

Greater Tompkins County Municipal Health Insurance Consortium  
**Audit Committee**  
Thursday, December 2, 2013 - 9 a.m.

**Ithaca Town Hall**

Agenda

1. Call to Order
2. Approve Minutes of October 17, 2013 meeting
3. Review/Recommend Request for Proposals for Auditing of Medical Claims and/or Prescription Claims
4. Discussion with Jerry Mickelson concerning 2013 Audit Scope
5. Review samples and begin development of Code of Ethics and Conflict of Interest Policy
6. Other Items
7. Adjournment

**Future Agenda Items:**

Review results of State Audit (Sept.) **\*Results not received as of 11/27/13**  
Become familiar with Enterprise Risk Model (Don Barber requested)  
Eligibility Audits (Steve Locey)  
Procurement Policy Development (RFP Process) Rick Snyder

**Minutes**  
**Greater Tompkins County Municipal Health Insurance Consortium**  
**Audit Committee**  
**October 17, 2013 - 3:00 p.m.**  
**Ithaca Town Hall**

Attendees: Steve Thayer, Judy Drake, Chantalise DeMarco, Laura Shawley, Chuck Rankin  
Guests: Steve Locey and Judy Taber, Locey & Cahill (via conference call); Rick Snyder,  
Tompkins County Finance Director

**Call to Order**

Mr. Thayer called the meeting to order at 3:06 p.m.

**Acceptance of Minutes**

The minutes of the August 15, 2013 meeting were approved with the correction submitted by Mr. Snyder concerning the billing of 13 payments in a 12 month period. He clarified that from a budgetary standpoint it should not impact budgets because if the last payment is made for January it will be marked as a pre-payment on the books and not as an expense.

Mr. Locey said the Consortium will likely be paying the initial capitalization assessment back to municipalities at the close of the fiscal year or at the start of the 2014 fiscal year. Mr. Snyder said his initial thought is that it would be better if it was paid back at the end of the year as it would clean up the balance sheet and the Consortium will already be looking at three other reserve accounts that will be included on its financial statements. He said it will not impact the County from a budgeting standpoint when it is paid back but would like to find out how it will affect all municipalities. The Finance Committee will be making a decision at its December 17<sup>th</sup> meeting and it will go to the Board of Directors on December 19<sup>th</sup>.

**Consortium Privacy Questionnaire and Template for Municipalities**

The Committee reviewed the draft privacy questionnaire policy. A question was raised as to how the policy would be distributed. Mr. Locey said the notice should be issued to any person who is considered a contract holder and believes it can be distributed electronically to active employees and mailed to retirees. A question was raised as to whether employers have to provide a privacy policy. Mr. Locey said under normal circumstances they would not, however, because the Consortium is the insurance company it has to do it and municipalities must as the employers.

It was recommended that the Chair of the Board of Directors be designated as the Privacy Official. A separate e-mail address will also be established for this purpose. The notice will also be posted on the Consortium's website once approved.

The Committee recommended the Privacy Questionnaire template be forwarded to the Board of Directors for approval.

### **Request for Proposals for Auditing and Medical Claims and/or Prescription Claims**

The Committee reviewed the latest draft document. Mr. Snyder said if the document will go out as an official County Request for Proposals it will need to be reviewed by Lisa Hall in the Purchasing office. Mr. Locey suggested the Consortium use an RFP process from the County or another municipality and set up its own process. The Committee will include a discussion of developing a procurement policy on a future agenda.

*Following discussion Mr. Locey agreed to draft language expanding the Introduction to identify which drugs are available for rebating and the value of that and language with regard to the actual bill amount versus the payment amount to make sure they are consistent. He also suggested adding language to the project scope outlining the number of claims the Consortium would like evaluated and will provide this wording. Once the information is provided the documents will be reviewed by the County Finance Department. It will come back to the next Committee meeting and then approved by the Board of Directors.*

*Mr. Thayer questioned how responses will be evaluated. Mr. Locey agreed to draft a rating sheet based on major categories and a scoring process to be included in the Request for Proposals.*

A final review of the documents will be done at the next meeting and forwarded to the Board of Directors for approval.

### **Explanation of Sections of Financial Report**

Mr. Snyder said he will circulate information explaining various sections of the financial report to members and if there are questions it can be included on the next agenda. He said there is a new State report that is in an Excel format.

Mr. Snyder provided an update on the transition to Quickbooks; they are working on minor issues but hopes to complete the transition in approximately three months.

Mr. Locey asked that the Committee consider adding eligibility audits to a future agenda. Some of the reasons for conducting this type of audit is to make sure all of the documentation for a spouse or dependent is valid and that all persons that are supposed to be covered under the plan are.

### **Adjournment**

The meeting adjourned at 4:03 p.m.

Respectfully submitted by Michelle Pottorff, Administrative Clerk

Consortium Audit Committee  
October 17, 2013

# GREATER TOMPKINS COUNTY MUNICIPAL HEALTH INSURANCE CONSORTIUM

Prescription (PBM) Auditing Services

Request for Proposal (RFP)

**125 EAST COURT STREET**

**ITHACA, NY 14850**

**TEL 607-274-5590**

**FAX ????**

**CONSORTIUM@TWCNY.RR.COM**

**[WWW.TOMPKINS-CO.ORG/HEALTHCONSORTIUM](http://WWW.TOMPKINS-CO.ORG/HEALTHCONSORTIUM)**

**REQUEST FOR PROPOSAL  
PRESCRIPTION AUDITING SERVICES**

**INTRODUCTION**

The Greater Tompkins County Municipal Health Insurance Consortium (Consortium) is requesting proposals for auditing services on its Article 47 self-insured prescription drug plan for the period of June 1, 2011 – May 31, 2013. The Prescription Drug Plan has been administered by the following Prescription Benefit Managers (PBM). From January 1, 2011- December 31, 2012 the PBM was MEDCO/Express Scripts and since January 1, 2013 the PBM has been ProAct.

