

REGIONAL DEVELOPMENT AUSTRALIA

Code of conduct and ethics

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Introduction

Regional Development Australia (RDA) is an Australian Government initiative to bring together all levels of government to enhance the growth and development of regional Australia.

RDA committees provide a strategic framework for growth in each region. The committees will develop local leadership, ensure input is provided to the Commonwealth, State and Local Governments on regional development issues and priorities, and assist regions in securing sustainable long term jobs, investment and regional prosperity. The committees will also play a vital role in raising awareness of programs and services available to regional communities.

Committee members are required to be people of good character who reflect accepted standards of behaviour. They need to be open, honest and accountable, and to act in good faith. Being a committee member carries responsibilities, as set out in this paper. Committee members should make themselves aware of their responsibilities and the consequences.

Principles

RDA committee members and staff are expected always to act in the best interests of the community in their dealings with other agencies of government, private sector and foreign business entities by:

- being honest and exercising all due care and diligence in the performance of their duties and functions;
- maintaining the confidentiality of information made available in the course of their duties and of RDA committee decisions;

- never making improper use of their position, or the information gained through that position, to the advantage of themselves or any other person;
- never taking any course of action that would bring into disrepute or otherwise disadvantage the RDA committee, the Department of Infrastructure and Regional Development or the Australian Government, the relevant state or territory government Department, the relevant state or territory Minister responsible for regional development or the state or territory government or local government in the RDA region;
- disclosing any material or personal interest in RDA committee or regional economic development matters, and subsequently abstaining from any discussion or vote on those issues;
- being bound by, and committed to, decisions legitimately taken by the RDA committee, whether or not they agree with the decision;
- demonstrating loyalty to the public interest and to the RDA committee Charter and principles; and
- providing authorised persons, fellow members and auditors when asked, with complete, accurate and correct information, which is not misleading in any respect.

Personal and Professional Behaviour

Duties must be performed diligently, impartially and conscientiously to the best of each member's ability. Members must abide by all relevant state, or territory and Commonwealth legislation.

Fairness and Equity

It is important that the principles of fairness and equity are both complied with and are seen to be complied with. These principles are:

- taking all relevant information into consideration and not taking any irrelevant information or opinion into consideration;
- dealing with like situations in a consistent and fair manner, but treating each matter on its merits;
- acting in a reasonable, just and non-discriminatory manner;
- taking all reasonable steps to ensure that the information upon which decisions or actions are based is factually correct and that all relevant information has been obtained and considered; and
- only acting for proper and relevant purposes, and on proper and relevant grounds.

Use of Information

Much of the information provided to an RDA committee is with the understanding that the information will be treated as confidential, commercial-in-confidence and/or sensitive. It is important to ensure the integrity and security of official documents for which committee members are responsible and to respect the rights of the providers of information. All information obtained by a person in their role as a committee member should be considered to be confidential, unless indicated otherwise. Confidential information must not be released unless:

- required by law;
- the provider has consented to the release;
- freedom of Information legislation requires the release; and
- permission has been granted by either the state, territory or Australian Governments.

Conditions of RDA Committee Membership and Employment

Appointees to RDA Committees are expected to represent the broad interests of the region, rather than those of any particular organisation(s) or business, and must be available to participate in committee meetings and activities. Committee members and employees must:

- as a matter of principle, be excluded from tendering for consultancy or contract work for or on behalf of the Committee;
- abide by the relevant state or territory associations incorporation legislation, and the conditions stipulated by the Department of Infrastructure and Regional Development and the relevant state or territory government department in contracts with the RDA Committee regarding the allocation of administration and/or project funds; and
- be people of good character who reflect accepted standards of community behaviour. This includes, but is not limited to, not having a civil or criminal conviction punishable by a period of imprisonment and not being an undischarged bankrupt.

Conflicts of Interest

7.1 Overview

Conflict of interest is one of the most important governance issues for RDA committees. As recipients of Australian Government funds, it is essential that RDA committees undertake their activities in a fair, non-biased and apolitical manner and that there are no actual or perceived conflicts of interest in the decisions taken by the RDA committee.

As conflicts of interest are unavoidable, RDA committees need to manage all conflicts within an ethical, open and transparent framework that requires the committee Chair, Deputy Chair, members and personnel to act with integrity, impartiality, good faith and in the best interests of the committee at all times.

Transparency is fundamental to the principles of good governance and managing conflicts of interest. Committees should build an ethical culture by consistently requiring conflicts to be identified, recorded and dealt with properly. The Contract requires RDA committees to have an internal process in place for dealing with conflicts of interest and to include it as a standing item on all RDA committee agendas.

