

Mozilla Foundation Conflict of Interest Policy

Purposes

The primary purposes of this Conflict of Interest Policy (the "Policy") are:

- to protect the integrity of the decision making process of the Mozilla Foundation (the "Foundation");
- to help protect the integrity and reputation of Foundation Board members ("Directors"), Foundation officers ("Officers") and Foundation key employees ("Key Employees"); and
- to help ensure that the Foundation and the Directors, Officers and Key Employees comply with applicable state and federal laws, including fiduciary obligations.

The Board of Directors takes seriously not only its legal obligations but believes that retaining the trust and confidence of its constituencies is paramount. The Board has therefore adopted this Policy so that its key constituencies, including the Mozilla Community and donors, have the utmost possible confidence in the integrity and operations of the Board and the Foundation.

Overview

Conflicts of interest arise when a Director, Officer or Key Employee has a personal, professional or business interest that is at odds with the individual's duty of loyalty to the Foundation, described below. Whether actual or perceived, Conflicts of Interest (defined below) have the potential to damage the Foundation's credibility, thereby adversely affecting its ability to fulfill its mission and programmatic goals. If not managed properly, Conflicts of Interest can also undermine the trust and confidence of Mozilla Community members and the Foundation's donors on whom the Foundation's success depends.

Conflicts of Interest are not necessarily prohibited or harmful to the Foundation provided (i) they are identified and properly managed, and (ii) the Interested Person (defined below) refrains from acting on behalf of, or attempting to influence, the Foundation as provided herein. This Policy is designed to assist Directors, Officers and Key Employees in the performance of their duties and to state clear guidelines to be followed in identifying and resolving potential and actual Conflicts of Interest, including self dealing issues, and situations that give rise to the appearance or perception of a Conflict of Interest.

This Policy addresses three sources of legal rules regarding Conflicts of Interest:

- the duty of loyalty under California state law applicable to Directors and Officers,
- the prohibition against private inurement under the Internal Revenue Code, and
- the requirement that special steps be taken to approve transactions in which Directors have material financial interests ("self-dealing") under Section 5233 of the California Corporations Code.

This Policy is intended to comply with procedures prescribed under state and federal law. In the event there is an inconsistency between the requirements and procedures prescribed in this Policy and those existing under applicable state or federal law, such state or federal statute shall prevail.

Sources of Legal Obligations

Directors of the Foundation have specific legal duties governing their conduct that, if not met, could result in a breach of their duties under California law and liability for the Director and/or the Foundation. In addition, the Foundation is subject to specific federal and state laws and rules governing certain transactions as a non profit public benefit corporation under California law, and as an organization exempt from federal taxation under IRC 501(c)(3) with respect to Directors, Officers and Key Employees.

Duty of Loyalty

The duty of loyalty requires Directors and Officers to act in the best interests of the Foundation, not in their own interests or those of another person or organization. Directors and Officers may not use their position for personal advantage or take an opportunity that is offered to the Foundation and use it personally. Every Director and Officer must deal fairly with the Foundation in light of his or her position. In addition, Directors and Officers must not use the private or confidential information they obtain by virtue of their position as a Director or Officer to further their own interests to the detriment of the Foundation. The Foundation believes a duty of loyalty shall also be required of Key Employees.

Prohibition on Private Inurement

The Internal Revenue Code requires that no part of the net earnings of the Foundation may inure to the benefit of any private individual. Private inurement can result when financial assistance or a benefit of value is provided to an insider, or when there is a transaction with an insider such as a Director, Officer or Key Employee that is not at arm's length. This Policy addresses only those private inurement issues that arise in connection with a potential or actual Conflict of Interest.

Self Dealing by Directors: Interlocking Directorships

California law provides that, with certain exceptions, the Foundation must not enter into transactions in which one or more of its Directors has a "material financial interest" (defined below) unless one of three standards/tests is met. Those standards/tests are outlined below and are built into the processes outlined in this Policy. The Foundation seeks to resolve such conflicts in advance of entering into any such transactions whenever feasible. The Foundation believes that similar restrictions should apply to Officers and Key Employees.

