

Organizational Plan

Approved September 17, 2015

This document outlines the organizational principles and policies of the Working Lands Enterprise Initiative. It is a living document, to be revisited and revised as needed at the beginning of each Fiscal Year.

Section 1: Principles and Intent

I. Legislative Intent

Creation

In accordance with Act 142 of the 2012 session of the Vermont General Assembly, there is created a Vermont Working Lands Enterprise Board (WLEB), for which administrative support shall be provided by the Agency of Agriculture, Food and Markets.

Goal

The goal of the WLEB is to stimulate a concerted economic development effort on behalf of Vermont's agriculture and forest product sectors by systematically advancing entrepreneurship, business development, and job creation.

Powers and Duties

A. Duties: The Vermont Working Lands Enterprise Board is charged with:

- (1) Optimizing the agricultural and forest use of Vermont lands and other agricultural resources;
- (2) Expanding existing markets and identifying and developing new profitable in-state and out-of-state markets for food, fiber, forest products, and value-added agricultural products, including farm-derived renewable energy; and
- (3) Identifying opportunities and challenges related to access to capital, infrastructure, product development, marketing, training, research, and education.

B. Powers: The Vermont Working Lands Enterprise Board shall have the authority:

- (1) to design and conduct an ongoing public engagement process, which may include taking testimony and receiving information from any party interested in the Board's activities;
- (2) to gain information through the use of experts, consultants, and data to perform analysis as needed;
- (3) to request services from State economists, State administrative agencies, and State programs;

- (4) to obtain information from other planning entities, including the Farm to Plate Investment Program;
- (5) to serve as a resource for and make recommendations to the Administration and the General Assembly on ways to improve Vermont's laws, regulations, and policies in order to attain the goals set forth in section 4604 of this title;
- (6) to establish an application process and eligibility criteria for awarding grants, loans, incentives, and other investments in agricultural and forestry enterprises and in food and forest systems, provided that the Board shall prioritize assistance under this chapter to a person engaged in farming or forestry before providing assistance to a nonprofit organization or nonprofit corporation for a project that competes with a person engaged in farming or forestry;
- (7) to award grants and other investments, which may include loans underwritten and administered through the Vermont Economic Development Authority;
- (8) to enter into performance contracts with one or more persons in order to provide investment and services to agricultural and forestry enterprises, including:
 - (a) technical assistance and product research services;
 - (b) marketing assistance, market development, and business and financial planning;
 - (c) organizational, regulatory, and development assistance; and
 - (d) feasibility studies of facilities or capital investments to optimize construction and other cost efficiencies;
- (9) to identify workforce needs and programs in order to develop training and incentive opportunities for the agricultural and forest product sectors after consulting with the Department of Labor;
- (10) to identify strategic statewide infrastructure and investment priorities considering:
 - (a) leveraging opportunities;
 - (b) economic clusters;
 - (c) return-on-investment analysis;
 - (d) other considerations the Board determines appropriate; and
- (11) to develop an annual operating budget, and:
 - (a) solicit and accept any grants, gifts, or appropriations necessary to implement the budget pursuant to 32 V.S.A § 5
 - (b) expend any monies necessary to carry out the purposes of this section.

Staff Support

To support the Board in the performance of its duties, the Agency of Agriculture, Food and Markets shall provide administrative support to the extent authorized by its Secretary, and with the assistance of, and to the extent authorized by, both the Commissioner of the Department of Forests, Parks and Recreation and the Secretary of the Agency of Commerce and Community Development.

Vermont Working Lands Enterprise Fund

There is created a special fund in the state treasury to be known as the “Vermont Working Lands Enterprise Fund.” Notwithstanding any contrary provisions of 32 V.S.A. chapter 7, subchapter 5:

- (1) The Fund shall be administered and the monies of the Fund shall be expended by the Vermont Working Lands Enterprise Board.
- (2) The Fund shall be composed of moneys from time to time appropriated to the Fund by the general assembly or received from any other source, private or public, approved by the board, and unexpended balances and any earnings shall remain in the Fund from year to year; and
- (3) The Board shall make expenditures from the fund consistent with the duties and authority of the Board.