- Declaration and discussion of conflicts of interest should appear early on the RDA committee agenda and prior to the discussion on any substantive issues.

In addition, the RDA committee Chair, Deputy Chair and members complete a Declaration on Ethical Conduct prior to their appointment. This declaration requires members to identify any matter in which they may have, or be perceived to have, a conflict of interest.

This section should be read in conjunction with relevant state and territory legislation. In some jurisdictions, legislation may differ, particularly in terms of the timeframe for reporting conflicts of interest. It is the responsibility of each RDA to be familiar with legal requirements in their jurisdiction.

7.2 Conflict of interest defined

A conflict is defined in the Contract as any matter, circumstance, interest or activity affecting the RDA committee or its personnel, agents and sub-contractors which may, or which may appear, to impair the ability of the RDA committee, or any RDA employee, to carry out the work of the Committee diligently and independently. When assessing conflicts of interest, the committee should always take a conservative approach, and carefully consider the perception of a conflict by the “man on the street”. The test should always be:

- Would a member of the community, on the face of it and with limited information, consider the matter to be a conflict of interest?

7.3 Identifying a conflict of interest

A conflict of interest arises when a committee Chair, Deputy Chair, member or personnel:

- has a personal, business, or financial interest that could be considered to influence their work with the RDA committee, their contribution to debates by the RDA committee, and/or decisions taken by the RDA committee; or
- uses information and/or contacts gained through working in a professional capacity for the RDA committee to benefit their own personal business interests in any way, or inform other organisations that they are involved in outside the RDA committee where those organisations could benefit directly or indirectly from the information.

Conflicts of interest can be direct or indirect, for example:

- the RDA committee Chair, Deputy Chair, member or employees owning or having an interest in a business that is under consideration to provide goods or services to an RDA committee;
- a close family member being employed by an organisation applying for support for a project;
- the RDA committee Chair, Deputy Chair, member or employees participating in a decision that results in their gaining an economic or financial benefit or a non-financial benefit, such as a gift being given to the individual involved in making the decision;
- the RDA committee employs a partner, relative or close friend of the Committee's members or an employee who is then responsible for approving benefits, such as reimbursement of travel or salary increase for that person; or

- progressing personal business or personal business relationships through the course of RDA committee professional business.

RDA committees should contact the Department if they have any questions about conflict of interest arrangements or whether a particular activity constitutes a conflict.

7.4 Disclosing a conflict of interest

The Australian Government expects all RDA committees to have clearly documented principles and procedures for handling conflicts of interest, consistent with their constitution, the Contract and this Handbook. In addition, the declaration of conflicts of interest must be a standing agenda item for all RDA committee and sub-committee meetings.

If, while performing RDA business, the committee Chair believes that he or she has a conflict or potential conflict of interest, he or she must disclose the nature of the conflict to the committee. Similarly, the Deputy Chair, committee members or personnel must disclose any real, perceived or potential conflict to the Chair of their RDA committee as soon as that conflict or potential conflict becomes apparent. Such declarations should be made immediately after the committee has received the agenda and papers for its next meeting. The interests of immediate family members and close associates should also be disclosed to the extent that they are known and could be considered to lead to a conflict of interest. All disclosures, discussions and decisions on conflicts of interest must be recorded in the Minutes of the relevant committee meeting.

If a situation arises where any member of the committee (or employee) believes that there is an undisclosed conflict or potential conflict of interest, the matter should, in the first instance, be raised with the party who may be conflicted. Such a discussion should be sufficient to suggest that a potential conflict exists and the matter should then be listed for discussion by the committee at its next meeting. If doubt continues to exist, the matter should be raised with the Chair of the committee or with the Department if related to the Chair.

Following disclosure, the remaining RDA committee members must determine whether or not there is a conflict of interest. Where it is determined that a conflict of interest exists, or may be perceived to exist, the RDA committee must determine a course of action which ensures that any subsequent decisions and/or actions are, and are seen to be, free of undue influence or bias.

In doing this, the committee should refer to its Constitution, which may prescribe arrangements with respect to voting on decisions where a conflict, or the perception of a conflict of interest exists. In the absence of such direction, the RDA committee may take action to preclude the member with the identified conflict from:

- receiving any subsequent or related papers;
- being present and/or participating in the consideration, discussion or debate on the matter;
- voting on the matter;
- being counted in quorum for the vote on the matter; or

- being privy to the record of discussion of the matter, including the record which is set out in the Minutes of the meeting.