In addition, California law permits transactions between corporations having common directors and provides a process by which such transactions should be approved. Several Directors serving on the Foundation's Board serve on other boards, including the board of directors of the Mozilla Corporation, a wholly-owned subsidiary of the Foundation (the "Corporation"). Adhering to this Policy helps ensure that transactions between the Foundation and other organizations (including the Corporation) on whose boards Foundation Directors serve are not void or voidable.

Conflicts of Interest; Definitions

For purposes of this Policy, the following circumstances are deemed to constitute Conflicts of Interest:

1. A Director, Officer or Key Employee (an "Interested Person") has a material financial interest in a transaction to which the Foundation is a party (any such transaction, a "Potential Self-Dealing Transaction"). A "material financial interest" is a financial interest of any kind which, in view of all the circumstances, is substantial enough that it reasonably would be expected to affect an Interested Person's judgment with respect to the transaction with the Foundation. Notwithstanding the foregoing, Potential Self-Dealing Transactions shall not include any transaction of which the Interested Person has no actual knowledge and which does not exceed the lesser of 1% of the gross receipts of the Foundation for its preceding fiscal year or US \$100,000.
2. A Director, Officer or Key Employee or his/her agent or close friend, or a Related Party (defined below) is a director, officer or trustee of another entity that is a party to a transaction with the Foundation and the transaction is one that should be considered by the Board.
3. A Director, Officer or Key Employee or a member of such person's immediate family gives to or accepts from any individual or entity that is (i) doing business with or is seeking to do business with the Foundation, or (ii) is seeking to receive (or has received) a financial commitment from the Foundation, in either situation any gifts, entertainment or other favors. This does not include giving or accepting items or services (including entertainment) of nominal or insignificant value.
4. In situations other than those covered by 1, 2 or 3, above, when the Board considers or proposes to act on a matter or transaction and a Director, Officer or Key Employee knows that s/he has an interest in such matter or transaction separate from the Foundation that present or may present a conflict between such

person's obligations to the Foundation and the person's personal, business or other interests.

A "Related Party" means a member of Interested Person's immediate family (including parents, siblings, spouse, domestic partner, and children or other children residing with the person); any estate, trust, custodianship, guardianship, or similar arrangement in which the person, or any other member of his or her immediate family, has a known present or vested future beneficial interest; and any other corporation or entity of which the person, or any member of his or her immediate family, is a general partner, director, officer, or direct beneficial owner of more than 5% of the voting interests.

A "Key Employee" means a non-Officer employee of the Foundation designated by the Board of Directors, in its sole discretion, as a Key Employee.

The Mozilla Community and the Mozilla Corporation

The success of the Foundation depends heavily on relationships that extend beyond its employees, and includes the many valuable members of the Mozilla Community who devote time and resources to the activities and projects supported by the Foundation. The Foundation also has legal relationships with its affiliated organizations, including the Mozilla Corporation (the "Corporation"), a wholly-owned subsidiary of the Foundation and a separate legal entity operated and managed by its own board of directors and officers. The Foundation is the sole shareholder of the Corporation, and the Foundation Board provides oversight to the Corporation through its role as sole shareholder.

The Foundation wishes to make certain that Directors, Officers and Key Employees do not use their positions to influence or otherwise encourage members of the Mozilla Community or employees of the Corporation or its other affiliated entities to take any action that would violate this Policy had such action been undertaken directly by the Foundation.

Accordingly,

- When Directors of the Foundation, in furtherance of their duties and responsibilities as Directors, take action through the Board as the shareholder of the Mozilla Corporation, this Policy applies directly to such actions; and
- When Directors, Officers and Key Employees interact with members of the Mozilla Community or employees of the Corporation or other entities affiliated with the Foundation, the "*Influence and Communications Policy*," attached to this Policy, shall apply.

Procedures for Reviewing and Managing Conflicts of Interest

Disclosure

Directors, Officers and Key Employees have an obligation to disclose both potential and actual Conflicts of Interest as provided in this Policy. The disclosure obligation is two-fold.

