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## PROSPECTIVE NONPROFIT RESEARCH AND EDUCATION CORPORATIONS STATUTORY VA DIRECTORS’ CERTIFICATION OF RESPONSIBILITIES SINGLE NPC

Each of the undersigned, as prospective statutory members of the Department of Veterans Affairs (VA) of a VA-affiliated nonprofit research and education corporation (NPC), certify understanding the statutory responsibilities for the NPC. The undersigned will serve as a member of the Board in their official VA capacity. Each commit to allocating sufficient time and resources to establish the NPC as well as to fulfilling the undersigned’s responsibilities as a Board member.

Signature, Insert Name, Medical Center Director Date

Signature, Insert Name, Chief of Staff Date

Signature, Insert Name, Associate Chief of Staff for Research Date

If applicable Signature, Insert Name, Associate Chief of Staff for Education or Designated Education Officer Date

# **PROSPECTIVE MULTI-MEDICAL CENTER RESEARCH CORPORATION STATUTORY VA DIRECTORS’ CERTIFICATION OF RESPONSIBILITIES**

As prospective Statutory Department of Veterans Affairs (VA) Directors of a multi-medical center research corporation (Multi-NPC), the undersigned certifies understanding of the statutory responsibilities of the Multi-NPC. Each understands that the undersigned will serve as a member of the Multi-NPC Board in the undersigned’s official VA capacity. Each commit to allocating sufficient time and resources toward fulfilling the undersigned’s responsibilities as a Board member. Each has read and approved the business plan for the prospective Multi-NPC.

Signature, Insert Name, Lead Facility Medical Center Director Date

Signature, Insert Name, Lead Facility Chief of Staff Date

Signature, Insert Name, Lead Facility Associate Chief of Staff Date

For Research, If applicable

Signature, Insert Name, Associate Chief of Staff for Education/ Date

Designated Education Officer, If applicable

Signature, Insert Name, Other Facility Medical Center Director Date

If needed, insert additional “other facility” Statutory VA Directors

# **APPROVAL MEMORANDUM FOR VA EMPLOYEE (NON-STATUTORY) TO SERVE ON NPC BOARDS**

[DATE]

[NAME OF POTENTIAL BOARD MEMBER]

[ADDRESS]

RE: Exemption for Non-Statutory VA Employees Serving as Members of the VA- affiliated Nonprofit Research and Education Corporation (NPC) Board of Directors

Dear [NAME OF POTENTIAL BOARD MEMBER],

Thank you for your interest in serving on the Board of Directors of the [NAME] NPC. In accordance with our by-laws, charter documents, and policies, we would like you to serve on our Board of Directors (Board), but understand that the authority to assign you to such service as part of official duty rests with your Department of Veterans Affairs (VA) chain of command. We therefore require that you send to us a written acknowledgement of the assignment by the VA official with such authority (see sample attached). Your service as an officer, director, or trustee on our Board is permissible because of a regulatory exemption promulgated by the United States Office of Government Ethics, in conjunction with a December 30, 2014, memorandum from the VA Chief of Staff with the subject line “Official Service on Board of Directors of VA-Affiliated Nonprofit Research and Education Corporations by a VA Employee (VAIQ 7544595, EST GCL 56902).” Per the memorandum, the first SES/SES EQUIV in your chain of command has the requisite authority to assign you to serve on our Board based upon our request for such service. We note that this exemption and resultant VA policy memorandum do not affect the Board service of those VHA employees mandated by statute to serve on the NPC Board (38 U.S.C. § 7363).

As a VA employee, you may be assigned under this new policy to serve in official capacity only as an officer, director, trustee, or some combination of those three positions, on our Board. As a Board member serving in official VA capacity, you are subject to the Federal conflict of interest statutes, the Executive Branch Standards of Conduct at 5 C.F.R. Part 2635, and VA policies applicable to such official duty service. If assigned to the Board, you may not participate in official capacity fundraising or lobbying on behalf of the NPC, nor otherwise participate in any activity determined by the VA OGC to be illegal or improper. In this role on the Board, you owe a fiduciary duty to the NPC, but your loyalty to VA remains paramount. You will be subject to the NPC Conflict of Interest policy and other NPC policies, but if any NPC policy is in conflict with the Government ethics rules or VA policy, the Government ethics rules and VA policies take precedence and you would not participate in such matters.