The Consortium is seeking an audit firm with proven success in the auditing of PBM services to identify errors and/or problems in the administration of the plan – for immediate corrective action, or possible recover. Due to the change in January 2013 to a new PBM, the Consortium is also requesting an analysis on any inconsistencies in the claim administration between the two PBMs as well as their comparative ability to manage eligibility, duplication of payments, patient safety, identify potential fraud and prescription costs including but not limited to:

- Pricing – review of claims to verify that the pricing applied by the PBM complies with the terms of the pricing arrangement. Includes an on-site audit of network pharmacy contracts for pass-through pricing arrangements and appropriate application of dispensing fees.
- Benefit - review of claims to verify that benefits have been appropriately applied for the plans design and formularies offered under the plan
- Rebates – review to assess rebates are calculated consistent with formulary placement and rebate contracts, 2) proper calculation of rebates invoiced and 3) reconciliation of rebates paid by manufacturers
- Systems – edits are in place to identify adverse drug interactions, age/gender appropriateness of drug, dispensing quantities and timeframes, therapeutic duplicates
- 
- Mail order – evaluate dispensing times of mail order and specialty drugs with the ability to track drug whereabouts through the process

The Consortium would like to pursue this audit aggressively. The selected firm will provide its expected timeline for services and demonstrate its ability to complete a successful audit within the parameters outlined in this request.

**OVERVIEW OF THE GREATER TOMPKINS COUNTY MUNICIPAL HEALTH INSURANCE CONSORTIUM**

The Consortium is a self-insured, Article 47 Plan, that offers medical and prescription drug coverage to its participants. Currently the Consortium covers more than 2,300 employees and retirees and is made up of the following municipalities:

City of Ithaca	County of Tompkins	Town of Caroline
Town of Danby	Town of Dryden	Town of Enfield
Town of Groton	Town of Ithaca	Town of Ulysses
Village of Cayuga Heights	Village of Dryden	Village of Groton
Village of Trumansburg	Town of Lansing	City of Cortland

The Consortium was awarded Article 47 certification in late 2010 with a start-up effective date of January 1, 2011. The City of Cortland and the Town of Lansing joined the Consortium on January 1, 2013.

The Consortium’s medical plans cover approximately 5,100 active employees, retirees and their dependents. Enrollment eligibility determination for active employees, their dependents and retirees is performed independently by each municipality.

**PRESCRIPTION BENEFIT PLANS**

The Consortium’s prescription benefit plans cover approximately 2,300 active employees and retirees. The total covered members including dependents, is approximately 5,600. Enrollment eligibility determination for active employees, their dependents and retirees is performed independently by each municipality.

The Consortium offers Two Tier and Three Tier Prescription Plans to its participants that include several variations in deductibles and copayments. Samples of the Summary of Benefits for each type of the Plan are included as Attachments to this request. More detailed Plan Descriptions will be provided to the firm contracted for the Audit.

**PROPOSAL REQUIREMENTS**

*Organization and History*

1. Please provide a brief overview of our company and history of your organization. Describe any parent/subsidiary/affiliate relationships.
2. How is your firm distinguished from competitors with respect to prescription claim audit services?

3. What, if any, is your firm's direct experience auditing Medco/Express Scripts and/ or ProAct?
4. Please indicate your firm's proven success in recovering monetary settlements for identified errors, particularly with Medco/Express Scripts and /or ProAct.
5. Please provide information on the team that would be working directly with the Consortium on this initiative, including the roles and qualifications of each individual.
6. If different, please provide the name(s), title(s), address(es), email(s), telephone number(s) of the individual(s) responsible for responding to this request.

#### Project Services

1. Please provide a comprehensive overview of the audit services you are proposing, including the sampling strategy and process and on-site procedures. Please indicate techniques to be used to conduct an analysis of the claim and administrative services provided by Medco/Express Scripts and/ or ProAct.
2. Please indicate your ability to complete the audit on an aggressive timeframe, including your demonstrated ability to negotiate acceptable confidentiality agreements, receive data feeds, perform on-site analyses, provide client reports, solicit and receive vendor feedback and reach settlement in a timely manner. Please provide a detailed timeline of the project.
3. Please detail the role and responsibility of the Consortium in negotiating confidentiality agreements, file feeds, etc. Does your firm have standing agreements and acceptable file feeds established with Medco/Express Scripts and /or ProAct? Please identify any information or data requirements that you will require of the Consortium.

#### Fees and Other Costs

1. Please provide a detailed description of the fees associated with the proposed services. Please include the fees for any on-site visits at the PBMs as well as any visits to the Consortium to present the final report (please itemize).
2. Please describe what consulting services (if any) are not included in the above proposed fees. Please outline how costs will be determined, including any related hourly charges and expected out-of-scope work expenses.
3. Please give an estimate for travel expenses.

4. In addition to the above responses, please identify any other service, activity or fee not covered (i.e., postage, handling, supplies, services, etc.) that would be a potential cost to the Consortium. Please be very specific as you should assume if it is not itemized in response to this questionnaire, it would not be considered a chargeable fee.

#### References

Please provide at least three (3) references for whom you have performed prescription benefit plan audits, including company name, contact name, address, phone number and email. If possible, please provide references for clients that have Medco/Express Scripts and/ or ProAct as their PBM.

