

**REQUEST FOR BOARD ACTION**  
**HENDERSON COUNTY**  
**BOARD OF COMMISSIONERS**

**MEETING DATE:** April 20, 2022  
**SUBJECT:** Adoption of U.G. Policy for Conflicts  
**PRESENTER:** Charles Russell Burrell  
**ATTACHMENT(S):** Proposed Policy

**SUMMARY OF REQUEST:**

The statutory requirements on Board members set out in N.C. Gen. Stat. §153A-44 do not align completely with the requirements of the Uniform Guidance (2 C.F.R. §200.318 *et seq.*). This policy is to try to harmonize them to the extent possible.

In practice, this will require the members of the Board to do what they already do: announce to their fellow members at a meeting if they believe they have a conflict of interest that falls within §153A-44 or the Uniform Guidance, and, as to matters not directly prohibited by §153A-44, allow their fellow members to determine whether they are able to vote.

County staff will be present and prepared if requested to give further information on this matter.

**BOARD ACTION REQUESTED:**

Adoption of the proposed policy

If the Board is so inclined, the following motion is suggested:

***I move that the Board adopt the proposed policy regarding conflicts in federal grant funded transactions.***



Federal Awards  
Uniform Guidance Policy for  
Conflicts of Interest



# TABLE OF CONTENTS

UNIFORM GUIDANCE POLICY FOR CONFLICTS OF INTEREST ..... 3

    Purpose ..... 3

    Background for Policy ..... 3

    Policy ..... 3



## UNIFORM GUIDANCE POLICY FOR CONFLICTS OF INTEREST

### Purpose

The purpose of this policy is to clarify that the conflicts of interest guidelines for the Henderson County Board of Commissioners meet or exceed the requirements under federal law, state law and local policy when voting on the procurement of goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects paid for in part or whole by federal funds and required under 2 C.F.R. § 200.318(c) (1-2) (the "Uniform Guidance").

### Background for Policy

When spending federal award funds, local governments are required by the Uniform Guidance to adopt written policies governing conflicts of interest and gifts. This policy harmonizes otherwise inconsistent language found in the relevant sections of the Uniform Guidance North Carolina General Statutes §153A-44 as it relates to the Henderson County Board of Commissioners.

Pursuant to §153A-44, the Board of Commissioners may excuse a member from voting only on matters

1. Involving the consideration of the member's own official conduct or financial or #
2. on which the member is prohibited from voting under the following statutes: #
  - (a) exemptions to the prohibition against directly benefiting under a public contract (G.S. 14-234), #
  - (b) zoning matters (G.S. 153A-340(g); G.S. 160A-381(d)), and
  - (c) quasi-judicial decisions (G.S. 153A-345.1; G.S. 160A-388(e2)).#

Under the Uniform Guidance, in addition to the foregoing, members may not participate directly or indirectly in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest as defined below:

Under the Uniform Guidance, a real or apparent conflict exists and must be disclosed to the Federal awarding agency when any of the following parties has a financial or other interest in or receives a tangible personal benefit from a firm considered for award of a contract:

1. the employee, officer, or agent involved in the selection, award, or administration of a contract;
2. any member of his or her immediate family;
3. his or her partner; or
4. an organization which employs or is about to employ any of these parties.
5. In which the person has an "Interest" as that term is defined in the Ethics Code.

### Policy

When any Request for Board Action requests a vote of the Board on a matter involving the expenditure of federal award funds, County staff shall so indicate on the face of the Request. In such matters, each Commissioner, when voting on federally funded projects, also affirms that they have complied with both §153A-44 and the Uniform Guidance, and to the extent they are unable to do so, they have already disclosed any conflict under the Uniform Guidance to the Board and, if appropriate under §153A-44, asked the Board to be recused from voting. Appropriate County personnel will disclose the existence of such conflict to the granting agency.