II. Organizing Principles

Mission (who we are, why we exist, what we do)

The mission of the Vermont Working Lands Enterprise Initiative is to strengthen and grow the economies, cultures, and communities of Vermont's working landscape. The Working Lands Enterprise Board achieves this by making essential, catalytic investments in critical leverage points of the Vermont farm and forest economy, and facilitating policy development to optimize the agricultural and forest use of Vermont lands.

Vision (how Vermont will look if we accomplish our goals)

Vermont prospers and its unique sense of place thrives in large part because of intelligent investment in the people and enterprises that comprise its farm, food, and forest based systems. Strong community engagement and support for the farm and forest sectors leads to enhanced quality of life for Vermont citizens and working lands business owners.

Goals (annually measurable statewide population level indicators)

1. Jobs: The creation and retention of job opportunities across working lands sectors
2. Acreage: Growth in the number of acres in active forestry and agricultural use
3. Establishments: Growth in number of working landscape establishments

Approach to change (i.e. change theory, or which systemic factors will influence and create progress towards the above goals)

1. Access to capital: Ability of an enterprise to secure the right match of capital to meet its financing needs for its stage of growth and scale.
2. Technical assistance: Availability of services to develop business plans, identify risk management strategies, and implement financial management systems, as well as provide topic, product, and process expertise.
3. Workforce development: Access to training that allows Vermonters who want to work in the working lands sector – and by extension, the employers they choose – to be at a world-class level.

4. Smart policy: Rules and statutes that optimize the agricultural and forest use of Vermont lands, while protecting human, environmental and animal health.
5. Value chain and sector collaboration: Relationships between different actors along the chain, as well as across industry sectors, that strengthen the system as a whole.
6. Public awareness: Communities' understanding of and support for the businesses and organizations that contribute to our working landscape.

Values (things we care about in doing the work)

1. Stewardship and Sustainability: We focus on the long-term health and vitality of Vermont, Vermonters, and our working landscape.
2. Effectiveness and Accountability: Our partners and programs are results focused, track progress, and adjust accordingly.
3. Innovation and Entrepreneurship: We engage with new ideas and leaders with the energy and commitment necessary to turn those ideas into reality.
4. Collaboration: We support coordination among and between enterprises and service providers to maximize the benefit for Vermont's working landscape.
5. Systems Approach: We employ a holistic analysis of interlinked challenges and opportunities which intersect with the working landscape.

Objectives and Performance measures (grantee-level indicators to track results)

1. Job creation and retention
 - Number of employees (FTE)
 - Number of jobs created (RBA)*
2. Income
 - Gross sales (RBA)*
 - Percentage change in gross sales
 - Net income
 - Percentage change in net income
3. Production output
 - Percentage change in output (RBA)*
4. Acres in active forestry or agricultural use
 - Acres in production
5. Business creation and retention
 - Number of grantees
 - Number of businesses impacted
6. Access to capital to fill gaps and leverage additional capital flow into working lands businesses
 - Funds granted

- Funds leveraged (dollar amount and number of sources)
7. Increased availability of technical assistance, education, and training
 - Number of businesses served
 8. Compensation
 - Total payroll
 - Average wage per FTE
 - Value of benefits provided beyond wages
 9. Quality of life
 - Amount of personal time
 - Hours worked per week during peak season

*Objectives denoted as “RBA” are our Results Based Accountability Metrics (see evaluation section).