#### Vendor Selection Criteria

The Consortium will evaluate each vendor response to this RFP and make selection based on the following criteria:

1. Audit experience
  - TPA's and/or Insurers previously audited
  - Issues identified
  - Recoveries generated
2. Project Services
  - Audit services and techniques to be utilized
  - Audit time frames
3. Fees and Other Costs
  - Cost to conduct the audit
  - Additional associated other fees
    - a. i.e. travel, other services
4. References

#### Submission of Bid

One original with original signatures of your proposal shall be submitted in a sealed envelope or package. One electronic copy and all questions concerning this solicitation should be submitted by **October 31, 2013, 2:00 p.m.** to:

Tompkins County  
Purchasing Department  
125 East Court Street  
Ithaca, NY 14850  
(607) 274-5500  
Attn: Lisa Hall  
[email@lhall@tompkins-co.org](mailto:email@lhall@tompkins-co.org)

# GREATER TOMPKINS COUNTY MUNICIPAL HEALTH INSURANCE CONSORTIUM

Medical Plan Auditing Services

Request for Proposal (RFP)

**125 EAST COURT STREET**

**ITHACA, NY 14850**

**TEL 607-274-5590**

**FAX ????**

**CONSORTIUM@TWCNY.RR.COM**

**[WWW.TOMPKINS-CO.ORG/HEALTHCONSORTIUM](http://WWW.TOMPKINS-CO.ORG/HEALTHCONSORTIUM)**

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**REQUEST FOR PROPOSAL  
MEDICAL AUDITING SERVICES**

**INTRODUCTION**

The Greater Tompkins County Municipal Health Insurance Consortium (Consortium) is requesting proposals for auditing services on its Article 47 self-insured medical plan for the period of **June 1, 2011 – May 31, 2013**. The Medical Plan is administered by Excellus BlueCross BlueShield (“Excellus”). Prescription drug benefits are administered by a different PBM vendor.

The Consortium is seeking an audit firm with proven success in discovering administrative and claim payment errors and recovering damages. Due to a change by Excellus in January 2013 in the system platform used to administer the health benefits, the Consortium is also requesting an analysis on any inconsistencies in the claim administration between the two systems as well as their comparative ability to manage eligibility and medical costs including but not limited to timeliness of enrollment changes, processing edits for unbundling, accumulating of benefit, deductible and out of pocket maximums, identification of potential large loss/catastrophic claims as well as identifying members for case management and disease management programs.

The Consortium would like to pursue this audit aggressively. The selected firm will provide its expected timeline for services and demonstrate its ability to complete a successful audit within the parameters outlined in this request.

**OVERVIEW OF THE GREATER TOMPKINS COUNTY MUNICIPAL HEALTH INSURANCE CONSORTIUM**

The Consortium is a self-insured, Article 47 Plan, that offers medical and prescription drug coverage to its participants. Currently the Consortium covers more than 2,300 employees and retirees and is made up of the following municipalities:

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The Consortium was awarded Article 47 certification in late 2010 with a start-up effective date of January 1, 2011. The City of Cortland and the Town of Lansing joined the Consortium on January 1, 2013.

The Consortium’s medical plans cover approximately 5,100 active employees, retirees and their dependents. Enrollment eligibility determination for active employees, their dependents and retirees is performed independently by each municipality.

**MEDICAL PLANS**

The Consortium's medical plans cover approximately 2,300 active employees and retirees. The total covered members including dependents, is approximately 5,600. Enrollment eligibility determination for active employees, their dependents and retirees is performed independently by each municipality.

The Consortium offers Indemnity and PPO Plans to its participants that include several variations in deductibles and copayments. Samples of the Summary of Benefits for each type of the Plan are included as Attachments to this request. More detailed Plan Descriptions will be provided to the firm contracted for the Audit.

### **PROPOSAL REQUIREMENTS**

#### **Organization and History**

1. Please provide a brief overview of your company and history of your organization. Describe any parent/subsidiary/affiliate relationships.
2. How is your firm distinguished from competitors with respect to medical claim audit services?
3. What, if any, is your firm's direct experience auditing Excellus BlueCross BlueShield?
4. Please indicate your firm's proven success in recovering monetary settlements for identified errors, particularly with Excellus.
5. Please provide information on the team that would be working directly with the Consortium on this initiative, including the roles and qualifications of each individual.
6. If different, please provide the name(s), title(s), address(es), email(s), telephone number(s) of the individual(s) responsible for responding to this request.

#### **Project Services**

1. Please provide a comprehensive overview of the audit services you are proposing, including the sampling process and on-site procedures. Please indicate techniques to be used to conduct an analysis of the claim and administrative services provided by Excellus.
2. Please indicate your ability to complete the audit on an aggressive timeframe, including your demonstrated ability to negotiate acceptable confidentiality agreements, receive data feeds, perform on-site analyses, provide client reports, solicit and receive vendor feedback and reach settlement in a timely manner. Please provide a detailed timeline of the project.
3. Please detail the role and responsibility of the Consortium in negotiating confidentiality agreements, file feeds, etc. Does your firm have standing agreements and acceptable file feeds established with Excellus? Please identify any information or data requirements that you will require of the Consortium.

4. Please provide your claim sampling strategy, number of claims and recommendations for both standard and large loss claim reviews.

#### Fees and Other Costs

1. Please provide a detailed description of the fees associated with the proposed services. Please include the fees for any on-site visits at Excellus as well as any visits to the Consortium to present the final report (please itemize).
2. Please describe what consulting services (if any) are not included in the above proposed fees. Please outline how costs will be determined, including any related hourly charges and expected out-of-scope work expenses.
3. Please give an estimate for travel expenses.
4. In addition to the above responses, please identify any other service, activity or fee not covered (i.e., postage, handling, supplies, services, etc.) that would be a potential cost to the Consortium. Please be very specific as you should assume if it is not itemized in response to this questionnaire, it would not be considered a chargeable fee.

#### References

Please provide at least three (3) references for whom you have performed medical plan audits, including company name, contact name, address, phone number and email. If possible, please provide references for clients that have Excellus as their medical claim administrator.