The decision of the RDA committee (and the steps taken to resolve or deal with the perceived or actual conflict of interest) must be recorded in the Minutes of the RDA committee meeting. In addition, in all cases of an actual or perceived conflict being identified, the Committee must notify the Department in writing within 14 days (or the time period specified in the state/territory Incorporation Legislation) and advise of the steps to be taken to resolve or otherwise deal with the conflict.

Where a conflict of interest arises or is perceived to arise, the Department may investigate the circumstances of the conflict to determine that the action taken to address the conflict is appropriate.

7.5 Managing an ongoing conflict of interest

A different situation arises when a conflict of interest is ongoing and may continue to affect an individual's ability to perform RDA committee business or contribute to committee discussions, deliberations and/or decision-making.

In the case of ongoing conflicts of interest, RDA committees should conduct an initial investigation into the conflict, including the evaluation of any potential remedies, and a risk assessment which:

- identifies the risks;
- evaluates the nature of the risks (for example, if the risk eventuated, would the consequences be serious?);
- evaluates the likelihood of the risks (for example, is it probable that the risk will occur?);
- considers whether the risk may be acceptable to the Australian Government, relevant state or territory governments, and the public;
- determines whether the proposed remedies (if any) would adequately resolve or otherwise manage the risk; and
- provides for notification to the Department within 14 days of identifying the conflict of full details of the conflict and any proposed remedies to resolve or otherwise deal with the conflict.

All action taken to address these situations must be documented and readily accessible. Where the risk cannot be mitigated, the RDA Chair, Deputy Chair or committee member should be excluded from all discussion on the matter, including receiving papers and records of discussion and decision.

Gifts and Benefits

A committee member or employee must never demand or request any gift or benefit for the member or anyone else in connection with his or her committee work. A member or employee should not accept any gift or benefit if he or she, or a reasonable person, thinks that the person

offering the gift is likely to expect the member or employee to be influenced in the way that he or she does his or her Committee work as a result of the gift.

Generally, non-token gifts should be accepted only in exceptional circumstances. Where non-token gifts are accepted, it would be appropriate to inform the Chair of the Committee or the next meeting of the committee. If the member or employee is in any doubt about whether or not a gift is token, he or she should notify the Chair.

Public Comment

With respect to activities funded by the Australian, state or territory or local governments, the committee should not make any statements or give any undertaking that could be interpreted as committing the Commonwealth Minister or relevant state or territory Minister or the Australian, state or territory or local governments to a particular action or expenditure. This position should be made clear in any negotiations which the committee, its members, staff or representatives undertake with any company, firm or other body, or member of the public.

Whilst it is recognised that committee members as members of the community have the right to make public comment and enter into public debate on political and social issues, care must be taken not to convey the impression that such comment is an official comment made in their capacity as a committee member or member of RDA staff.

If it is not possible for the committee member or member of RDA staff to make it clear that he or she is speaking personally, it may be appropriate not to make any public comment.

While constructive criticism of the operations of RDA and the departments is welcome, it is inappropriate for such criticism to be reflected in press releases, public documents or statements. The Chair has the role of channelling matters of this nature to the state, territory or Commonwealth Ministers and/or senior staff of their departments.

Corrupt and Unethical Conduct

If a committee member is aware of any possible corrupt or unethical conduct by any committee member(s), it must be reported to the Chair of the Committee. The member does not need to have proof that corruption or unethical conduct is occurring. He or she needs merely to suspect it on reasonable grounds. Corrupt and unethical conduct can also be reported to the First Assistant Secretary, South/East Australia and RDA Network Division, Australian Government Department of Infrastructure and Regional Development. People who report possible corrupt or unethical conduct will not be penalised for reporting possible misconduct.

Breaches of the Code

Breaches of this Code of Conduct and Ethics (Code) are likely to result in disciplinary action. Sanctions, including termination of a committee member's appointment by the Ministers, will be considered in the event of a serious breach of the Code of Conduct.

Allegations of Impropriety

It is important that the conduct of Committee members is at all times perceived in the community to reflect the principles and ethical requirements set out in this Code. If allegations concerning the conduct of a member are made or aired in the public domain that, if true, would constitute a breach of the Code, the member concerned must stand down from the committee upon request by the Minister or his or her delegate.

Allegations made in the public domain include being:

- referred to in sworn evidence (either oral or written) in any court or tribunal proceeding;
- the subject of or named as a person of interest in any investigation by the state or territory Ombudsman or Commonwealth Ombudsman; or
- the subject of or named as a person of interest in any investigation or proceedings by any other governmental or quasi-governmental body in any jurisdiction.

The member may resume his or her membership of the Committee when the relevant court, tribunal or other body makes a finding of fact that the allegations are unfounded, or otherwise when the Minister or his or her delegate so determines.

Last Updated: 22 September, 2017