Strategies (What we do to achieve our mission and goals)

1. Make strategic investments in working lands enterprises
2. Assess existing statutory and regulatory frameworks and recommend new or amended policies to the Executive and Legislative branches in order to strengthen working lands enterprises
3. Cultivate relationships with other funders, of diverse types, to optimize the impact of public dollars

Evaluation (How we measure our progress towards meeting our goals)

Program evaluation is critical to ensuring the success of the Working Lands Enterprise Initiative and ensuring responsible use of public funds. All business grantees are required to share data on the nine areas outlined in the objectives and performance measures section above. Service provider grantees also collect and share this information when applicable. Grantees submit baseline data as part of the application process, an interim report, and a final report outlining impacts. Grantees are also required to complete one and two year post-grant follow-up surveys. All sensitive business information is kept confidential and shared only in aggregate.

We report annually on three results-based accountability measures to the Governor and Legislature to demonstrate the efficacy of the Initiative:

- Number of jobs created or maintained
- Change in gross sales
- Change in output

Section 2: Operational Guidelines

III. Organization of Board

Board Composition

The Board shall be composed of:

- (1) The Secretary of Agriculture, Food and Markets or designee, who shall serve as chair;
- (2) The Commissioner of Forests, Parks and Recreation or designee;
- (3) The Secretary of Commerce and Community Development or designee;

The following members appointed by the Speaker of the House:

- (4) One member who is a consulting forester;
- (5) One member who is actively engaged in maple production;
- (6) One member who is actively engaged in on-farm value-added processing;
- (7) One member who is actively engaged in manufacturing or distribution of Vermont agricultural products; and
- (8) One member with expertise is sales, marketing, or market development;

The following members appointed by the Senate Committee on Committees:

- (9) One member who is actively engaged in wood products manufacturing;
- (10) One member involved in production agricultural whose primary enterprise is not fluid milk;
- (11) One member who is actively engaged in primary wood processing or logging;
- (12) One member who is an agriculture and forestry enterprise funder; and
- (13) One member who is a person with expertise in rural economic development

The following members appointed by the Governor:

- (14) One member who is a representative of Vermont's dairy industry who is also a dairy farmer;
- (15) One member who is a representative of Vermont's forestry industry who is also a working forest landowner;
- (16) One member with expertise in land planning and conservation efforts that support Vermont's working landscape; and
- (17) One member who is an employee of a Vermont institution engaged in agriculture or forestry education, training, or research; and

The following members, who shall serve as ex officio, nonvoting members:

- (18) The manager of the Vermont Economic Development Authority or designee;
- (19) The executive director of the Vermont Sustainable Jobs Fund or designee; and
- (20) The executive director of the Vermont Housing and Conservation Board or designee.

Member Terms

The members designated in the organization of the Board as described above shall be appointed to initial terms of one year for members appointed by the governor, two years for members appointed by the senate committee on committees, and three years for members appointed by the speaker of the house.

Thereafter, each appointed member shall serve a term of three years or until his or her earlier resignation or removal. A vacancy shall be filled by the appointing authority for the remainder of the unexpired term. An appointed member shall not serve more than three consecutive three-year terms.

Duties and Responsibilities of Board Members

WLEB members are responsible for ensuring effective and fiscally sound administration and deployment of the monies within the Working Lands Enterprise Fund.

Member Expectations

Members are expected to:

1. Participate and be engaged
 - a. Attend all/most board meetings (missing 3 consecutive meetings can be grounds for a resignation request)
 - b. Serve on committees when possible and offer to take on special assignments
 - c. Attend functions, such as special events, whenever possible
 - d. Review agendas and supporting materials prior to board and committee meetings, when properly warned in accordance with WLEB by-laws
 - e. Be reasonably accessible, by phone or email, to staff and other Board members as needed
 - f. Fulfill commitments within agreed-upon deadlines
 - g. Assist the Board in carrying out its fiduciary responsibilities, such as reviewing its annual budget.
 - h. Lead and assist in fund development to the best of the member's ability
 - i. Network and develop relationships with other board members, WLEB staff, and other working lands stakeholders such as trade associations, joint marketing entities, and education/training providers
 - j. Share resources and talents with the WLEB, including expertise, contacts for financial support, and contacts for in-kind contributions
 - k. Engage in strategic direction discussions, considering the strengths, weaknesses, opportunities and threats associated with the WLEB and proposals to the WLEB
 - l. Take initiative and provide leadership
 - m. Be willing to step down from the Board if unable to meet expectations
2. Make well-informed decisions
 - a. Be informed about the WLEB's legislation, intent, duties, mission, policies, scope of work, and investment areas