#### Vendor Selection Criteria

The Consortium will evaluate vendor's responses to this RFP and make selection based on the following criteria:

1. Audit experience
  - TPA's and/or Insurers previously audited
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  - Recoveries generated
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Purchasing Department  
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Ithaca, NY 14850  
(607) 274-5500  
Attn: Lisa Hall  
[email@lhall@tompkins-co.org](mailto:email@lhall@tompkins-co.org)

Sincerely,

Jane Doe  
Consortium Health Benefits Manager

DRAFT



# CODE OF ETHICS

## Principles of Ethical Conduct for Government Officers and Employees

1. Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws, and ethical principles above private gain.
2. Employees shall not hold financial interests that conflict with the conscientious performance of duty.
3. Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.
4. An employee shall not, except pursuant to such reasonable exceptions as are provided by regulation, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting, activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.
5. Employees shall put forth honest effort in the performance of their duties.
6. Employees shall make no unauthorized commitments or promises of any kind purporting to bind the Government.
7. Employees shall not use public office for private gain.
8. Employees shall act impartially and not give preferential treatment to any private organization or individual.
9. Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.
10. Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.
11. Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.
12. Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those—such as Federal, State, or local taxes—that are imposed by law.
13. Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.
14. Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards promulgated pursuant to this order.

# ICMA Code of Ethics With Guidelines

**The ICMA Code of Ethics was adopted by the ICMA membership in 1924, and most recently amended by the membership in May 1998. The Guidelines for the Code were adopted by the ICMA Executive Board in 1972, and most recently revised in July 2004.**

The mission of ICMA is to create excellence in local governance by developing and fostering professional local government management worldwide. To further this mission, certain principles, as enforced by the Rules of Procedure, shall govern the conduct of every member of ICMA, who shall:

1. Be dedicated to the concepts of effective and democratic local government by responsible elected officials and believe that professional general management is essential to the achievement of this objective.
2. Affirm the dignity and worth of the services rendered by government and maintain a constructive, creative, and practical attitude toward local government affairs and a deep sense of social responsibility as a trusted public servant.

#### *Guideline*

**Advice to Officials of Other Local Governments.** When members advise and respond to inquiries from elected or appointed officials of other local governments, they should inform the administrators of those communities.

3. Be dedicated to the highest ideals of honor and integrity in all public and personal relationships in order that the member may merit the respect and confidence of the elected officials, of other officials and employees, and of the public.

#### *Guidelines*

**Public Confidence.** Members should conduct themselves so as to maintain public confidence in their profession, their local government, and in their performance of the public trust.

**Impression of Influence.** Members should conduct their official and personal affairs in such a manner as to give the clear impression that they cannot be improperly influenced in the performance of their official duties.

**Appointment Commitment.** Members who accept an appointment to a position should not fail to report for that position. This does not preclude the possibility of a member considering several offers or seeking several positions at the same time, but once a *bona fide* offer of a position has been accepted, that commitment should be honored. Oral acceptance of an employment offer is considered binding unless the employer makes fundamental changes in terms of employment.

**Credentials.** An application for employment or for ICMA's Voluntary Credentialing Program should be complete and accurate as to all pertinent details of education, experience, and personal history. Members should recognize that both omissions and inaccuracies must be avoided.

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**Professional Respect.** Members seeking a management position should show professional respect for persons formerly holding the position or for others who might be applying for the same position. Professional respect does not preclude honest differences of opinion; it does preclude attacking a person's motives or integrity in order to be appointed to a position.

**Reporting Ethics Violations.** When becoming aware of a possible violation of the ICMA Code of Ethics, members are encouraged to report the matter to ICMA. In reporting the matter, members may choose to go on record as the complainant or report the matter on a confidential basis.

**Confidentiality.** Members should not discuss or divulge information with anyone about pending or completed ethics cases, except as specifically authorized by the Rules of Procedure for Enforcement of the Code of Ethics.

**Seeking Employment.** Members should not seek employment for a position having an incumbent administrator who has not resigned or been officially informed that his or her services are to be terminated.

4. Recognize that the chief function of local government at all times is to serve the best interests of all of the people.

#### *Guideline*

**Length of Service.** A minimum of two years generally is considered necessary in order to render a professional service to the local government. A short tenure should be the exception rather than a recurring experience. However, under special circumstances, it may be in the best interests of the local government and the member to separate in a shorter time. Examples of such circumstances would include refusal of the appointing authority to honor commitments concerning conditions of employment, a vote of no confidence in the member, or severe personal problems. It is the responsibility of an applicant for a position to ascertain conditions of employment. Inadequately determining terms of employment prior to arrival does not justify premature termination.

5. Submit policy proposals to elected officials; provide them with facts and advice on matters of policy as a basis for making decisions and setting community goals; and uphold and implement local government policies adopted by elected officials.

*Guideline*

**Conflicting Roles.** Members who serve multiple roles--working as both city attorney and city manager for the same community, for example--should avoid participating in matters that create the appearance of a conflict of interest. They should disclose the potential conflict to the governing body so that other opinions may be solicited.

6. Recognize that elected representatives of the people are entitled to the credit for the establishment of local government policies; responsibility for policy execution rests with the members.
7. Refrain from all political activities which undermine public confidence in professional administrators. Refrain from participation in the election of the members of the employing legislative body.

*Guidelines*

**Elections of the Governing Body.** Members should maintain a reputation for serving equally and impartially all members of the governing body of the local government they serve, regardless of party. To this end, they should not engage in active participation in the election campaign on behalf of or in opposition to candidates for the governing body.

**Elections of Elected Executives.** Members should not engage in the election campaign of any candidate for mayor or elected county executive.

**Running for Office.** Members shall not run for elected office or become involved in political activities related to running for elected office. They shall not seek political endorsements, financial contributions or engage in other campaign activities.

**Elections.** Members share with their fellow citizens the right and responsibility to vote and to voice their opinion on public issues. However, in order not to impair their effectiveness on behalf of the local governments they serve, they shall not participate in political activities to support the candidacy of individuals running for any city, county, special district, school, state or federal offices. Specifically, they shall not endorse candidates, make financial contributions, sign or circulate petitions, or participate in fund-raising activities for individuals seeking or holding elected office.