First, on an annual basis, each Director, Officer and Key Employee shall complete a Conflict of Interest Disclosure Form (attached). In addition, each such person shall promptly update the form when becoming aware of new or additional facts or circumstances that should be disclosed thereon.

Second, each Director, Officer and Key Employee shall on an on-going basis disclose (a) other transactions or relationships of which the person has actual knowledge and that the person reasonably expects could give rise to an actual or potential Conflict of Interest or (b) other circumstances that the person reasonably expects could give rise to the appearance of a Conflict of Interest, in either case when the person first becomes aware that a matter involving a Conflict of Interest is being, or will be, considered or acted upon by the Board. Disclosure shall be made to the Board (if at a meeting) or to the Chair. If at a meeting, such disclosure shall be duly recorded in the minutes.

Full disclosure of the nature and details concerning the Conflict of Interest, or the appearance of a Conflict of Interest, is required subject to confidentiality obligations undertaken by or otherwise imposed on the Interested Person by another entity or relationship. In the event of such confidentiality obligations, the Interested Person shall disclose the nature and details of the potential Conflict of Interest to the fullest extent permitted.

Once the Interested Person makes full disclosure of all of the nature and details of the actual or potential Conflict of Interest (subject to confidentiality obligations, as noted above), then if at a meeting the Interested Person shall leave the meeting during any discussion and decision relating thereto, including any decision as to whether a Conflicts of Interest exists. In addition, the Chair may take any additional measures s/he believes in her/his discretion are appropriate and reasonable under the circumstances to protect the integrity of the decision making process, including measures beyond those set forth in this paragraph or below under "Resolution Process." Notwithstanding the foregoing, nothing herein precludes the Chair or other Directors from requesting additional information from the disclosing Interested Person regarding the nature or details of the potential or actual Conflict of Interest, or the circumstances giving rise to the appearance of a Conflict of Interest.

Resolution Process

Potential Conflict of Interest. In the event a situation arises in which it is unclear whether an actual or potential Conflict of Interest exists with respect to a matter or transaction to be presented to the Board for consideration and/or approval, the Chair shall make such determination in good faith following reasonable inquiry, in consultation with Foundation legal counsel and, in the Chair's discretion, in consultation with other Directors. In the event the disclosing Interested Person is unable to disclose fully the material facts of a potential Conflict of Interest for confidentiality reasons, the potential Conflict of Interest shall be treated as an actual Conflict of Interest under this Policy.

Actual Conflict of Interest. In the event an Interested Person has an actual Conflict of Interest with respect to a matter or transaction to be presented to the Board for consideration and/or approval, the following processes apply:

1. **Participation by Interested Person**

An Interested Person shall not participate in, act on or attempt to influence any matter or transaction brought before the Board for consideration and/or approval if (a) the Interested Person has an actual Conflict of Interest, or (b) the Interested Person has a potential Conflict of Interest but the Interested Person has not fully disclosed the relevant material facts and circumstances sufficiently so that a determination can be made as to whether an actual Conflict of Interest exists.

2. **Potential Self-Dealing Transactions**

With respect to any Potential Self-Dealing Transaction, such transaction may be approved in accordance with one of the following processes:

(a) **By the Board Prior to Consummation.** The Foundation may enter into the transaction if the transaction is entered into for the Foundation's own benefit, is fair and reasonable to the Foundation at the time, and in addition:

(i) prior to consummating any such transaction or part thereof, the Board authorizes or approves the transaction in good faith by a vote of a majority of the Directors then in office (without the vote of the Interested Person(s)), and with knowledge of the material facts concerning the transaction and the Interested Person(s)' interest in the transaction, *and*

(ii) either (x) prior to authorization or approval, the Board considers and in good faith determines after reasonable investigation that under the circumstances that the Foundation could not obtain a more advantageous arrangement with reasonable effort under the circumstances, or (y) the Foundation in fact could not obtain a more advantageous arrangement with reasonable effort under the circumstances.

(b) **By the Board Following Consummation.** A committee of the Board or a person authorized by the Board may enter into such a transaction provided (i) the transaction meets all of the standards otherwise applicable to the Board as set forth in paragraph (a), above, (ii) it is not reasonably practical to obtain approval of the Board prior to entering the transaction, and (iii) the Board thereafter determines in good faith that the conditions of (i) and (ii) were met and ratifies the transaction at its next meeting by a vote of the majority of the Directors then in office without counting the vote of the Interested Director(s).

(c) Approval by the Attorney General. The Attorney General or a court (in which the Attorney General is joined as an indispensable party) has approved the transaction before or after it was consummated.

3. Other Actual Conflicts of Interest

With respect to respect to any matter or transaction to be presented to the Board for consideration and/or approval in which a Director has an Conflict of Interest *other* than a Potential Self Dealing Transaction, the matter or transaction may be considered and/or approved by a majority of those Directors (assuming a quorum is present) who have no interest in the transaction or the decision after determining, in good faith and after reasonable inquiry following disclosure by the Interested Director(s), that the transaction or arrangement:

- (a) is fair and reasonable to the Foundation;
- (b) is in the Foundation's best interests and for its own benefit; and
- (c) furthers the Foundation's charitable purposes.

Appearance or Perception of a Conflict of Interest

With respect to any matter or transaction to be presented to the Board for consideration and/or approval in which a Director or the Board believes would give rise to an appearance or perception that a Director, Officer or Key Employee has a Conflict of Interest that would be harmful to the Foundation in any respect, then either the Director, Officer or Key Employee or the Board may in their discretion elect to treat such situation as an actual Conflict of Interest in accordance with the processes described herein.

Legal Counsel

The Chair and/or Board shall whenever possible consult with and obtain the advice of Foundation legal counsel prior to considering any Conflict of Interest matter or transaction, including actual and potential Conflicts of Interest and Potential Self Dealing Transactions.

Responsibility; Contact Information

Adhering to this Policy is a condition of association with the Foundation as a Director, Officer or Key Employee. Violations of this Policy and the procedures contained herein may be grounds for severance from the Board.

The Chair and the Secretary of the Board are responsible for maintaining appropriate records and documentation on Conflicts of Interests and their resolution.

On an annual basis, all Directors, Officers and Key Employees are to be provided with a copy of this Policy and are required to complete and sign the Conflict of Interest Acknowledgment and the Conflict of Interest Disclosure Form, as provided above.

Any questions about concerning the Policy or its scope should be addressed to the Chair or the Executive Director.

As adopted by the Mozilla Foundation Board of Directors
Effective September 12, 2007 and amended on _____.

CONFLICT OF INTEREST ACKNOWLEDGMENT

I have read and accept the terms outlined in the Conflict of Interest Policy for the Mozilla Foundation.

Signature

Date

CONFLICT OF INTEREST DISCLOSURE FORM

Please respond to the following questions to the best of your knowledge. Use continuation sheets if needed to provide more detailed answers to any of the questions.

The information you provide on this form will be available for inspection by members of the Board and Mozilla Foundation's legal counsel, but shall otherwise be held in confidence except when, after consultation with the applicable board member, the Board determines that the Mozilla Foundation's best interest would be served by disclosure.

1. Please list all corporations, partnerships, associations or other organizations of which you or any member of your immediate family are an officer, director, advisory board member, trustee, general partner, employee, or independent contractor or consultant, and describe briefly the affiliation with such entity.

2. Please list all entities in which you or any member of your immediate family are a beneficial owner directly or indirectly (through an entity in which you, one or more members of your immediate family, or you together with one or more members of your immediate family own 50% or more of the voting interests) of more than 5% of the voting interests.

3. Please indicate whether you or any Related Party (as defined in the Conflict of Interest Policy), subject to *de minimis* exceptions, have any ownership or investment interest in, or compensation arrangement or other affiliation with, the following entities:

Google Yes No

Yahoo! Yes No

If yes, please describe the relationship(s) below:

4. Please use the space below to provide any other information that you believe the Board should be aware of for purposes of the Conflict of Interest Policy:

The answers to the foregoing questions are stated to the best of my knowledge and belief.

Date

Signature