- b. Stay abreast of Vermont’s agricultural and forestry sector developments and current events
- c. Engage in the thoughtful, deliberative decision making process associated with the WLEB’s mission
- 3. Conduct themselves with integrity
 - a. Support the decisions of the Board
 - b. Raise and resolve any issues or concerns with the Board, chair, or staff
 - c. Serve as an advocate/ambassador for the WLEB
 - d. Follow conflict of interest and confidentiality policies
- 4. Follow Ground Rules for Meeting Conduct
 - a. Board members must clarify which "hat" they are wearing when speaking in Board meetings and to the public.
 - b. The Board is expected to have read relevant material before meetings.
 - c. The Board is to be governed by the principle of maximum transparency.
 - d. Board meetings will start and end on time. ☒
 - e. Board members will agree to disagree and will not take things personally.
 - f. Be respectful of other board members, the chair, and staff, participate with an open mind, respect differing viewpoints, being willing to learn, and make decisions that support the mission of the WLEB based on relevant facts at hand

Expected Time Commitment for Board Members:

- 1. 10-12 regular meetings (usually 6 hours in length)
- 2. Special meetings as necessary
- 3. Committee meetings as necessary
- 4. Be available to represent the WLEB at meetings with the Governor, government officials, legislators and/or funders
- 5. Be available to represent the WLEB at conferences and seminars

Officers and Committees

The Board may elect officers (except for the office of chair), establish one or more committees or subcommittees, and adopt such procedural rules as it shall determine necessary and appropriate to perform its work.

Ex Officio Members

The Secretary of Agriculture, Secretary of Commerce, and Commissioner of Forests, Parks & Recreation, are full voting members of the board, with the Secretary of Agriculture serving as Chair, as stipulated in the WLEB enabling legislation, Act 142. The three non-voting Ex officio members (Vermont Economic Development Authority, Vermont Sustainable Jobs Fund, and Vermont Housing and Conservation Board) will abstain from voting and from making or seconding motions but otherwise will have the same roles and responsibilities as that of other WLEB board members.

Compensation

Private sector members, or any Board members not being paid through their place of employment or business to participate in WLEB activities, are entitled to per diem and mileage authorized under 32 V.S.A. § 1010(b) for the following activities:

- (1) attendance at a regular or special meeting of the WLEB board or of any WLEB committee, with per diem payment at the rate of \$50 for such attendance; and
- (2) performance of other duties, assigned and approved by the chairperson, necessary for the efficient conduct of WLEB business, with payment at the per diem rate of \$50 per day prorated for actual time spent performing such other duties. Proration will be calculated based on two-hour fractions of an eight-hour day; under no circumstances will the daily payment exceed the per diem amount.

Members of the WLEB board, including those members serving ex officio or otherwise regularly employed by the state, will receive their actual and necessary expenses when away from home or office upon their official duties.

All Board members are required to advise WLEB via a signed self-certification as to whether they are entitled to receive specific compensation from another source for their time and/or expense in serving on the WLEB. A member shall not be entitled to receive state per diem compensation for any meeting or other official duty for which specific compensation is provided by another source.

IV. Conflict of Interest (COI) Policy

Purpose of COI Policy

All Board members shall adhere to Executive Order No. 3-53, the Vermont Executive Code of Ethics. The COI policy ensures:

1. Responsibility for awareness of actual or perceived conflicts of interest;
2. Disclosure of any conflicts prior to any funding considerations, including perceived conflicts;
3. That decisions for grant approval are based on objective consideration by disinterested parties with no vested interest in the outcomes; and
4. That Board members are required to recuse themselves from voting on any proposal that poses a potential conflict of interest.