**Elections in the Council-Manager Plan.** Members may assist in preparing and presenting materials that explain the council-manager form of government to the public prior to an election on the use of the plan. If assistance is required by another community, members may respond. All activities regarding ballot issues should be conducted within local regulations and in a professional manner.

**Presentation of Issues.** Members may assist the governing body in presenting issues involved in referenda such as bond issues, annexations, and similar matters.

8. Make it a duty continually to improve the member's professional ability and to develop the competence of associates in the use of management techniques.

*Guidelines*

**Self-Assessment.** Each member should assess his or her professional skills and abilities on a periodic basis.

**Professional Development.** Each member should commit at least 40 hours per year to professional development activities that are based on the practices identified by the members of ICMA.

9. Keep the community informed on local government affairs; encourage communication between the citizens and all local government officers; emphasize friendly and courteous service to the public; and seek to improve the quality and image of public service.
10. Resist any encroachment on professional responsibilities, believing the member should be free to carry out official policies without interference, and handle each problem without discrimination on the basis of principle and justice.

*Guideline*

**Information Sharing.** The member should openly share information with the governing body while diligently carrying out the member's responsibilities as set forth in the charter or enabling legislation.

11. Handle all matters of personnel on the basis of merit so that fairness and impartiality govern a member's decisions, pertaining to appointments, pay adjustments, promotions, and discipline.

*Guideline*

**Equal Opportunity.** All decisions pertaining to appointments, pay adjustments, promotions, and discipline should prohibit discrimination because of race, color, religion, sex, national origin, sexual orientation, political affiliation, disability, age, or marital status.

It should be the members' personal and professional responsibility to actively recruit and hire a diverse staff throughout their organizations.

12. Seek no favor; believe that personal aggrandizement or profit secured by confidential information or by misuse of public time is dishonest.

*Guidelines*

**Gifts.** Members should not directly or indirectly solicit any gift or accept or receive any gift--whether it be money, services, loan, travel, entertainment, hospitality, promise, or

any other form--under the following circumstances: (1) it could be reasonably inferred or expected that the gift was intended to influence them in the performance of their official duties; or (2) the gift was intended to serve as a reward for any official action on their part.

It is important that the prohibition of unsolicited gifts be limited to circumstances related to improper influence. In *de minimus* situations, such as meal checks, some modest maximum dollar value should be determined by the member as a guideline. The guideline is not intended to isolate members from normal social practices where gifts among friends, associates, and relatives are appropriate for certain occasions.

**Investments in Conflict with Official Duties.** Member should not invest or hold any investment, directly or indirectly, in any financial business, commercial, or other private transaction that creates a conflict with their official duties.

In the case of real estate, the potential use of confidential information and knowledge to further a member's personal interest requires special consideration. This guideline recognizes that members' official actions and decisions can be influenced if there is a conflict with personal investments. Purchases and sales which might be interpreted as speculation for quick profit ought to be avoided (see the guideline on "Confidential Information").

Because personal investments may prejudice or may appear to influence official actions and decisions, members may, in concert with their governing body, provide for disclosure of such investments prior to accepting their position as local government administrator or prior to any official action by the governing body that may affect such investments.

**Personal Relationships.** Member should disclose any personal relationship to the governing body in any instance where there could be the appearance of a conflict of interest. For example, if the manager's spouse works for a developer doing business with the local government, that fact should be disclosed.

**Confidential Information.** Members should not disclose to others, or use to further their personal interest, confidential information acquired by them in the course of their official duties.

**Private Employment.** Members should not engage in, solicit, negotiate for, or promise to accept private employment, nor should they render services for private interests or conduct a private business when such employment, service, or business creates a conflict with or impairs the proper discharge of their official duties.

Teaching, lecturing, writing, or consulting are typical activities that may not involve conflict of interest, or impair the proper discharge of their official duties. Prior

notification of the appointing authority is appropriate in all cases of outside employment.

**Representation.** Members should not represent any outside interest before any agency, whether public or private, except with the authorization of or at the direction of the appointing authority they serve.

**Endorsements.** Members should not endorse commercial products or services by agreeing to use their photograph, endorsement, or quotation in paid or other commercial advertisements, whether or not for compensation. Members may, however, agree to endorse the following, provided they do not receive any compensation: (1) books or other publications; (2) professional development or educational services provided by nonprofit membership organizations or recognized educational institutions; (3) products and/or services in which the local government has a direct economic interest.

Members' observations, opinions, and analyses of commercial products used or tested by their local governments are appropriate and useful to the profession when included as part of professional articles and reports.

# COUNTY OF TOMPKINS



## CODE OF ETHICS

**Adopted by Local Law No. 2 of 1997 - June 17, 1997**  
**Revised by Local Law No. 2 of 1999 - April 6, 1999**  
**Amended by Local Law No. 1 of 2008 - May 20, 2008**  
**Amended by Local Law No. 2 of 2013 - July 16, 2013**

**A local law establishing standards of conduct for officers and employees of the  
County of Tompkins.**

Be it enacted by the Tompkins County Legislature of the County of Tompkins as follows;

Section 1. Chapter 32 of the Tompkins County Code is hereby amended to read as follows:

**SECTION I - INTRODUCTION**

Pursuant to the provisions of section 806 of the General Municipal Law, the Tompkins County Legislature recognizes that there is a need for clear and reasonable standards of ethical conduct. Public officers and employees must observe a high degree of moral conduct to maintain public confidence. It is the purpose of this local law to set forth these rules of ethical conduct for the officers and employees of Tompkins County. These rules shall serve as a guide for official conduct with regard to disclosure of interests in legislation before the local governing body, holding of investments in conflict with official duties, future employment, and such other standards as may be deemed advisable.

**SECTION II - DEFINITIONS**

(a) “Board” means the Tompkins County Legislature or any County administrative board, commission, or other agency or body of the County of Tompkins.

(b) “Code” means the Tompkins County Code of Ethics.