If you have any questions, please contact XXXXX.

Very truly yours,

Chair or ED

Date

Dear Chairman of the Board:

In response to your request, I hereby assign [**NAME OF BOARD MEMBER]**, an employee of the Department of Veterans Affairs (VA), to serve as a non-statutory Board member (officer, director or trustee or any combination of three) of the nonprofit research and education corporation named [**NAME OF NONPROFIT CORPORATION],** in [his/her] official VA capacity as [**VA TITLE]** and while on [his/her] tour of duty. I understand that an SES/SES EQV in the chain of command must give final approval to this assignment.

Sincerely,

APPROVED OR DISAPPROVED

SUPERVISOR’S NAME AND TITLE

APPROVED OR DISAPPROVED

SES or SES EQUIVALENT NAME AND TITLE

# **SAMPLE NPC CONFLICT OF INTEREST POLICY AND PROCEDURES**

1. Purpose

This policy is designed to protect the interests of the NPC by providing guidance on participation in NPC matters that might permit an officer, Director, or employee to choose their personal interests over the interests of the NPC, or that might call into question the employee’s independence, impartiality, or integrity.

Applicationof policy

* 1. Pursuant to 38 U.S.C. § 7366, as amended by Public Law 111-163, §§ 801-806, all directors, officers, and employees of the NPC are subject to this conflict of interest policy. This policy is intended to supplement, but not replace, applicable federal and state laws and Department of Veterans Affairs (VA) regulations and policies governing conflicts of interest, including those VA policies pertaining to research conflicts of interest.

VA employees statutorily mandated to serve as NPC Board of Directors as part of their official VA duties (“Statutory VA Directors”) and NPC employees who hold a VA Without Compensation (“WOC”) appointment, or who are detailed or assigned to VA under the Intergovernmental Personnel Act, are subject to the federal conflict of interest statutes and regulations, which control if in conflict with this policy.

General policy

* 1. Unless authorized by the NPC Board of Directors, an NPC Director, officer, or employee is prohibited from participating as part of his NPC duties in any matter in which he has a Conflict of Interest or the appearance of a Conflict of Interest. To participate in a matter means to engage in an aspect of the decision-making process through recommendation, approval, disapproval, investigation, advice-giving, or the like, or through the active supervision of a subordinate who is so engaged.
	2. The final determination of the existence of a Conflict of Interest or the appearance of a Conflict of Interest rests with the Board of Directors of the NPC.
	3. Each Director, officer or employee has an obligation to inform the Executive Director as soon as he believes that he has a real or potential Conflict of Interest or appearance of a Conflict of interest that could affect their participation in an NPC matter.

Definitions

* 1. **Business Associate.** A “Business Associate” is any person or entity, other than the NPC, with whom an NPC Director, officer, or employee: 1) engages in the exchange of goods or services for remuneration (other than routine consumer transactions); 2) served within the past year as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; or 3) or any of their Relatives serves, seeks to serve, or has an arrangement to serve as officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee.
	2. **Close Relationship.** Relationship with Relatives, members of his household, and Business Associates such as general partners.
	3. **Conflict of Interest**. A Conflict of Interest exists when the interests of a Director, officer, or employee is or appears to be competing with the interests of the NPC. A Director, officer, or employee may be considered to have a conflict of interest whenever they or someone with whom they have a Close Relationship has an existing financial or other material interest that affects or appears to affect the independence, objectivity, or integrity of the Director, officer, or employee in the discharge of their NPC responsibilities. Additionally, personal and business relationships may cause “dual loyalties” that are unrelated to personal financial gain, but nonetheless may raise conflict of interest concerns.
	4. **Financial or Other Material Interest**. An NPC Director, officer, or employee has a “Financial Interest” if through business, investment, or Relatives they have an ownership or investment interest in, or a compensation arrangement with, any entity or individual with whom the NPC has or is contemplating a transaction or arrangement.
	5. **Key Employee.** An NPC employee with decision-making authority.
	6. **Relatives.** For purposes of this policy, “Relatives” are the spouse, parent, child, and any other relative by blood or marriage with whom an NPC Director, officer, or employee has similarly close personal ties, as well as any other member of their household.