Conflict of Interest and Appearance of Conflict

Definitions

The Executive Order on Ethics (E.O. No. 3-53) for public appointees (including WLEB board members) defines a “conflict of interest” as a significant interest known to the appointee or to a business associate of the appointee in the outcome of a particular matter pending before the appointee or his/her public body.

Under the Executive Order, the appearance of a conflict of interest would arise over a matter regarding which a reasonable person might have an impression, after full disclosure of the

facts, that an appointee's judgment might be significantly influenced by outside interests, even though there were not an actual conflict of interest.

Ex officio members

WLEB's non-voting, ex-officio members are placed on the Board by the General Assembly because they have experience and expertise to share. Their presence also improves communication across agencies and organizations. Their insights are welcome in evaluating proposed applications but they shall not vote on them.

Conflict of Interest

WLEB members may not review any competitive proposal with any of the following characteristics:

1. From that member's business, institution or organization, including a business in which the member has a financial interest, even if a minority interest;
2. From businesses, institutions, or organizations for which he/she acts as a board member paid consultant;
3. From a business, institution or organization owned or managed by anyone in the immediate family or household of the member;
4. From applicants for whom he/she will be a project participant, or beneficiary of services, during the current grant cycle; and
5. There is some other relationship or circumstance which the individual board member deems to constitute a COI, or the appearance of a COI: for example, an application for funding assistance from a relative of a Board member who is not part of the member's household.

A Board member with a COI will abstain from the deliberation process on the specific proposal(s) for which they have the COI. They will, however, be allowed to participate during the discussion period prior to the final decisions IF the Board deems that there is constructive information about an organization, business or proposal to inform the Board's decision making.

Furthermore, during a Board member's term and for a period of one year after the member leaves the Board, the Working Lands Enterprise Fund shall not make any award of funds to, and shall confer no financial benefit on, a company or for-profit corporation of which the member is an employee, officer, partner, proprietor, or Board member or of which the member owns more than 10 percent of the outstanding voting securities.

Appearance of Conflict of Interest

Although their interest in an application to WLEB from their agency or organization, or from a related organization, or from a member of their organization, or from an applicant to which their agency or organization is providing funding or services, would not involve personal, direct, or financial benefit, the indirect interest of members in the success of the efforts and programs of their agencies or professional organizations may form the basis of an appearance of a conflict of interest.

Therefore, a Board member (either voting or non-voting) who is compensated by a non-profit or quasi-public organization that has submitted a competitive proposal will not participate in any aspect of the grant-making process (evaluation, deliberation or voting) for the investment area to which the application was submitted.

For applications received from individual current or prior participants of programs administered by a Board member's organization, members should disclose the fact of the applicants' participation, whether or not they choose to recuse themselves from evaluating or taking any action on such applications on the basis of appearance of conflict.

Applications for WLEB funding may be submitted by an employee of a State agency or instrumentality of State government or quasi-governmental agency, provided that there is no significant relationship between the duties of such an employee and the functions of the WLEB, and that the employee discloses his or her employment status.

V. Conduct of Meetings

Board Meetings as Public Meetings

Except as hereinafter provided, all meetings of the Board shall be duly warned and recorded public meetings as set forth in 1 V.S.A. (5) §312.

Member Participation in Meetings

Board members are expected to attend most, if not all, regularly scheduled meetings. The Board may, by a concurring vote of a majority of the Board present at the meeting, request in writing that the appointing authorities ask for the resignation of any member of the Board for failure to regularly attend meetings. The question may be called when a member misses three consecutive meetings.

The Board may permit any members who cannot attend in person, the option to participate in a regular, special, or committee meeting, through the use of any means of communication, including video or audio-conferencing, by which members participating simultaneously or sequentially communicate with each other during the meeting.

A member participating in a meeting by this means is deemed to be present in person at the meeting. The same means of communication may be used when appropriate in order to conduct regular, special, or committee meetings of the entire Board.