(c) “Confidential information” includes any information that would (i) affect current or imminent contract awards or collective bargaining negotiations, or (ii) interfere with law enforcement investigations or judicial proceedings, or (iii) deprive a person of his/her right to a fair trial or impartial adjudication, or (iv) constitute an unwarranted invasion of privacy, or (v) endanger the life or safety of any person, or (vi) provide civil service examination questions or answers or answers prior to administration of the examination, or (vii) reveal computer access codes, or (viii) provide any information that is specified as non-disclosable by federal or state law. Procedures that determine whether other information is confidential are described in the Tompkins County Administrative Policy Manual.

(d) “Interest” means a direct or indirect financial or material benefit, but does not include any benefit arising from the provision or receipt of any services generally available to the residents or taxpayers of the County or an area of the County, or a lawful class of such residents or taxpayers. A County officer or employee is deemed to have an interest in any private organization when he or she, his or her spouse, or a member of his or her household, is an owner, partner, member, director, officer, employee, or directly or indirectly owns or controls more than 5% of the organization’s outstanding stock. This definition shall not apply to a person serving as an unpaid member, director, or officer of a not-for-profit organization.

(e) “County” means Tompkins County.

(f) “County officer or employee” means a paid or unpaid officer or employee of Tompkins County, including, but not limited to, the members of any County board.

(g) “County resources” include, but are not limited to, County personnel and the County’s money, vehicles, equipment, materials, supplies, or other property.

(h) “Gift” includes anything of value, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form.

(i) “Key Employees” means those employees of Tompkins County designated annually by Resolution of the Tompkins County Legislature as key employees who are required to file an Annual Financial Disclosure Form.

(j) “Relative” means a parent, step-parent, spouse, spouse equivalent, domestic partner, sibling, step-sibling, sibling’s spouse, child, step-child, grandparent, parent of spouse or spouse equivalent or domestic partner; including in-laws and members of the household of a County officer or employee, and individuals having any of these relationships to the spouse of the officer or employee.

### **SECTION III - STANDARDS OF CONDUCT**

#### **(a) General Prohibition on Use of Office or Employment for Private Gain**

(1) A County officer or employee shall not use his or her official position or office, or take or fail to take any action, in a manner that he or she knows or has reason to know may result in a personal financial benefit for any of the following persons:

- (a) the County officer or employee;
- (b) his or her outside employer or business;
- (c) a customer or client;
- (d) a relative including a member of his or her household;
- (e) a person or entity with which the County officer or employee has had a financial relationship within the previous twelve months;
- (f) any person or entity from which the County officer or employee has received a gift, or any goods or services for less than fair market value, during the previous twelve months; or
- (g) a person from whom the County officer or employee has received election campaign contributions of more than five hundred dollars in the aggregate during the previous twenty-four months.

(2) A County officer or employee shall not use his or her official position to advance his or her private interest or the interest of others listed in subdivision (a)(1) to obtain any unwarranted privileges, exemptions, or advantages for any of the persons listed in subdivision (a)(1).

(3) A County officer or employee shall not use or permit the use of County resources for personal or private purposes. A County officer or employee shall not use County

letterhead, personnel, equipment, supplies, or resources for a non-governmental purpose nor engage in personal or private activities during times when he or she is required to work for the County. However, this subdivision shall not be construed as prohibiting:

- (a) any use of County resources authorized by law or County policy;
- (b) the use of County resources for personal or private purposes when provided to a County officer or employee as part of his or her compensation;
- (c) the occasional and incidental use during the business day of County telephones and computers for personal matters such as family care and changes in work schedule in accordance with any established County policy; or
- (d) Legislators from engaging in outside employment.

(4) No County officer or employee shall knowingly cause the County to spend more than is reasonably necessary for transportation, meals, or lodging in connection with official travel.

(5) No County officer or employee shall misuse his or her office to obtain a benefit for the employee or other persons or private entities.

**(b) Recusal, Abstention, Disclosure of Conflicts of Interest**

(1) A County officer or employee, whether paid or unpaid, who participates in the discussion of, or consideration of, or who gives an opinion on any legislation before the County Legislature must publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest that the officer or employee knows or should know exists.

(2) A Legislator with such a conflict can abstain from voting if the County Attorney so advises.

(3) A County officer or employee shall promptly recuse himself or herself from acting or discussing a matter before the County when acting on the matter, or failing to act on the matter, may financially affect any of the persons listed in subdivision III (a)(1). The act of recusal should be considered to be an abstention under the Rules of the Legislature.

**(c) Confidential Information**

For the purposes of the Code of Ethics, and as detailed in the Public Officers Law all information falls into one of three categories: the class of information which is never confidential, the class of information that is always confidential, and the class of information that may be confidential.

Never confidential: information that is

- the result of an external audit; or
- statistical data; or
- an instruction to staff that affects the public; or
- a final policy or determination made by the County or one of its departments.

Disclosure or use of such information is not restricted by the Code of Ethics.

Always confidential: information the disclosure of which would

- impair current or imminent contract awards or collective bargaining negotiations; or
- interfere with law enforcement investigations or judicial proceedings; or
- deprive a person of his or her right to a fair trial or impartial adjudication; or
- constitute an unwarranted invasion of privacy\*; or
- endanger the life or safety of any person.

Information that is always confidential also includes

- civil service examination questions or answers prior to the administration of the exam; or
- computer access codes; or
- information that is specified as non-disclosable by federal or state law.

No employee or officer of the County may ever disclose such information or use such information to further a personal interest.

Any information that does not clearly fall into just one of the above categories may be confidential. To be certain of complying with the Code of Ethics, all officers and employees must first request and receive an official determination from the County Attorney that a given piece of information is not confidential before disclosing or making personal use of it.

The restrictions on disclosure and use of confidential information described herein apply without regard to the circumstances in which the information was acquired, and include information gained through means other than the possessor's association with the County.