5. Disclosure

a.Duty to Disclose. All NPC Board of Directors, officers, and employees have a duty to disclose actual or potential Conflicts of Interest or appearance of a Conflict of Interest in accordance with this Policy.

b. Disclosure Documents. The Board of Directors shall approve the content of the template Disclosure Questionnaire (Attachment A) and the Affirmation of Compliance statement (Attachment B) and future substantive changes to them.

c. Disclosure Procedures.

* + 1. All NPC Board of Directors, officers, and employees will complete a Disclosure Questionnaire and an Affirmation of Compliance upon initiating their association with NPC. The completed documents are to be submitted to the NPC Executive Director.
		2. All NPC Board of Directors, officers, and Key Employees will submit to the Executive Director a new Disclosure Questionnaire and Affirmation of Compliance statement any time a change in circumstances may result in a potential conflict of interest, but at least annually.
		3. Employees other than Key Employees will submit to the Executive Director a new Disclosure Questionnaire and Affirmation of Compliance statement any time a change in circumstances may result in a potential conflict of interest.
	1. Review
		1. The Executive Director shall conduct a preliminary review of all Disclosure Questionnaires.
		2. The Executive Director will provide to the Board of Directors any Disclosure Questionnaire of a Director, officer or Key Employee that contains a disclosure (i.e., a “yes” response). The Board will determine whether a conflict exists and if so, how to manage the conflict, if possible. Disclosure Questionnaires containing no disclosures and the Affirmation of Compliance statements need not be submitted to the Board of Directors.
		3. The Executive Director will provide to the Chair of the Board (or equivalent position) and the employee’s supervisor, the Disclosure Questionnaire of a non-Key Employee that contains a disclosure. The Chair, supervisor, and Executive Director will determine if the disclosure represents a real or potential Conflict of Interest that requires consideration by the Board.
	2. Sanctions. Failure to disclose as required by this Policy may result in sanctions, up to and including dismissal from the NPC.
	3. Tracking. The Executive Director shall ensure that all NPC personnel fulfill their disclosure requirements and shall ensure that written documentation showing fulfillment of such requirement is maintained for three years.
	4. Confidentiality. Disclosure Questionnaires may contain confidential information and will be treated as confidential documents.
	5. Storage and Retention. The Executive Director will maintain Disclosure Questionnaires and Affirmations of Compliance statements with the official records of the NPC in a secured container. The Disclosure Questionnaires and Affirmation of Compliance statements will be retained for at least three years with the most recent version of each retained until the end of the individual’s NPC relationship.
1. Requirement for board review of potential conflicts

Whenever there is reason to believe that a potential conflict exists between any interest of an NPC board member, officer, or employee, and their duty to the NPC, the Board will promptly convene a meeting to determine whether a Conflict of Interest exists and the appropriate response.

Any response by the Board will include, but may not necessarily be limited to, invoking the procedures described below with respect to a specific proposed matter.

If there is reason to believe that a potential conflict affects VA interests, the Board will bring the potential conflict to the attention of the appropriate VA authorities which may include the facility Research Conflict of Interest Committee or a VA OGC Deputy Ethics official.

1. Procedures for determining and managing Conflicts of Interest

a. When a potential conflict exists between the interests of the NPC and a Director, officer, or employee, the Board will consider the matter during a meeting of the Board. The affected individual shall recuse himself from participating in the potential Conflict of Interest and from the Board meeting at which the potential Conflict of Interest is considered.

b. Procedures. Until such time as the Conflict of Interest is resolved, the affected individual shall recuse from participating in the matter that invoked the potential Conflict of Interest concern. The following procedures will apply:

(1) Board Review. A Director, officer, or employee who has a potential conflict of interest with respect to a proposed NPC decision, policy or transaction or arrangement (an “interested party”) will not participate in any way in, or be present during, the deliberations and decision-making vote of NPC with respect to such matter. However, that person will have an opportunity to provide factual information about the proposed conflict and/or matter regarding the potential conflict. Also, the Board may request that an interested party be available to answer questions. Board options include, but are not limited to:

(a) Allowing the proposed matter to go forward upon finding it in the best interests of the NPC;

* + - 1. Prohibiting the proposed matter from going forward if it is found to have been irreparably tainted by the Conflict of Interest;
			2. Approving mitigating actions (including but not limited to recusal, limitation of duties, transfer or reassignment, additional supervisory review or other action considered appropriate by the Board); or
			3. Recommending an alternative arrangement.
		1. Vote. A decision by the disinterested members of the Board will be made by vote of a majority of members in attendance at a meeting for which a quorum is present. An interested director will not be counted for purposes of determining whether a quorum is present, or for purposes of determining what constitutes a majority vote of directors in attendance. Any person who is the subject of such vote shall not be present.
		2. Minutes. The minutes of the Board meeting will reflect that the conflict disclosure was made to the Board, the vote taken and, when applicable, the abstention from voting and participation by any interested party. Whenever possible, the minutes should frame the decision in such a way that it provides guidance for consideration of future conflict of interest situations.
1. Violations of Conflict of Interest policy

 a. If adirector, officer, employee, or the supervisor of an NPC employee, has reason to believe that any other Director, officer, or employee has failed to disclose an actual or potential conflict of interest, such person has a responsibility to inform the chair of the Board or the executive director of their belief and its basis. In such event or should the chair of the Board, executive director, or any member of the Board become aware of a possible violation of this Policy, the chair of the Board, executive director, or other Director will refer the matter to the Board. The Board will inform the person of the allegation and will allow the person an opportunity to explain the alleged failure to disclose.

 b. If, after affording an NPC Director, officer, or employee with a potential or actual conflict an opportunity to disclose all material facts, the Board decides that such an individual has in fact failed to disclose a possible conflict of interest, the Board will determine the corrective steps to be taken and/or disciplinary action.

1. Training

Requirements

 a. All Directors, officers, and employees (including those with VA WOC appointments to conduct VA research or education activities) shall receive training on this Policy within ninety (90) days of hire or affiliation with NPC.

b. Directors, officers, and Key Employees shall receive training on this Policy annually thereafter.

c. Tracking. The Executive Director shall ensure that all NPC personnel fulfill their training requirements and shall ensure that written documentation of such training is maintained for three years.

 d. Sanctions. Failure to fulfill the Training requirement may result in sanctions up to and including dismissal.

# **NPC CONFLICT OF INTEREST CONFIDENTIAL DISCLOSURE QUESTIONNAIRE**

Please complete the questionnaire below, indicating any potential conflicts of interest. If you answer “yes” to any of the questions, provide a written description of the details in the space allowed. Attach additional sheets as needed. Submit your completed form to the NPC executive director.

* 1. **Financial Interests.** A conflict may exist when an NPC Director, officer or employee or any of their relatives may directly or indirectly benefit or profit as a result of a decision, policy, transaction or arrangement made by NPC.

During the past 12 months (for each “yes” response, please describe below or on a separate page):

* 1. Has the NPC proposed to contract or contracted to purchase or lease goods, services, or property from you, a relative or a business associate?

Yes No

* 1. Are you related to any current or prospective NPC Director, officer or employee, or to the supervisor of any NPC employee?

Yes No

* 1. Have you, a relative or a business associate been provided with a gift, gratuity or favor of a substantial nature from a person or entity that does business or seeks to do business with the NPC?

Yes No

* 1. Have you, a relative or business associate been gratuitously provided use of the facilities, property, or services of the NPC?

Yes No

* 1. Are you, a relative or a business associate in a position to benefit financially from decision, policy, transaction or arrangement made or to be made by the NPC?

Yes No

* 1. Other Interests. A conflict may also exist when an NPC Director, officer, employee or any of their relatives may obtain a non-financial benefit or advantage that they would not have obtained absent their relationship with NPC, or when their duty or responsibility owed to NPC conflicts with a duty or responsibility owed to some other organization.

During the past twelve months, please circle yes or no (for each “yes” response, please describe below or on a separate page.):

1. Did you obtain for yourself or any other person or organization preferential treatment, promotion, recognition or a non-salaried appointment as a consequence of your association with the NPC?

Yes No

1. Did you make use of confidential information obtained from the NPC for your own benefit or for the benefit of any person or organization other than VA or your NPC?

Yes No

1. Did you take advantage of an opportunity or enable any person or organization to take advantage of an opportunity that you had reason to believe would be of interest to the NPC?

Yes No

1. Were you in a position to benefit in a nonfinancial way from a decision, policy, transaction or arrangement made by the NPC?

Yes No

* 1. **Other** – Describe any other circumstances or relationships you or a relative may have that you believe may assist the NPC in protecting its interests and preventing conflicts of interest:

Name Signature Date

# **NPC CONFLICT OF INTEREST AFFIRMATION OF COMPLIANCE**

I have received and carefully read the Conflict-of-Interest Policy for Directors, officers and employees of NPC and have considered the literal expression of the policy as well as its intent. By signing this affirmation of compliance, I hereby affirm that I have read, understand and agree to comply with the NPC Conflict of Interest Policy. I further understand that NPC is a nonprofit organization and that in order to maintain its federal tax exemption it must engage primarily in activities that accomplish one or more of its tax-exempt purposes without personal inurement, other than by salary.

Except as otherwise indicated in the Disclosure Questionnaire and attachments below, I hereby state that neither I nor any relative or business associate has any conflict of interest, financial or otherwise that may be seen as competing with the interests of NPC. Also, neither I nor any of my relatives or business associates benefit from any action, policy or transaction made by NPC in a manner that has not been previously disclosed.

If any situation should arise in the future that I believe may involve me in a conflict of interest, I will promptly and fully disclose the circumstances as appropriate:

* For members of the Board, officers and the executive director: the chair of the Board
* For key administrative employees: the executive director
* For employees directly or indirectly engaged in VA research or education: supervisor and the executive director.

I further certify that the information set forth in the Disclosure Questionnaire and attachments, if any, is true and correct to the best of my knowledge, information and belief.

Name (Please print)

Signature Date

For directors, officers and key employees: Annual reaffirmation

Name (Please print) Date

Signature Date

# **VA NONPROFIT CORPORATION NON-DISCLOSURE POLICY**

1. PURPOSE

To require all [*insert NPC name*] employees to maintain the confidentiality of VA, third party, and [*insert NPC name*] confidential information.

1. SCOPE

This policy applies to all [*insert NPC name*] employees, including those who hold a VA Without Compensation (WOC) appointments.

1. DEFINITION

Confidential Information is defined as information of any kind, nature, or description concerning any matters affecting or relating to employees’ services for NPCs as further described under part 4.0.

1. POLICY

 a. [*Insert NPC name*] employees are required to maintain the confidentiality of information obtained in the performance of their duties. There are three main categories of confidential information that NPC employees will encounter:

* + 1. VA Confidential Information. – VA is subject to various laws regarding confidentiality, including but not limited to the Privacy Act, the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), the Freedom of Information Act, and 38 U.S.C. §§5701, 5705, and 7332. VA may only use or disclose Confidential Information consistent with applicable legal authority. Examples of VA Confidential Information include Individually Identifiable Information contained in VA patient files, VA data, VA research and VA employee records including but not limited to licensure and credentialing.
		2. Third Party Confidential Information. – Confidential Information obtained from federal or nonfederal sponsors and research collaborators in the context of potential and actual collaborative research and/or education. This information includes, but is not limited to, trade secrets, commercial, financial information, protocols and data.
		3. [Insert NPC name] Confidential Information. – Confidential information of NPCs, such as budget, personnel, and information pertaining to internal business operations matters.

 b. For New Employees – New employees shall be provided a copy of this policy and shall be required to execute a nondisclosure agreement substantially equivalent to the attached sample template (see attached NDA agreement) as part of their orientation process within 15 days of hiring.

 c. For VA WOC Employees – NPC employees who hold a VA Without Compensation appointments are subject to various laws regarding confidentiality, including but not limited to the Privacy Act, Freedom of Information Act, 38 U.S.C. §§5701, 5705, and 7332. VA WOC employees may only use or disclose confidential information consistent with applicable authorities. Requests for disclosure of confidential information will be handled in accordance with 5 U.S.C. §552, E.O. 12600, and 38 C.F.R. 1.554a. VA employees are bound by 18 U.S.C. § 1905, known as the Federal Trade Secrets Act, to not disclose confidential and proprietary information disclosed to them in the conduct of their official duties. Additionally, the Economic Espionage Act of 1996 makes the theft or misappropriation of a trade secret by VA employees a federal crime. 18 U.S.C. §§1831-1839.

 d. NDA Record Maintenance – NDAs shall be maintained in the NPC employee’s personnel file.

1. RELATED DOCUMENTS
	1. VHA Directive 1200.17.
	2. Nondisclosure Agreement Template

# **EMPLOYEE NONDISCLOSURE AGREEMENT (“AGREEMENT”)**

1. FOR GOOD AND SUFFICIENT CONSIDERATION, and in consideration of being employed by [Insert NPC Name] (NPC), a nonprofit corporation created under state law of [X] to serve as a flexible funding mechanism for VA approved research and education pursuant to 38 U.S.C. §§ 7361-7366, the undersigned employee hereby agrees and acknowledges the following:

 a. During my employment, there may be information disclosed to me that may be considered confidential information (“Confidential Information”). This information includes, but is not limited to:

* + 1. VA patient and employee information, including but not limited to: personnel files, credentialing and licensure files, VA research or other records protected by the Privacy Act (5 U.S.C. § 552a), the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), or other federal laws, such as 38 U.S.C. §§ 5701, 5705, and 7332.
		2. Trade secrets, commercial, financial and other confidential information from third parties, such as for-profit and nonprofit business entities, academic affiliates, public and private foundations, and government agencies, obtained during discussions or engagements in collaborative research with VA. Other confidential information may consist of but not necessarily be limited to:
			1. Technical information: Methods, processes, formulae, compositions, systems, techniques, inventions, machines, computer programs and research projects.
			2. Business information: Customer lists, pricing data, sources of supply, financial data and marketing, production, or merchandising systems or plans.
			3. NPC internal information of a confidential nature, i.e., budget, personnel, and information related to internal business operations matters.

 b. During or at any time after the termination of my employment with the NPC, I shall not use for myself or others, or disclose to others, any Confidential Information of VA, external third party, or NPC in violation of this agreement.

 (1) The NPC reserves the right to take disciplinary action, up to and including termination, for my violations of this Agreement.

(2) I am not under any preexisting obligations inconsistent with the provisions of this Agreement.

* + 1. Upon the termination of my employment from the NPC:
			1. I shall return to the NPC all Confidential Information, documents, and property obtained by me in the performance of my duties. I further agree that I shall not retain copies, notes, or abstracts of the foregoing.
			2. The NPC may notify any future or prospective employer or third party of the existence of this Agreement and I acknowledge and agree that NPC (and VA as applicable) shall be entitled to all remedies at law and equity, including but not limited to injunctive relief for any breach of this Agreement.

2. Additional detail.

* 1. NPC employees who also hold VA Without Compensation appointments are also subject to various laws regarding confidentiality, including but not limited to the Privacy Act, Freedom of Information Act, 38 U.S.C. §§ 5701, 5705, and 7332. VA employees may only use or disclose confidential information consistent with applicable authorities. Requests for disclosure of confidential information will be handled in accordance with 5 U.S.C. § 552, E.O. 12600, and 38 C.F.R. § 1.554a. Additionally, VA employees are bound by 18 U.S.C. §1905, known as the Federal Trade Secrets Act, to not disclose confidential and proprietary information disclosed to them in the conduct of their official duties. Additionally, the Economic Espionage Act of 1996 makes the theft or misappropriation of a trade secret by VA employees a federal crime. 18 U.S.C. §§1831-1839.
	2. These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.
	3. This Agreement shall be binding upon me, my personal representatives, and any successors in interest, and shall inure to the benefit of the NPC (and VA as applicable), its successors and assigns.

Signed this day of , 20 .

NPC Employee signature

Print Name

# **SAMPLE ACKNOWLEDGEMENT OF DONATION LETTER FOR GIFTS VALUED AT $250 OR MORE**

**Nonprofit Research and Education Corporations (NPC) Letterhead**

*Date*

*Addressee*

*Address*

*Address 2*

Dear *(insert name*),

Thank you for your generous donation of (*insert exact amount of a cash contribution or identify the in-kind gift)* in support of Department of Veterans Affairs (VA) research and/or education. *[Add more details as needed including the purpose of the gift, restrictions, terms or conditions if any.]*

*[If goods or services were exchanged for the donation:]* The estimated monetary value of the services (or goods such as a meal at a fundraising event) provided in exchange for your donation was $*[insert amount ].* Only the portion of your contribution that exceeds the value of the services (or goods) you received may be tax deductible.

*[If no goods or services were provided, state]:* No services or goods were provided in exchange for or in connection with this donation.

*[If an in-kind gift was provided:]* Thank you for your in-kind gift of *[describe in detail.]*

*[If donor advised (that is, donor will be allowed to influence use of the donation):]* Please be aware that your donation has been characterized as “donor advised” and may not be tax deductible. In accordance with IRS rules, this letter constitutes notification that such funds are the property of [*insert NPC name]* subject to the exclusive control of *[insert NPC name]* and may be used only for charitable purposes. They may not be used for the benefit of you, your family members or your advisors, or for any other impermissible private benefit.

Please retain this letter as a written proof of your donation for your tax records. *[Name of NPC]* is exempt from Federal taxation under 26 U.S.C. § 501(c)3) of the Internal Revenue Service code. Our Federal ID number is *[XX-XXXXX]*. Thank you again for your generous gift.

Sincerely,

*[Insert your signature, typed name, and title.]*

# **ANNUAL REPORT REQUIREMENTS**

1. The NPC’s Annual Report to the VA Secretary must include at a minimum:

 a. Audit Report.An independent auditor’s report for the NPC’s last completed fiscal year. Each NPC with revenues in excess of $500,000 for any year as defined by the amount reported on line 12, Internal Revenue Service (IRS) Form 990 must obtain an independent audit of the financial statements of the NPC for that year. An NPC with annual revenues between $100,000 and $500,000 must obtain an independent audit of the NPC at least every 3 years.

 b. IRS Form 990 or 990 EZ.IRS Form 990 or 990EZ, Return of Organization Exempt from Income Tax, with schedules for the NPC’s last completed fiscal year even if total revenues fall below the IRS’s mandatory amount. Form 990-N, the e-Postcard filing may not be used for this purpose.

 c. Certification. An annual statement signed by the NPC’s Executive Director verifying that each Director, officer, and employee has certified awareness of, and compliance with the NPC conflict of interest policy in accordance with paragraph 9.b.(3) and that Directors, officers, and key employees have fulfilled the Internal Controls Training requirement [see paragraph 13.c.(4)].

* 1. Location. The physical address of the NPC along with the name and physical address of the VA medical facility(s) served by the NPC.
	2. Revenue. The amount of revenue received by the NPC as reported on IRS Form 990 during the previous year, including:
		1. The total amount received,
		2. The amount received from governmental entities for research and the amount received from governmental entities for education,
		3. The amount received from all other sources for research and the amount received from all other sources for education; and
		4. The amount received from any source that exceeds $25,000, as well as information that identifies the source.
	3. Expenditures. The amount expended by each NPC during the year including:
		1. The amount expended for salary for research staff, the amount expended for salary for education staff, and the amount expended for salary for administrative staff,
		2. The amount expended for direct support of research and the amount expended for direct support of education; and
		3. The amount and identification of the payee if the amount expended with respect to the payee exceeded $50,000.
	4. **Travel Expenditures.** The amount expended by the NPC during the year for travel conducted in conjunction with research and the amount expended for travel in conjunction with education.