External Communication

WLEB staff, on behalf of the Board as a whole, will manage the notification to applicants and the public of the outcomes of funding award decisions. Board members will not disclose details of conversations held in Board executive sessions nor disclose the Board's decisions to any applicant prior to the official notification by WLEB staff.

Special Meetings

Special meetings of the Board, including, planning retreats, shall be held whenever called by the Chair or by two or more members of the Board, at such time and place as may be specified in the respective notices or waivers thereof. Notice of a special meeting shall also state the purpose or purposes for which the meeting is called, and shall indicate that it is being issued by, or at the direction of, the person or persons calling the meeting.

Non-Working Sessions

WLEB may from time to time convene its members for special presentations or guest speakers in non-working sessions during which no WLEB business may be discussed or acted upon. Such sessions will not be construed as public meetings and may be held privately at WLEB's discretion. If these sessions occur during or after a duly warned public meeting, WLEB shall formally adjourn the public meeting portion of its agenda and, if appropriate, reconvene the public meeting once the special session is completed.

If refreshments are served incidentally in the course of a duly warned WLEB public meeting subject to the Open Meeting Law, WLEB will make refreshments available to members of the public who have given advance notification of their plans to attend the meeting, and to others at its sole discretion.

However, if the public meeting is adjourned while a meal is served to meeting participants, WLEB shall have no obligation to provide such a meal to members of the public attending the meeting, but may do so in its sole discretion and may determine an appropriate charge to the meal recipient.

Notice of Meetings

Written notice of any meeting of the Board, including special meetings and planning retreats, shall be properly warned and shall specify the date, hour and place of the meeting and business to be transacted. Such notice shall be served either personally, by mail, or electronically upon each Board member. Written notice of any meeting of the Board shall be provided to the public in accordance with 1 VSA Chapter 5.

VI. Voting

Quorum

A majority of the sitting members shall constitute a quorum, and action taken by the Board may be authorized by a majority of the members present and voting at any regular or special meeting at which a quorum is present. Any members who recuse themselves from a vote thereby also remove themselves from being counted towards the number that constitutes a quorum.

Non-voting members may participate in Board discussions but shall not constitute members of a quorum, and shall not make or second motions for Board action.

Manner of Acting

At all meetings of the Board, each voting member shall have one vote. Upon the request of any Board member, any vote shall be taken by roll call, which shall be recorded.

No member of the Board shall cast a vote by proxy or authorize any other member to cast a proxy vote on that member's behalf. Any members attending as designees on behalf of the Secretary of Agriculture, the Secretary of Commerce and Community Development, or the Commissioner of Forests, Parks and Recreation shall have written delegations in the Board's official record to that effect.

If an appointed member recuses themselves from the discussion, and abstains from any vote by reason of disqualification such as for a conflict of interest, that action shall be recorded in the minutes.

Board members will make every attempt to try to come to consensus, but final decisions will be decided by majority vote of the voting members present as long as there is a quorum.

Voting by Telephone or Electronic Conference

When appropriate, for example when Board members are unable to be physically present for a meeting due to inclement weather or other scheduling or mobility limitations, such members may participate and vote via electronic video-conferencing or telephone conference call in accordance with 1 V.S.A. § 310, provided that such action occurs in a properly warned meeting with opportunity for observation and participation by the public. In the event of a meeting by conference call, such a meeting must be warned and the conference telephone number and access code made available to members of the public. Any vote taken during a conference call meeting must be by roll call.

Recusals and Voting

When a slate of applications is before the board for consideration and there are recusals on individual applications, the individual application which is the subject of the recusal should be voted separately without the presence of or participation by the recused member. The board, including the member(s) who recused him- or herself (themselves) from a vote on a particular application or applications, may then consider, discuss and vote upon, under a separate motion, all applications which were not the subject of a recusal or recusals.

In this event, however, the board member who has an interest in a competing application that was separately voted upon must make full disclosure of that interest, and identify for the record the reasons why that interest would not affect the member's action in evaluating and voting on any of the other applications. Alternatively, members with an interest in an application in a given funding round may consider recusing themselves from the entire competitive round of applications.

Executive Session

In accordance with 1 VSA §313, the WLEB will enter executive session, from which the general public is excluded, only for the purposes allowed by that section. Where possible, if the Board expects an executive session to occur in the course of a meeting, it will note on the warned agenda for the public meeting the point or points at which an executive session is likely to occur.

A motion and vote to enter into executive session shall be taken in the course of a public meeting, and the minutes of the public meeting shall indicate

1. By whom the motion was made and seconded,
2. The particular statutory basis for entering executive session (see below),
3. The nature of the business to be conducted during the executive session, and
4. Specifics of the vote to leave executive session and return to the open meeting, including who moved and seconded the motion and what the vote was.

An affirmative vote of two-thirds of those members present during the public meeting is required to enter an executive session.

WLEB may only invoke executive session when it is discussing:

1. Property locations (e.g. GIS information, satellite images, surveyors' maps); the relevant statutory citation is 1 VSA §317(c)(13)
2. Real estate purchases; statutory citation is 1 VSA §317(c)(13)
3. Personal finances, bank and profit and loss statements (especially relevant when reviewing business plans with capital Infrastructure investment area applicants); statutory citation is 1 VSA §317(c)(7), and;
4. Proprietary company 'trade secrets' including confidential business and financial information; statutory citation is 1 VSA §§317(c)(9).

Only the above categories of information may be discussed in Executive Session; no other matter beyond the one specifically voted on as the reason for the executive session may be considered, and no formal or binding action can be taken during executive session except decisions relating to real estate purchase or negotiations of contracts.

Attendance in executive session is limited to Board members and, at the discretion of the Board, staff, clerical assistants, legal counsel, consultants, and persons or representatives of persons or companies who are the subject of the discussion, or who are involved in the transaction, or whose expert information or testimony is needed.

Notes of the executive session will be kept, but shall not be made public, in accordance with 1 V.S.A. § 310.

After discussion of exempt information has concluded, the Board must return to open session.

VII. Public Records and Confidentiality Policy

Board Records and Documents

It is the stated policy of the Board that the public be entitled to free and open examination of the Board's records and, except as hereinafter provided, the Board hereby declares that its records shall be made available to any person. Applications received and reviewed are public records for which the WLEB is the custodian. WLEB will maintain custody of its records in accordance with its adopted records retention and disposition schedule, set forth below.

Purpose of Confidentiality

Notwithstanding the policy stated above, the Board recognizes that it will not be able to function effectively and carry out its statutory purposes unless the records and documents set forth in the exceptions and the information contained therein are kept confidential.

Prospective applicants expect that information provided in an application, and/or attached business planning documents, will be kept confidential. Such prospective applicants will be deterred from applying for incentives if the records and documents set forth in the exceptions and the information contained therein are not kept confidential. Benefits to the State of Vermont's working landscape will not be achieved if prospective applicants decide not to apply for incentives offered by the State of Vermont and administered by the Board.

In consideration of the foregoing, the information, records and documents listed as exceptions below are confidential and not public records, documents or information.

Statutory Exemptions from Public Records Provisions

The terms "public record," "public records," "record," "records," "document," "documents," "public document," or "public documents" shall mean all correspondence, papers, documents, or other written or recorded matters produced or required in the course of Board business, except those not subject to public disclosure in accordance with 1 VSA §317. For the Board's purposes, these exceptions specifically include the following:

1. tax returns and related documents, correspondence and substantiating forms which include the same type of information as in the tax return, submitted by applicants for WLEB funding
2. information relating to personal finances, medical or psychological facts concerning any individual or corporation applying for WLEB funding
3. trade secrets, including formulae, plans, patterns, processes, tools, mechanisms, compounds, procedures, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern, and which gives its user or owner an opportunity to obtain business advantage over competitors who do not know it or use it
4. information about the location of real or personal property for WLEB purposes prior to public announcement of the project, and information pertaining to appraisals or

purchase price of real or personal property for WLEB purposes prior to a formal contract award