#### **(d) Nepotism**

Except as otherwise required by law:

(1) No County officer or employee, either individually or as a member of a board may participate in any decision specifically to appoint, hire, promote, discipline, or discharge a relative for any County position or any County board.

(2) No County officer or employee may directly or indirectly supervise a relative in the performance of the relative's official duties unless such supervision is in compliance with an individual written plan that has been proposed by the affected Department in conjunction with the Commissioner of Personnel and reported to the appropriate Legislative Committee to which the particular Department reports. Nothing in this policy should be construed to interfere with the appointment of Election Commissioners and their appointed

\* The legal issues involved in determining whether a given act constitutes an unwarranted invasion of personal privacy can be complicated and will not be addressed here. Interested persons may refer to Section 89, subdivision 2 of the aforementioned Public Officers Law of New York State as a starting point, or contact the County Attorney.

staff, although best practice would have them conform with this Nepotism portion of the Code.

**(e) Gifts and Gratuities**

(1) A County officer or employee shall not solicit a gift from any person who or entity that has received or sought a financial or material benefit from the County, nor accept a gift from any person who the County officer or employee knows or has reason to know has received or sought a financial benefit from the County or who will be seeking such a benefit in the future.

(2) A County officer or employee shall not request or accept anything from any person or entity other than the County for doing his or her County job.

(3) A County officer or employee shall not accept or receive any gifts having a value of fifty dollars (\$50) or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be expected to influence the performance of official duties or was intended as a reward for any official action.

**(f) Political Solicitations**

(1) Exclusive of mass advertising or solicitations, a County officer or employee shall not directly or indirectly solicit, compel, or induce a subordinate County officer or employee to make, or promise to make, any political contribution, whether by gift of money, service, or other thing of value.

(2) A County officer or employee may not act or decline to act in relation to appointing, hiring, or promoting, discharging, disciplining, or in any manner changing the official rank, status, or compensation of any County officer or employee, or an applicant for a position as a County officer or employee, or the awarding of any contract on the basis of giving and withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.

**(g) Investments in conflict with official duties**

A County officer or employee shall not invest or hold any investment directly or indirectly in any financial, business, commercial, or other private transaction, that creates a conflict with official duties. An investment in which a county officer or employee has an interest shall be exempt if such interest was acquired prior to the time he or she was elected or appointed as such officer or employee, but this paragraph shall in no event authorize a renewal of any such contract or investment. Such contract or investment is of course subject to the disclosure and recusal provisions of the Code.

This section does not prohibit a County officer or employee from acquiring any other investments or the following assets:

- (1) real property located within the County and used as his or her personal residence;
- (2) less than five percent of the stock of a publicly traded corporation; or
- (3) bonds or notes issued by the County and acquired more than one year after the date on which the bonds or notes were originally issued.

**(h) Representation**

A County officer or employee shall not represent any person or entity in any matter that is before the County nor represent any person or entity in any matter that involves the County. Excluded from this prohibition is a Legislator performing his or her normal duty of constituent representation and the County Attorney performing his or her official duties.

**(i) Appearances**

Except Legislators appearing with or for constituents, a County officer or employee shall not appear before any agency of the County, except on his or her own behalf or in his or her capacity as an employee of the County in furtherance of his or her official duties.

**SECTION IV- DISCLOSURE**

Elected officials and key employees of Tompkins County shall file by May 15 of each year an annual disclosure statement. This shall be submitted to the Clerk of the Tompkins County Legislature in the form prescribed by resolution of the Tompkins County Legislature upon recommendation of the Ethics Advisory Board. The Clerk shall retain the forms on behalf of the Ethics Advisory Board and make them available for inspection as detailed below.

The Clerk of the Tompkins County Legislature shall make the information submitted on Annual Disclosure Statements available, on request, to the members of the Ethics Advisory Board, County Attorney, County Administrator, Director of Finance, State Auditor, Commissioner of Personnel, District Attorney, and State Attorney General. The Clerk shall also make the information submitted on Annual Disclosure Statements available pursuant to the Freedom of Information Law.

The County Attorney shall confirm filing by all required filers. Requests for determination regarding conflicts shall be referred by the County Attorney to the Ethics Advisory Board. If the County Attorney determines that any required filers have not filed a correctly completed disclosure form the County Attorney shall report this to the appropriate supervisor. If a member of the Tompkins County Legislature has failed to complete and file an accurate and complete disclosure form, the County Attorney shall report this to the Chair of the Tompkins County Legislature or to the Vice Chair if the Chair is in default of filing.

**SECTION V - ETHICS ADVISORY BOARD**

(a) Membership and Eligibility - There shall be an Ethics Advisory Board that consists of five (5) members, each appointed by a majority vote of the Tompkins County Legislature. Each member shall be a resident of the Tompkins County. One of the members of

the Ethics Advisory Board shall be a member of the Tompkins County Legislature. None of the remaining members shall be an elected or appointed official of Tompkins County.

(b) Chair - The Chair of the Ethics Advisory Board shall be one of the appointed members of the Ethics Advisory Board selected by the Chair of the Tompkins County Legislature upon advice of the Ethics Advisory Board for a term of one (1) year.

(c) Term - The members of the Ethics Advisory Board will serve a term of four (4) years; however, two (2) of the original appointees shall be appointed to serve an initial term of two (2) years.

(d) Quorum - Three (3) members of the Ethics Advisory Board shall constitute a quorum, with the vote of four (4) members being required for action by the Board.

(e) Compensation - The members of the Ethics Advisory Board shall not be compensated; however, they may be reimbursed for reasonable expenses incurred in the performance of their duties.

(f) Bylaws - The Ethics Advisory Board may propose bylaws for its governance, which by law shall become effective upon approval by the Tompkins County Legislature.

(g) Responsibilities –

(1) Meetings

(a) The members of the Ethics Advisory Board will meet at least once a year and at such other times as the Chair of the Ethics Advisory Board shall convene them and within thirty (30) days after receipt of a written complaint.

