

7 Conflict of Interest (COI) Policy and Disclosure Requirements for LEED for Homes Program

This policy document formally defines the types of services that can be provided by members of a **Verification Team** for a LEED for Homes project and the required disclosure policies.

All LEED for Homes Quality Assurance Designees (QADs) are responsible for enforcement of this policy for all LEED for Homes Verification Teams. All conflict of interest disclosures must be signed by the QAD (as well as by the LEED for Homes Green Rater under the QAD's supervision on that project) – using the form in Appendix D.

Under the Residential Energy Services Network (RESNET) National Standards, Home Energy Rating System (HERS) Raters are allowed to perform design and/or construction related services. However, this is not permitted on a LEED for Homes project since they are considered a member of the Verification Team.

7.1 INTRODUCTION TO CONFLICTS OF INTEREST

Generally, a conflict of interest (COI) is a situation in which an individual has competing professional or personal interests on any given LEED for Homes project. Such situations include:

- i. **Professional:** Decisions may be influenced by competing professional obligations, for example having both a role on a project team and verification team
- ii. **Financial:** Decisions may be influenced by financial gain, or potential business opportunity
- iii. **Legal:** Decisions may be influenced by liability risks
- iv. **Ethical:** Decisions may be influenced by reasons other than compliance with the required standards.

The following sections provide additional guidance on how to navigate these types of issues if they occur and when and how to declare these conflicts to GBCI.

The Conflict of Interest policy identifies the following types of actions that Verification Team members are permitted to perform on a specific LEED for Homes project (outside of standard verification tasks); actions that are considered a conflict of interest but are permitted with proper disclosure; and finally, actions that Verification team members are prohibited from performing.

7.2 OVERVIEW OF CONFLICT OF INTEREST

The following summarizes the LEED for Homes Conflict of Interest Policy:

- i. On a given LEED for Homes project, there is a **major conflict of interest** if any member of the Verification Team contributes to design and/or construction related services (i.e., becomes a de-facto member of the Project Team). *Note:* Anyone providing verification-related services is considered to be on the Verification Team.
- ii. Members of the LEED for Homes Provider organization that are not members of the Verification Team for a given project participate in design and/or construction related

services. These types of services are permitted, however, the Provider organization must disclose their involvement in design and/or construction related services as per disclosure requirements.

- iii. Members of a Verification Team on a given LEED for Homes project (Project #1) are permitted to provide design and/or construction related services to another LEED for Homes project (Project #2), provided that they are not members of the Verification Team on Project #2. Verification Team members in this situation must disclose their involvement in design and/or construction related services on Project #2 as per disclosure requirements.

7.3 DEFINING AND IDENTIFYING CONFLICTS OF INTEREST

There are three types of verification-related services, as pertains to the Verification Team discussed in this document: Prohibited, Conflicted and Non-conflicted.

7.3.1 Prohibited Services - Definition of a Major Conflict of Interest

The following types of services constitute major conflicts of interest and ***may not*** be performed by any member of a LEED for Homes Verification Team:

- i. Design support services related to the LEED for Homes Program, including:
 - a. Specifying products,
 - b. Creating drawings, details, or specifications, and
 - c. Performing design-related calculations. (e.g., Manual J and D calculations or calculating the volume of cisterns for rain-water / gray-water storage to be use for equipment sizing).
 - d. Design of any aspects of building envelop or systems
- ii. Designing /specifying the durability related measures.
- iii. Selling any product that will be installed in the LEED for Homes project.
- iv. Installation services of any product in the project.
- v. Construction support services related to the LEED for Homes program (e.g. air sealing services, etc.).
- vi. Acting as responsible party / signing any Accountability Form.
- vii. Involvement in financing, sale, or purchase of the project.

Additional Considerations

The LEED for Homes QAD must ensure that major conflicts of interest do not occur on any LEED for Homes project.

If the QAD becomes aware of a major conflict of interest, they shall notify LEED for Homes Program Staff immediately. GBCI Program Staff will work with the QAD and the Project Team to address the situation.

7.3.2 Conflicted Services- Definition of a Minor Conflict of Interest

While it is prohibited for members of the Verification Teams to engage in any Prohibited Services, other members of the Provider and/or Green Rater organization may provide these services, provided they are properly disclosed.

In such cases, the Provider and/or Green Rater organization **may not** bundle any conflicted services in the same contract as for LEED for Homes Verification Services. A **separate contract** must be used that clearly states that these additional services **are not required** as part of LEED for Homes verification services under the LEED for Homes program.

Provider and Green Rater organizations that choose to engage in these conflicted services may need to consider additional liability insurance coverage.

The following types of services are considered minor conflicts of interest and **must be disclosed** (unless otherwise noted):

- i. Other members of the Provider organization, who are **not members of the Verification Team**, may provide design and/or construction related services with proper disclosure. Such services may include:
 - a. Design support services related to the LEED for Homes Program, including:
 1. Specifying products,
 2. Creating drawing, details, or specifications, and
 3. Performing design-related calculations. (e.g., Manual J and D calculations or calculating the volume of cisterns for rain-water / gray-water storage to be use for equipment sizing).
 - b. Construction support services related to the LEED for Homes program (e.g., air sealing services, installation services, etc.).
 - c. Acting as responsible party / signing any Accountability Form.
 - d. Designing /specifying the durability related measures.
- ii. Members of the Verification Team provide Energy Modeling Services
- iii. Members of the Verification Team may engage in permitting support services, with proper disclosure.
- iv. Members of the Verification Team that are paid directly or indirectly by the electric and/or natural gas utility serving this home, must disclose this type of financial arrangement.
- v. Members of the Verification Team provide verification services without charge (voluntarily) to the Project Team, this must be disclosed.

