STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE

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TO: **All Department of Local Government Finance Employees and Appointees**

FROM: **Courtney L. Schaafsma, Commissioner**

RE: **Agency Ethics Policy**

DATE: **January 4, 2016**

I. PURPOSE AND APPLICABILITY

This policy establishes conduct guidelines for state employees and special state appointees ("staff") of the Department of Local Government Finance ("Department") and applies to all of the Department's staff. This policy identifies conduct that is not sanctioned by the Department and in which Department staff shall not engage.

II. POLICY STATEMENT

The nature of the Department's operations places significant responsibilities on its staff, who work with critical and confidential data in close proximity to taxpayers and state and local government officials regarding legal and financial matters. Consequently, and because the wellbeing of local governments and their constituents significantly hinges on Department action, the Department believes it is necessary to articulate and document guidelines for staff conduct. As a general matter, the Department has high standards for its staff's conduct and expects its staff to behave professionally and ethically. It is the Department's policy that unethical conduct is inconsistent with the Department's mission and will not be tolerated.

III. COMPLIANCE

Directors are responsible for monitoring the conduct of staff within their areas of supervision and for referring matters for review and/or discipline to the Department's Ethics Officer or Commissioner. Staff who violate this policy may be subject to disciplinary action by both the Department and the Office of Inspector General and State Ethics Commission.

IV. WHISTLEBLOWING

Department staff who believe that a violation of this policy or any law or ethics rule has occurred or is likely to occur are encouraged to share their concerns with either the Department's Ethics Officer or Commissioner, and may do so anonymously. Such communications will be treated with confidentiality to the extent permitted by state law.

V. CONDUCT EXPECTATIONS

Please note that the following does not exhaustively document all of the conduct that could violate a law or ethics rule. This policy should be interpreted liberally and in good faith. Please be aware that violations of laws or ethics codes by a staff member acting in his or her official capacity as an employee or appointee of the Department can result in legal action (e.g., a suit for damages) against the Department. Although a staff member acting in his or her official capacity may be more insulated from personal liability, there is still a chance that the staff member could be personally liable for damages or civil or criminal penalties, especially if it is determined that the staff member was acting outside the scope of his or her employment. The Department's attorneys represent the Department itself, not any individual staff member, and must act in the best interests of the Department (their client).

- ***Do not provide legal advice.***

Indiana Code 33-43-2-1 provides, in part, that a person who engages in the business of a practicing lawyer without first having been admitted as an attorney by the Indiana Supreme Court commits a Class B misdemeanor. Under this section, the "practice of law" includes the giving of legal advice and counsel as to legal matters, and the preparation of legal instruments and contracts by which legal rights are secured, as well as attending to legal matters pending in court.

Oftentimes local officials and taxpayers will pose questions to Department staff that involve legal issues and interpretations of law.

Providing someone an excerpt from a statute or offering an explanation of the law would be acceptable. However, recommending that a person take or refrain from taking legal action or counseling a person as to his or her rights or obligations is problematic, as is drafting or validating legal documents for third parties.

When in doubt, Department staff should refer the party either to the Department's legal division or to the party's own attorney. Department staff should make clear that they cannot offer legal advice.

- ***Refrain from making editorial comments about people or businesses in your capacity as a Department staff member.***

Even an offhand comment made in jest could be considered slander (or libel, if the comment is written). A suggestion to fire a contractor or discontinue services with an individual or company might, under certain circumstances, constitute a tort. Recommending a business or contractor to a local official or taxpayer while in your official capacity as a Department staff member would be inappropriate.

- ***Exercise caution with regard to confidential information and public records.***

There is a wide variety of information that Department staff might encounter that may be considered confidential under state law. For instance, information concerning earnings, income, profits, losses, or expenditures that is provided to an assessing official is confidential. Likewise, Social Security numbers are confidential and phone numbers included in sales disclosure forms are confidential. Department staff must take steps to ensure that information or documents they share or distribute do not contain confidential information. Although there are circumstances where a person can waive confidentiality by publicly disclosing information, Department staff must still exercise caution and should treat the information as confidential nonetheless.