(b) At each meeting of the Ethics Advisory Board, an opportunity shall be given to hear or receive complaints of alleged unethical practices, which may be brought in writing by any County employee or official. Any other person may submit a complaint to the County Attorney, who, if unable to resolve the complaint to the satisfaction of the complainant, shall submit the complaint to the Ethics Advisory Board.

(2) Review of Disclosure Statement

(a) No later than July 1 of each year, the Ethics Advisory Board shall review the report of the County Attorney on the filed Financial Disclosure Statements and the attestations that have been submitted by officials and employees and determine if any are not timely filed or are incomplete.

(b) The Ethics Advisory Board, or its designee, may grant limited extensions of time in which to file Financial Disclosure Statements due to justifiable cause or to undue hardship.

(c) The Ethics Advisory Board may permit an official or employee to delete from his/her Financial Disclosure Statement one or more items of information upon a finding by a majority of the entire Ethics Advisory Board that the information that would otherwise be required to be disclosed has no material bearing on the discharge of the duties of the official or employee. In this connection, the Ethics Advisory Board may, when requested, issue advisory opinions.

(3) Review of complaints and questions.

(a) The Ethics Advisory Board shall review all filed Disclosure Statements referred to it by the County Attorney and complaints received to ascertain whether a conflict of interest, actual or potential, exists between the public duties of the official or employee and his or her private activities pursuant to this chapter.

(b) The Ethics Advisory Board shall upon the written request of any individual receive, review, and hear all signed complaints that the Board determines to have merit alleging violations(s) of this chapter. Any such complaint must be signed by the individual complainant, and must include his/her address and telephone number.

Complaints from any person will be received in the following manner: A signed written complaint in the above form should be delivered to the County Attorney who, if unable to resolve the complaint to the satisfaction of the complainant, shall refer the complaint to the Ethics Advisory Board or to the Chair of the Ethics Advisory Board if the complainant so prefers.

(4) Authority to take testimony. The Ethics Advisory Board shall have the authority to take testimony under oath and to recommend to the Tompkins County Legislature that subpoenas be issued to compel the attendance of witnesses and to require the production of any books or records. The County Legislature shall take action on any such recommendation; a majority vote of the total membership of the Tompkins County Legislature shall be required for the issuance of a subpoena by the Ethics Advisory Board.

(5) Option to recommend resolution of conflict. In addition to such other powers conferred by this Section, the Ethics Advisory Board may recommend to the official or the employee of the County the manner in which the conflict of interest may be resolved. An affidavit by the official or employee detailing his or her compliance with the recommendations may be sufficient reason to rescind the Ethics Advisory Board's recommendation for disclosure or other action. The affidavit must be delivered to the Board at a specified time and place as set forth in the Board's certified, return- receipt-requested letter to such official or employee. If the official or employee fails to follow the recommendations of the Ethics Advisory Board in eliminating the conflict of interest, that fact shall also be

disclosed. Nothing herein contained shall be construed or interpreted to mean that the Ethics Advisory Board is under a duty to make such recommendations to the official or the employee.

(6) Rendering advisory opinions to other municipalities. The Ethics Advisory Board shall, as provided by State Law, render advisory opinions to officers and employees of municipalities wholly or partly within the County with respect to this article and any other applicable municipal code of ethics. The advisory opinion shall be rendered pursuant to a written request of any such officer or employee under such rules and regulations as the Board may prescribe and the Board shall have the advice of the County Attorney.

In addition, upon the request of the governing body of any municipality in the County, the Board may make recommendations with respect to the drafting and adoption of a code of ethics or amendment thereto for that municipality.

The County Ethics Advisory Board shall not act with respect to the officials or employees of any municipality located within the county or agency thereof, where such a municipality has established its own board of ethics, except that the local board may, at its option, refer the matter to the County Ethics Advisory Board.

(7) Written decision rendered. It is the intent of this Code of Ethics that complaints be resolved promptly and therefore a written decision should be forthcoming within 90 days after the conclusion of the fact-gathering process.

(8) Written record of actions and determinations. The Ethics Advisory Board shall state in writing the disposition of every request for opinion and every investigation it conducts, and the reasons for the disposition. All such statements and written requests shall be kept on file as public records.

(9) Review of Code of Ethics. The Ethics Advisory Board shall review the Code of Ethics and recommend to the County Legislature any changes that it deems appropriate. Any changes in this chapter that are recommended by the Ethics Advisory Board shall, to the extent reasonably consistent with the other responsibilities of the County Legislature, be discussed and acted upon by the County Legislature in open session at a regular meeting within two months of the issuance of the recommendations.

(10) Annual review of ethics training. The Ethics Advisory Board shall annually confer with the Commissioner of Personnel and review the training provided to employees as to ethics and provide any suggestions deemed appropriate.

## **SECTION VI - DISTRIBUTION OF CODE OF ETHICS**

The Chair of the Tompkins County Legislature shall cause a copy of this Code of Ethics to be distributed electronically or by hard copy to every officer and employee of the County of Tompkins within thirty (30) days after the effective date of this local law. Each officer and employee elected or appointed thereafter shall be furnished an electronic or a hard copy before entering upon the duties of his/her office or employment.

A copy of the Code shall be available in each County department and posted on the County website. In addition each County officer and employee shall receive an annual reminder about the existence of the Code, where it can be accessed, and the importance of complying with it.

The failure of a County officer or employee to receive a copy of the Code or any other amendment thereto does not affect either the applicability or enforceability of the Code or amendments thereto.

#### **SECTION VII - PENALTIES**

In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any of the provisions of this code may be censured, fined, suspended, or removed from office or employment, as the case may be, in the manner provided by law.

#### **SECTION VIII - EFFECTIVE DATE**

This local law shall take effect upon the filing as provided in section twenty-seven of the Municipal Home Rule Law.