



CANCER PREVENTION & RESEARCH
INSTITUTE OF TEXAS

MEMORANDUM

To: OVERSIGHT COMMITTEE CHAIR WILL MONTGOMERY
From: WAYNE R. ROBERTS, CHIEF EXECUTIVE OFFICER
Subject: SECTION 102.1062 WAIVER – DR. JOHN HELLERSTEDT
Date: AUGUST 8, 2018

Waiver Request and Recommendation

I request that the Oversight Committee approve a conflict of interest waiver for FY 2019 for Program Integration Committee (PIC) member DSHS Commissioner Dr. John Hellerstedt, pursuant to Health & Safety Code Section 102.1062 “Exceptional Circumstances Requiring Participation.” The waiver is necessary for Commissioner Hellerstedt to participate in CPRIT’s review process as a PIC member. Together with the waiver’s proposed limitations, adequate protections are in place to mitigate factors other than merit and the established grant criteria affecting the award of grant funds. The waiver is the same as approved by the Oversight Committee for FY 2018.

Background

Governor Abbott appointed Dr. Hellerstedt as Commissioner of the Department of State Health Services (DSHS) on January 1, 2016. The DSHS Commissioner is a statutorily designated member of the PIC. As a PIC member, Commissioner Hellerstedt must exercise discretion related to whether to recommend applications proposed for grant awards to the Oversight Committee for final approval.

DSHS is a CPRIT grant recipient, which implicates conflict of interest concerns. Health & Safety Code Section 102.106(c)(3) mandates that a professional conflict of interest exists if a PIC member is an employee of an entity applying to receive or receiving CPRIT funds. Furthermore, CPRIT’s administrative rule 702.13(c) categorizes this type of professional conflict of interest as one that raises the presumption that the existence of the conflict may affect the impartial review of all other grant applications submitted pursuant to the same grant mechanism in the grant review cycle. A person involved in the review process that holds one of the conflicts included in the Section 702.13(c) “super conflict” category must be recused from participating in the “review, discussion, scoring, deliberation and vote on all grant applications competing for the same grant mechanism in the entire grant review cycle, unless a waiver has been granted...”

CPRIT’s administrative rule Section 702.17(3) authorizes the Oversight Committee to approve a waiver that applies for all activities affected by the conflict during the fiscal year.

Exceptional Circumstances Requiring Commissioner Hellerstedt's Participation

To approve a conflict of interest waiver, the Oversight Committee must find that there are exceptional circumstances justifying the conflicted individual's participation in the review process. The statute compels Commissioner Hellerstedt's participation in the review process. The Oversight Committee should grant the proposed waiver so that CPRIT may fulfill legislative intent that the DSHS Commissioner serve as a PIC member. The proposed limitations will substantially mitigate any potential for bias.

Proposed Waiver and Limitations

In granting the waiver of the conflict of interest set forth in Section 102.106(c)(3), I recommend that the Oversight Committee permit Commissioner Hellerstedt to continue to perform the following activities and duties associated with CPRIT's review process subject to the stated limitations:

1. Attend and participate fully in the PIC meetings except that Commissioner Hellerstedt shall not participate in the PIC's discussion or vote on grant award recommendations to DSHS;
2. Have access to grant application information developed during the grant review process, except for information related to DSHS applicants, if any; and
3. Provide information to the Oversight Committee or CPRIT personnel about the grant review process and applications recommended by the PIC for grant awards, including answering questions raised by the Oversight Committee or CPRIT personnel. To the extent that Commissioner Hellerstedt provides information on his own initiative in a review cycle in which DSHS is a grant applicant, the information provided by Commissioner Hellerstedt should be general information related to the overall grant application process and not advocate specifically for a grant application submitted by DSHS.

CPRIT's statute requires the Chief Compliance Officer to attend PIC meetings to document compliance with CPRIT's rules and processes, including adherence to this limitation. The Chief Compliance Officer shall report to the Oversight Committee any violation of this waiver prior to the Oversight Committee's action on the PIC recommendations.

Important Information Regarding this Waiver and the Waiver Process

- The Oversight Committee may amend, revoke, or revise this waiver, including but not limited to the list of approved activities and duties and the limitations on duties and activities. Approval for any change to the waiver granted shall be by a vote of the Oversight Committee in an open meeting.

- CPRIT limits this waiver to the conflict of interest specified in this request. To the extent that Commissioner Hellerstedt has a conflict of interest with an application that is not the conflict identified in Section 102.106(c)(3), then Commissioner Hellerstedt will follow the required notification and recusal process.