Improperly divulging confidential information is a violation of the state ethics code and possibly civil and criminal laws.

Occasionally local officials will contact the Department for guidance as to whether they can or must release a certain document to someone who has requested it. In such a situation, the Department staff member must refer the official to the Indiana Public Access Counselor. Under state law, there are certain protections for those who act in reliance on an opinion from the Public Access Counselor. If a person acts in reliance on an opinion offered by the Department, no such protections are available.

There may also be information internal to the Department that should be treated confidentially, particularly deliberative materials, certain communications with legal staff, and certain communications made in the context of litigation involving the Department. Department staff should refrain from forwarding internal correspondence to outside parties.

- ***Do not provide financial advice.***

Just as important as not providing legal advice is not providing financial advice. Explaining how the law works with regard to the advertising and adoption of budgets, the calculation of maximum levies, or the transfer of funds, for instance, is acceptable. But advising an entity as to how much it should tax, how it should invest its money, or from where it should borrow money, for example, is inappropriate.

When in doubt, Department staff should refer the unit to its financial advisor or its legal counsel. Department staff should make clear that they cannot offer financial advice.

- ***Be truthful.***

Department staff must be truthful in all representations they make to fellow Department staff, taxpayers, and government officials.

- ***Produce high-quality work product.***

The Department expects its staff to take their work responsibilities seriously and produce the best work product they can.

- ***Abide by the state's ethics code and all state and federal laws.***

Department staff shall obey all applicable state and federal laws and must be aware of and abide by the state's ethics code, which is hereby incorporated by reference, and which is addressed in greater detail on the Inspector General's website at http://www.in.gov/ig/2336.htm. The following documents the core of the state's ethics code:

►Gifts; travel expenses; waivers: Do not accept gifts from people who want something from your employment.

►Donor restrictions: A person who has a business relationship with an employee or agency should not offer the employee or agency gifts or favors.

►Honoraria: Do not accept money for any activity that is considered to be part of your job.

►Political activity: Do not engage in political activity during work.

►Moonlighting: Do not work in outside employment that uses state property, time, or information.

►Conflicts of interest; decisions and voting: Do not make decisions in your official capacity that might financially benefit you.

►Conflicts of interest; contracts: Do not enter into a state contract that might financially benefit you.

►Additional compensation: Do not accept additional money for doing your job (excluding your salary).
►Bribery: Do not give or accept compensation (excluding your salary) for doing job duties.
►Benefiting from confidential information: Do not benefit from confidential information.
►Divulging confidential information: Do not divulge confidential information.
►Use of state property: Do not use state property for personal reasons. The Department has already adopted a policy on the use of state property, which is hereby incorporated by reference and available at http://www.in.gov/dlgf/files/150701_-_Limited_Personal_Use_of_State_Property_Policy.pdf.
►Ghost employment: Do not work on anything outside your official job duties. For example, work time spent promoting a friend's business, even if that business deals with local government or property tax issues, could be considered ghost employment. Please note that conduct permitted under the Department's use of state property policy (as referenced above) does not constitute ghost employment.
►Post-employment restrictions: Do not go to work for a company that did work for you as a state employee. Department staff should be aware that there may be restrictions on accepting employment with certain entities for a period of time following their employment with the state.
►Nepotism: Do not hire relatives.

VI. DISCIPLINARY PROCEDURES

A Department staff member accused or suspected of violating this policy or the state's ethics code is entitled to present testimony and evidence in his or her defense to the Department's Ethics Officer and Commissioner. If the Commissioner determines that a staff member has violated this policy or the state's ethics code, the Commissioner may, in consultation with the Department's human resources representative, take disciplinary action against the staff member in accordance with and as permitted by the state's personnel policies.

The Commissioner shall, as appropriate, refer the matter to the Inspector General or State Ethics Commission.

Disciplinary actions include, but are not limited to, a written reprimand, suspension without pay, and termination of employment. Department staff are entitled to all the rights and protections afforded them by the laws and personnel policies of the state.

VII. EFFECTIVE DATE

Immediately.

VIII. ENDING DATE

Upon rescission.

APPROVAL

Courtney L. Schaafsma
Commissioner

1-4-16
Date