and exchange rate fluctuations. The audit firm then renders an opinion of whether the pricing variance is reasonable.

An additional step for demonstrating that WBR's transactions with BBL are treated as procurement actions is the establishment of an annual procurement contract. The contract specifies the prices for bicycles and related services that WBR anticipates purchasing from BBL during the year. It also includes terms and conditions to ensure compliance with applicable funder procurement requirements.

WBR-issued subawards to affiliated entities

In accordance with USAID Mandatory Standard Provision 28 for US organizations, any conflicts of interest that affect any subawards issued by WBR will be reported to the USAID cognizant Agreement Officer by the director of finance within ten calendar days of the discovery. The director of finance (in consultation with HR and the CEO) will communicate WBR's approach to resolution of the OCI.