

Section 26a Permit and Land Use Agreement Disclosure Requirements  
Obtaining Things of Value Protocol Process

*Updated, July 7, 2009*

*(The 26a system was updated July 1, 2009. This document incorporates those updates.)*

Handling 26a Permit and Land Use Agreement Requests

TVA requires applicants for 26a permits and land use agreements (license, lease or easement) to disclose any business, political or financial interest that may present an actual or potential conflict of interest with TVA as defined by Ethics Protocol published June 9, 2009 ([Obtaining Things of Value from TVA Protocol](#))

To meet these requirements, starting Monday, June 22, 2009, an additional form will be included in the application package that requires the applicant to disclose their status as a Covered Person seeking a Thing of Value from TVA. The form also notifies the applicant identified as a Covered Person that the request (application) and all communications that occur as part of the request may be made public (in accordance with applicable law) and could be reviewed by the OIG. Please use the following guidance on issuing this form.

- For applications that were open (under review) on 6/22/2009:
  - Send the disclosure form if the team has current knowledge (as of 6/22/09) that the applicant is a Covered Person. Teams are not required to research the applicants; but rather rely only on information they currently possess.
  - Send the disclosure form if the team obtains knowledge prior to the final permit decision that the applicant is a Covered Person.
  - If the applicant is discovered to be a Covered Person after the final permit decision, the team is not required to obtain a signed disclosure form. However, teams must notify the VP L&WS of the permit by email (including a link to the RLR record). The VP L&WS will notify the CECO of the permit.
- For applications received on or after Monday, June 22, 2009 send the Applicant Disclosure Form to applicants that do not include the form with their application. Enter "Waiting on Disclosure Form" in the Inquirer/Applicant/ Covered Person" section of RLR and select the "Waiting on Information from Customer" cycle time modifier. You may begin to process the application, but you cannot issue the permit until the Disclosure Form has been received. If they do not return the Disclosure Form, deny the application.
- Include the disclosure form in all new application packages requested on or after Monday, June 22, 2009.
- Teams are not required to send the disclosure form to applicants whose permits/ land use agreements were issued (or denied) prior to June 11, 2009, even if you have current knowledge or obtain knowledge that the applicant is a Covered Person.

- Include the Disclosure Form along with the Joint Application Form as an attachment in the Reservoir Land Record (RLR) when returned by the applicant. Stamp the Disclosure Form and the Joint Application Form with the date they were received in the WT office.

Applications received on or after June 22, 2009 cannot be processed without a signed copy of the Applicant Disclosure form (signed original, email, or facsimile) or electronic submission through an online application. If multiple applications are received from a single applicant, a Disclosure form must be included with each individual application. The signed Applicant Disclosure Form is the applicant's agreement (for that individual application) to waive their Privacy Act rights and their notification that the records associated with that application can be reviewed by the OIG and CECO. Watershed Teams cannot hold an Applicant Disclosure Form on file for customers and use them with subsequent applications from that customer.

Watershed Teams should not advise applicants on completing the disclosure form. Please refer applicants to the EIC for questions regarding the disclosure form. If the EIC cannot answer the questions, they will contact the Ombudsman.

### 26a System

The required updates to the 26a System were completed July 1, 2009. Specific instructions for these updates have been sent to 26a users. For applications received on or after June 22, 2009 Applicant Disclosure Forms must be attached to the RLR record. Enter the information from the Disclosure Form in the "Inquire/Applicant/Covered Person" section of the RLR record.

When an applicant identifies themselves as a Covered Person the following general process applies:

1. Enter the Covered Person information in the "Inquirer/Applicant/Covered Person" section of the RLR by selecting "Edit Covered/Referral Info". Attach the Applicant Disclosure Form to the record along with the Joint Application Form.
2. As long as the request is open, the teams shall maintain copies of ALL written correspondence to and from the Covered Person as attachments in the RLR application record. Written correspondence includes all mail, email, and facsimiles. Teams are not required to copy the VP L&WS and the CECO on all written correspondence to the applicant. The CECO has authorized this change to the protocol. By granting the VP L&WS, CECO and OIG access to the RLR system, sufficient ability to review all correspondence has been provided.
3. As long as the request is open ALL verbal communications (phone calls, field or office visits) between TVA and the Covered Person shall be documented in the Comment field of the RLR record. These comments will include the date and time of the conversation and a general description of the items discussed.

Maintaining accurate and up to date correspondence records in the RLR will enable the CECO to periodically "review the records pertaining to each active Request to ensure the process is impartial and evenhanded" as required by the Ethics Protocol.

TVA watershed teams will continue with all other, normal review processes and will issue the requested permit or land use agreement at the appropriate time if no objections from the CECO or OIG are received.

### Handling Referrals and Other Contacts

If a letter, phone call, or other contact is received regarding a 26a permit or land use agreement from an individual or entity that would meet the definition of a Covered Person, the application is treated as if it were submitted by a Covered Person. The same process as described above (in steps 1 -3) will be used. Enter the information about the referral in the "Inquirer/Applicant/Covered Person" section of the record. Select "Edit Covered/Referral Info". Attach the referral to the record, or enter a comment documenting contacts received by phone, etc. The disclosure form originally signed by the applicant makes them aware that such contacts regarding their application will be shared with the CECO and the OIG.

For example, if an elected official (or a member of his/hers immediate family) inquires about the status of an application, that application must now be treated as if it was submitted by a Covered Person. The referral (written or verbal communication) is documented (include as an attachment or comment in the record) in the RLR and the VP L&WS, CECO, and OIG are notified by email as described in Steps 1 above. All written and verbal communications must now be maintained in the RLR as described in Steps 2 & 3 above.

### Notification of Covered Persons to VP L&WS, CECO, and OIG

An automated email will be sent to VP L&WS, CECO, and OIG notifying them of all applications and referrals or other contacts from Covered Persons received that day. This automated email will include a link to the RLR record. This email eliminates the need for written notification of covered persons to these offices.

These new data fields in the RLR records will enable the generation of queries needed to report the status of open applications or referrals submitted by Covered Persons. According to the Ethics Protocol, the CECO is required to report to the Audit, Governance, and Ethics Committee of the Board of Directors the status of such of active Requests at least once every six months.

***This process may be revised with the approval of the VP L&WS and CECO, as deemed necessary by practice, review, or change in policy.***

***Updated 7/07/09***

# Obtaining Things of Value From TVA Protocol

From PolicyWiki

## Obtaining Things of Value from TVA Protocol

### