

U.S. Green Building Council “Perceived Conflict of Interest” Policy

A. A Conflict of Interest as defined in the Conflict of Interest Policy adopted by the U.S. Green Building Council (the “USGBC”) springs from an actual, direct or indirect economic interest in a matter. A “Perceived Conflict of Interest” is, by definition, not an actual Conflict of Interest.

B. An “Interested Person” is a director or officer of the USGBC, or a member of a committee, task force, panel or other subset of individuals organized by the USGBC for purposes of making a decision, ruling or recommendations.

C. A “Perceived Conflict of Interest” occurs when:

1. An Interested Person has previously taken positions through writings, public statements or other advocacy or membership in organizations, on a matter which is subject to review, assessment or some decision process by the Interested Person as part of their work for or on behalf of the USGBC, where such position has been stated or advanced in such a way that a reasonable person would conclude that the Interested Person would not dispassionately review information provided that contradicted the position previously taken or would be unlikely to reach a position contrary to their previous position despite a balance of information or data contradicting that position; or

2. An Interested Person is being paid to advance a particular position and, thus, it is unlikely that they will reach a position contrary to this position despite a balance of information or data contradicting that position; or

3. An Interested Person occupies a “role of responsibility” in an organization (whether for profit or not-for-profit) where i) because that organization competes with the USGBC with regard to some aspect of the matter subject to the decision, ruling or recommendation, and ii) because of the duties associated with such role of responsibility a reasonable person would conclude that the Interested Person would not dispassionately review information that contradicted the positions of such organization or would be unlikely to reach a position contrary to the positions or interests of such organization despite a balance of information or data supporting such position. A “role of responsibility” includes being a director, officer, committee member or employee of an organization.

D. Perceived Conflicts of Interest do not include positions that are also expressed as positions of the USGBC itself, either through its codes, policies, strategic plans or otherwise, unless it is that very position by the USGBC which is the subject of the review, assessment or decision process. Thus, the ardent and strongly expressed belief in the social importance of green buildings is not a Perceived Conflict of Interest. A publicly stated position of unyielding support for a particular standard cross-referenced by LEED would be a Perceived Conflict of Interest, even though that standard is currently used by USGBC, if it is the use of that standard that is being reviewed.

E. Sometimes assertions of Perceived Conflicts of Interest may be made for the sole purpose of disrupting an individual's input or influence in a decision-making process. Other times, the "perception" of a conflict of interest is unreasonable even though it is not ill-intentioned. Consequently, the arbiter of what a "reasonable person" would conclude is a Perceived Conflict of Interest is the USGBC's Ethics Panel. When an individual has a question as to whether they are the subject of a Perceived Conflict of Interest they can request a determination from the Ethics Panel. Similarly, staff or any third party can request such a determination.

F. When the Ethics Panel considers whether an individual has a Perceived Conflict of Interest they will follow the following procedures, together with any additional procedures they deem appropriate:

1. If the Ethics Panel deems that it has sufficient information to conclude that there is not a Perceived Conflict, it may do so at any time without notice to any party except the party requesting the determination. A record of the determination shall be maintained by the USGBC and shall be available upon request.

2. If the Ethics Panel determines it needs additional information to determine whether a Perceived Conflict of Interest exists, and in any event before determining that a Perceived Conflict of Interest does exist, the Ethics Panel shall allow the subject of the inquiry to present evidence and a written statement relating to such Perceived Conflict. The Ethics Panel shall determine the timeframe and procedures for such submittals. The Ethics Panel shall have the authority, but no obligation, to allow telephonic testimony from the subject of such inquiry as well as such evidence and testimony from third parties as it deems appropriate.

3. If, having followed step two above, the Ethics Panel concludes that there is no Perceived Conflict of Interest, then it shall notify the party requesting the determination and the Interested Person who was the subject of the inquiry. A record shall be maintained as described in step one. If the Ethics Panel concludes that there is a Perceived Conflict of Interest, then it shall notify the Executive Committee of this decision and provide the Executive Committee with the supporting information. A copy of this decision and the supporting information shall be retained by the USGBC as described in step one.

4. The Executive Committee shall determine the appropriate response to the Perceived Conflict of Interest, consistent with this policy and notify the Interested Person who was the subject of the inquiry and the party requesting the determination.

G. Perceived Conflicts of Interest are not unusual in an organization that seeks to involve stakeholders and national policy leaders in significant decisions. Perceived Conflicts of Interest, when determined to exist, have very different consequences than actual Conflicts of Interest. When a Perceived Conflict of Interest has been determined to exist, whether by the self determination of an Interested Person or a determination by the Ethics Panel, confirmed by the Executive Committee, then:

1. The Interested Person shall thereafter declare such Perceived Conflict of Interest in any declaration of Conflicts that is either all encompassing (such as the Annual Declaration) or specific to the decision for which the Perceived Conflict of Interest exists.

2. The Interested Person shall not serve as chair or vice-chair of the committee, task force, panel or other subset of individuals involved in the decision relating to the Perceived Conflict of Interest, though they may remain a voting part of such entity. Because the chair, (or vice-chair when the chair is absent) wields the power to set agendas and set meeting dates and this power could be used for a disproportionate impact on the decision making body, it is not appropriate for a person with a Perceived Conflict of Interest to occupy these positions. Because they do not have an actual conflict and because as a stakeholder typically their input and participation is desired, they are not otherwise prohibited from participation and voting in the work of the decision-making body.

3. The Executive Committee may ask staff to monitor the work of the decision-making body and, if at any time the Executive Committee determines that persons with a similar Perceived Conflict of Interest are dominating the work of the decision-making body, then the Executive Committee may add additional participants to the decision-making body to achieve a better balance of opinions or may add additional steps to a process to allow additional input.

4. The Executive Committee may remove an Interested Person from the decision-making body if it determines that their Perceived Conflict of Interest will undermine the work or credibility of the USGBC or a specific decision or it will potentially create any liability for the organization.

Approved by the Board of Directors: November 17, 2008
(date)