# **FINANCIAL OFFICERS AND ADDITIONAL INTERNAL CONTROLS – BEST PRACTICE**

**1.** All NPCs are encouraged to have empowered, designated principal Financial Officers. Those NPCs having $4 million or more in annual revenues and/or in assets under management (gross assets) are strongly encouraged to have designated principal Financial Officers. These Financial Officers should be full-time or part-time NPC employees.

**2.** For those NPCs with less than $4 million in revenues or gross assets, they are also encouraged to have Financial Officers, which can be either full or part-time employees, paid or unpaid consultants, NPC Board Members, or volunteers.

**3.** Financial Officers cannot be VA employees.

**4.** All NPC designated Financial Officers should have significant training and experience in financial management, accounting, auditing, internal controls, and financial reporting. Those Financial Officers presently employed or otherwise serving at the date of this Directive shall be deemed qualified.

**5.** Financial Officers are expected to attend Board meetings either in person or remotely. Financial Officers should have no restrictions placed upon their reasonable access to Board Members. ***NOTE:*** *In the event that a Financial Officer misses more than 25% of meetings in a given calendar year, the NPC shall evaluate the reason(s) for the absences, the impact of the absences on the ability of the NPC to be appropriately advised by the Financial Officer, and whether the NPC retains confidence that the individual will be able to fulfill the responsibilities of the Financial Officer position going forward.*

1. Those NPCs not having full or part-time Financial Officers will be considered high risk, and, accordingly, at the NPPO Director’s discretion, audited more frequently and more rigorously than would otherwise be the case. This particularly will be the case with NPCs having $4 million or more in annual revenues and/or in assets under management.
2. The NPC designated Financial Officer will report to the NPC Executive Director and be empowered for and responsible for:

a. Maintaining generally accepted accounting principles (GAAP), and sound internal controls within the NPC and in accordance with the following publications and documents:

b. GAO’s Standards for Internal Control in the Federal Government; a/k/a the “Green Book.”

c. OMB’s Circular A-123 – Management’s Responsibility for Internal Controls;

d. NPPO’s Self-Assessment of Internal Controls; and

e. NPPO’s On-site Reviews Checklist.

* 1. Promptly reporting all significant internal control lapses and irregularities to the NPC’s Board and to NPPO by email; and
	2. Periodic, at least annual, evaluation of the NPC’s internal controls using NPPO’s Self-Assessment of Internal Controls and NPPO’s On-site Reviews Checklist and certifying those evaluations to the Board and to NPPO.
	3. All financial accounting functions, including:
		1. At least quarterly financial statements to the Board and to other management users or when requested.
		2. At least quarterly budget reporting with explanations of significant variances to the Board and to other management users.
		3. Review and approval of all cash disbursements.
		4. Review of all cash receipts.
		5. Review of all NPC contracts and awards.
		6. Monthly reconciliation of Investigators’ project accounts to the General Ledger summary account.
		7. Monthly reporting of project account details and balances to the Principal Investigators.
		8. Periodic, at least annual, direct confirmation of the Principal Investigators’ project accounts and follow-up of all discrepancies noted in the confirmations.
		9. At least quarterly reporting to the Executive Director and the Board of the NPC’s administrative reserve and other discretionary funds not earmarked for research or education projects or Investigators’ residual accounts.
		10. Planning and conduct of the year-end audit by the Board-selected independent auditing firm. Assisting the Executive Director with NPPO’s audits of the NPC and interfacing directly with the NPPO auditing team.
		11. Such other unspecified duties as may be assigned from time-to-time by the Executive Director or required by the Board, including, if appointed by the Board, serving as the Acting Executive Director in the event of the Executive Director’s death or incapacity if allowed under the NPCs Bylaws.

If an NPC chooses to not have a designated Financial Officer, then the Board must arrange for all the foregoing essential internal control activities to be performed by other means, i.e., internal audit, external audits, and/or frequent NPPO audits, etc.