

Race to the Top – Early Learning Challenge

Summary of Peer Reviewer Conflict of Interest Policy and Procedures

Overview

Peer reviewers for discretionary grants programs serve as contractors and are not considered Federal employees. Therefore, peer reviewers are not subject to the same conflict of interest laws and regulations applicable to Executive Branch employees. ED has policies and procedures to address peer reviewer conflicts of interest which are outlined in Section 3.5 of ED's "Handbook for the Discretionary Grant Process" [ACS Handbook OS-01 (1/26/09)]. The Handbook provides a framework for identifying and mitigating peer reviewer conflicts of interest, which is the basis for the plan developed to effectively address peer reviewer conflicts of interest in the Race to the Top – Early Learning Challenge competition. These policies and procedures were designed to enable expert peer reviewers to score the applications while ensuring a high level of objectivity and integrity in the review.

The purpose of this document is to describe the process that was used to implement this policy and ensure that the Race to the Top – Early Learning Challenge competition peer review process was conducted in an objective manner.

Identifying Potential Conflicts of Interest

A multi-step process was used to identify, evaluate and manage peer reviewer conflicts of interest for the Race to the Top – Early Learning Challenge competition. First, ED and HHS made an initial determination that no individual who has a "direct conflict of interest," as defined below, or who is a current employee of a State agency would be permitted to serve as a peer reviewer.¹ Additionally, no peer reviewer was permitted to serve on a panel reviewing the application submitted by the State in which he or she resides. Peer reviewer applicants were asked to complete a survey at the time of initial application to gather the relevant information to make these determinations.

After eliminating peer reviewer applicants with "direct conflicts of interest," program staff reviewed the peer reviewer applications and resumes for qualifications and determined if any individual had any non-financial interest that should be considered in evaluating an individual's objectivity and biases. Non-financial interests included, but were not limited to, significant identification with a specific pedagogical or philosophical viewpoint that might give an unfair advantage or disadvantage to an applicant proposing to use a specific approach or methodology.

Peer reviewer applicants were also evaluated to determine whether they had any "indirect conflicts of interest," as defined below or other interests that might affect objectivity. In addition, program staff asked a contractor to run a targeted internet search on each of the peer reviewer applicants actively under consideration at that point.

Staff of the Ethics Division of the Office of the General Counsel at ED reviewed survey responses, resumes, and the results of the internet searches and, in deliberations with the program staff and program attorneys, determined the nature and extent of any "indirect conflicts of interest" or other information that

¹ Individuals with these employment relationships were eliminated from consideration because all States were potential applicants, and all State agencies were potential "participating agencies"; thus all have a direct interest in the outcome of the competition.

raised questions about a peer reviewer candidate's objectivity. As needed, follow-up interviews were conducted to gain additional information in response to questions raised during this review. As a result of this review, some peer reviewer applicants were eliminated from consideration based on the practical fact that the number of applications they would be disqualified from reviewing was too large.² In addition to the fact that all peer reviewers were disqualified from reviewing applications submitted by their State of residence, the remaining peer reviewer nominees fell into one or both of the following categories:

- 1) Individuals with an "indirect conflict of interest." These individuals were granted a waiver that permitted them to review subject to certain conditions, including disqualification from reviewing State applications giving rise to the "indirect conflict of interest," or
- 2) Individuals with no "indirect conflict of interest," but for whom there was other information that required disqualification from reviewing certain State applications in order to avoid the appearance of a loss of impartiality.

Direct Conflicts of Interest

As noted above, no individual determined to have a "direct conflict of interest" was permitted to serve as a peer reviewer in the Race to the Top – Early Learning Challenge competition. An individual was considered to have a "direct conflict of interest" if:

- 1) The individual's financial interests were affected by the outcome of the Race to the Top – Early Learning Challenge competition;
- 2) An individual helped prepare a Race to the Top – Early Learning Challenge application, even if he or she had no financial interest in the outcome of that application;
- 3) An individual agreed to serve as an employee or consultant, or otherwise provide assistance or advice, on any project for which funding was being sought in any Race to the Top – Early Learning Challenge application, or had been offered the opportunity to do so, and had not yet accepted or declined.

Indirect Conflicts of Interest

Individuals for whom an "indirect conflict of interest" was identified were not permitted to serve as a peer reviewer unless a waiver was issued.

An individual was considered to have an "indirect conflict of interest" if any of the following had a personal financial interest in the outcome of the competition:

- 1) The reviewer's spouse, his or her child, a member of his or her household, or any relative with whom he or she had a close relationship;

² Disqualifications for this purpose meant that, in order to mitigate an appearance of a conflict of interest, based on an "indirect conflict of interest" or otherwise, a peer reviewer applicant were not assigned to serve on a panel that was considering the application from the State(s) giving rise to the appearance issue.