5. records relating specifically to negotiation of contracts to which WLEB is a party
6. any documents filed, received, or maintained by the agency of commerce and community development (ACCD) with regard to administration of 32 V.S.A. chapter 151, subchapters 11C and 11D (new jobs tax credit; manufacturer's tax credit) prior to the granting of a tax credit certification by the Secretary of ACCD

Funding Applications and Associated Materials

The Working Lands Enterprise Board (WLEB), as a public instrumentality, is subject to the Vermont Public Records Law, 1 VSA § 315. The statute contains specific exemptions for tax-related information of persons, personal financial information of an individual, and trade secrets. Therefore such information submitted by farm and forest based businesses, other participants, and service providers to WLEB will be held in confidential files at the Vermont Agency of Agriculture, Food & Markets, and will not be available for public inspection under the Public Records Law.

WLEB considers the following information about farm and forest based businesses, and other participants to be subject to public record: names of producers, business names, and other participants that have applied to the WLEB for funds; their town of residence; type of business; and the purpose and amount of any funds or technical assistance award applied for or received.

Applicants for WLEB assistance will be informed that they should specifically identify, on a page by page or section by section basis, any information being submitted that they consider confidential, so that it can be redacted when the application is otherwise made available for public inspection. If the applicant does not do this, the entire application will be considered subject to the public records law. WLEB staff is responsible for ascertaining whether a given item identified by an applicant as confidential meets or does not meet statutory exemptions to the public records law. WLEB will notify applicants of any material they have marked as confidential which is statutorily not exempt from public disclosure, or of any material they have NOT so designated which would be advisable to protect via statutory exemptions.

Grant Review

Internal and external reviewers of applications for WLEB funds must sign an agreement that they will keep confidential all applicant records and documents which qualify as statutory exceptions to the public records law.

Business plans in particular contain confidential financial information, such as past and projected income statements. Business plans may also contain trade secrets and marketing strategies that farmers or other participants wish to keep confidential for reasons of competitive advantage. In keeping with the Records Law exemption, when WLEB shares business plans with internal or external reviewers, strict confidentiality guidelines will be

followed. Reviewers who are approved for viewing business plans will not be allowed to make copies, or to share information from the plans with any other person.

Rankings and Scorings of Funding Applications

As the Open Meetings Law requires Board discussions of application scores and rankings to be held in open session, unless there are features of one or more applications protected from disclosure, the records of such scoring and ranking and the results thereof are public records and must be disclosed by WLEB upon request. However, it is not WLEB's policy or practice to disclose such information without a specific request in keeping with requirements of the Public Records law.

Reporting of Funding Outcomes

To be accountable for the results of its funding decisions, WLEB requires that its grantees complete an intake and exit survey to assess the results achieved by WLEB support. Any information supplied by respondents which meets the guidelines for exception to the public records law will be aggregated and/or individually redacted in WLEB's reporting on survey results.

Records Retention and Disposal Schedule

The following records, whether in electronic or paper form, shall be kept by WLEB for a minimum of three years following the conclusion of their operational relevance and, subject to the exemptions noted above, made available for public inspection upon request:

1. All applications for WLEB funding assistance
2. All records of Board deliberations concerning applications for WLEB funding and the disposition of those applications
3. All grant agreements and contracts between WLEB and award recipients
4. All follow-up communications between WLEB and grantees, including grant close-out and audit records
5. All internal and external correspondence pertaining to grantmaking including records of changes in policy or practice
6. Records of pre- and post-award surveys or assessments which demonstrate the results or outcomes of WLEB funding

Applicants, successful or otherwise, may request that WLEB return a copy of the materials they have submitted, but WLEB is required to retain a copy of the full application and associated materials in its files for a designated period in accordance with the Access to Public Records law.

Records which are exempt from public access will be destroyed, while others will be recycled.