7.4 DEFINITION OF NON-CONFLICTED SERVICES

The following types of services are not considered a conflict of interest and may be performed in addition to verification services without disclosure. These types of services will typically be provided by the Verification Team on every LEED for Homes project.

- i. Educating the Project Team (including trades) on the LEED for Homes rating system and verification procedures
- ii. Educating the Project Team (including trades) on general green building best practices.
- iii. Educating the Project Team on subcontracts, and scopes of work for trades.

Additional Considerations

Education services (items in section 7.4); the Verification Team may only identify options available to a Project Team. Remember, the Verification Team ***is prohibited from providing*** design or construction services to the project team. Additionally, any services provided outside of standard verification required by the V&S Guidelines must be clearly identified as services that are not required for certification, under a separate contract.

7.5 PROCESS FOR DECLARING CONFLICTS OF INTEREST

7.5.1 Disclosure Requirements of Minor Conflicts of Interest:

In instances where the Verification Team provides additional services that require COI disclosure, the following steps must be completed:

- i. QAD shall interview and request information from members of the Verification Team to fully understand the extent of COI.
- ii. The COI disclosure form must be completed and signed by the Green Rater.
- iii. The COI disclosure form must be reviewed and signed by the QAD.
- iv. A copy of the COI disclosure form must be submitted to:
 - a. The Principle Contact of the Project Team (prior to any verification services being performed)
 - b. GBCI (with the application for certification), and
 - c. The homeowner (in the LEED for Homes Operation and Maintenance Manual and with the copy of the LEED for Homes Certification Certificate)
- v. The COI disclosure form shall be maintained in Provider's records for that project (for two years), as per the Providers QAP protocol.

7.6 BEST PRACTICES TO AVOID OR MINIMIZE CONFLICTS OF INTEREST

7.6.1 QAD Identifying and Monitoring of Conflicts of Interest

As early as possible for **every** LEED for Homes project, the QAD shall determine if there is a potential conflict of interest. The QAD shall determine this by identifying the following:

- i. The full range of services being conducted by members of the Provider Organization and Green Rater organization, in the case of independent Green Rater, who are not members of the Verification Team
- ii. The full range of services being conducted by the Project QAD and Green Rater
- iii. The full range of services being conducted by other members of the Verification Team
- iv. If a minor COI exists, complete a COI Disclosure Form immediately.
- v. If a major COI exists, notify GBCI immediately. In most cases, the project will not be able to proceed unless the major COI is addresses and resolved (e.g. the member of the Verification Team with the major COI is replaced with another professional)
- vi. The full range of services being conducted by the Energy Rater (i.e. HERS Rater)

In instances where a COI exists for any member of the Verification Team, the COI Disclosure Form must be immediately completed by applicable parties.

At the pre-submittal stage, the QAD's review of the project should include follow-up questions to all members of the Verification Team to ensure no additional COIs have arisen that were not previously identified and prepared for disclosure.

7.6.2 Violations of COI Policy

Violations of the LEED for Homes COI Policy include:

- i. Verification Team members performing prohibited services
- ii. Failure to complete and submit COI Disclosure Forms, when needed.

Provider organizations that violate the COI Policy will be subject to disciplinary action, as described in the Professional Conduct Guidelines and Disciplinary Policy, Section. In general, violations of the policies contained within this manual will trigger disciplinary actions ranging from probation to suspension and could jeopardize project certification for related project(s). Repeated violations will result in revocation of Provider status and possibly applicable Verification Team member credentials.

8 Professional Conduct and Disciplinary Policy for the LEED for Homes Program

8.1 INTRODUCTION

The professional behavior of all participants in the LEED for Homes program is a critical element in market acceptance and overall success of the program. Members of the Verification Team represent USGBC, GBCI and are the face of the LEED for Homes program. As such, they are expected to act with the highest degree of professionalism and ethics.

This policy document includes a formal statement of the expectation for all members of the Verification Team on a LEED for Homes project and the disciplinary procedures for those that fail to meet these expectations. *Note:* these professional conduct guidelines and disciplinary policy are largely based on the Residential Energy Services Network (RESNET) National Standards.

8.2 PROFESSIONAL CONDUCT GUIDELINES

All members of the Verification Team on a LEED for Home project will conduct themselves in a professional, respectful manner and perform requirements as specified. This includes the following conduct:

- i. Comply with the technical standards and procedural requirements that are set forth by the LEED for Homes program.
- ii. Commit to objectivity and neutrality in conducting a rating.
- iii. Not engage in conduct that is detrimental to the reputation or best interests of the USGBC, GBCI or LEED for Homes program. Green Raters or Providers should raise concerns about the program directly with the USGBC and GBCI.
- iv. Refrain from speaking negatively about other LEED for Homes Green Raters or Providers in public. Green Raters or Providers should submit a complaint form or communicate directly with GBCI if they have a complaint regarding another Green Rater or Provider.