- 2) Any employer the reviewer had served within the last 12 months; a business partner; an organization the reviewer had served as an officer, director, trustee, consultant, or advisor within the last 12 months; or an organization that he or she served as an active volunteer;
- 3) Any person or organization with whom the reviewer was negotiating for, or had an arrangement concerning, future employment; or
- 4) Any professional associate – including any colleague, scientific mentor, or student – with whom the reviewer was currently conducting research or other professional activities, or with whom the reviewer had conducted such activities within the last 12 months.

Each identified “indirect conflict of interest” was considered on a case-by-case basis. A waiver was issued when a determination was made that an individual’s financial interest was not so substantial as to affect the integrity of his or her services and that, given all relevant facts, there was a significant need for the reviewer’s services based on an evaluation of his or her expertise.

Individuals granted waivers were disqualified from reviewing an application from the State that gave rise to the indirect conflict of interest. Examples of indirect conflicts of interest for the Race to the Top – Early Learning Challenge competition included recently retired employees and individuals who currently, or recently (within the last 12 months) worked on projects unrelated to Race to the Top – Early Learning Challenge with a State Agency considered a Participating State Agency as defined in the application.

Appearance of a Conflict of Interest – Other Circumstances

Reviewers were also asked to identify any other circumstance that might cause someone to question his/her ability or objectivity in serving as a reviewer in this competition. First, through the review process described above, program staff identified some circumstances that were not considered either a direct or indirect conflict of interest, but for which peer reviewers would otherwise be, out of an abundance of caution, disqualified from reviewing certain applications. For example, peer reviewers were not assigned to panels reviewing applications from a State under the following circumstances:

- 1) The reviewer provided services to a State Agency that administers public funds or supervises the administration of public funds for the CCDF, the IDEA Part C and Part B Section 619, State-funded preschool, Home Visiting, Title I of the ESEA, the Head Start State Collaboration Grant, the State Advisory Council on Early Care and Education, and Title V Maternal and Child Health Services Block Grant; the State’s Child Care Licensing Agency; the State’s Education Agency; or any other participating agency(ies). The reviewer provided these services more than one year ago, but within the last two years.
- 2) The reviewer’s employer provided services to a State Agency that administers public funds or supervises the administration of public funds for the CCDF, the IDEA Part C and Part B Section 619, State-funded preschool, Home Visiting, Title I of the ESEA, the Head Start State Collaboration Grant, the State Advisory Council on Early Care and Education, and Title V Maternal and Child Health Services Block Grant; the State’s Child Care Licensing Agency; the State’s Education Agency; or other participating agency(ies). The reviewer did not personally provide such services, and the services are unrelated to Race to the Top – Early Learning Challenge.

Additionally, non-profit organizations, for-profit companies, and other organizations were not eligible applicants in the Race to the Top – Early Learning Challenge competition, but were nonetheless mentioned in State applications. Most mentions of such entities in States’ applications were incidental. Nevertheless, peer reviewers were instructed to advise program staff immediately if they discovered that a non-profit, for-profit, or other organization with which they had a relationship (such as employment, board membership or stock ownership) was mentioned in any application they were assigned to review so that the identified relationship could be evaluated for conflicts of interest and, where necessary, an appropriate mitigation strategy could be implemented, including but not limited to, reassignment of the subject application.

Design of the Competition

Certain aspects of the competition design for Race to the Top – Early Learning Challenge helped mitigate the appearance that any individual peer reviewer might not be impartial. Specifically:

- 1) Applications were randomly assigned to reviewers after indicating on the reviewer assignment grid that reviewers could not be assigned to States for which reviewers had waivers or disqualifications.
- 2) Each application was reviewed by five reviewers.
- 3) There was a scoring rubric that peer reviewers used to score an application.
- 4) ED and HHS career staff served as panel monitors and ensured there was a full and in-depth discussion of the applications and scores.
- 5) Both before and during the review process, program officials and reviewers were reminded that throughout the course of the review, they must identify any circumstances that might cause a reasonable person to question a reviewer’s impartiality in serving as a reviewer for the Race to the Top – Early Learning Challenge competition.

Peer Reviewers Attest to Conflicts Status

Each individual who served as a peer reviewer for the Race to the Top – Early Learning Challenge competition was required to review all conflict of interest survey responses and other information they had provided in connection with the conflict of interest procedures and attest to their conflict status in a reviewer agreement.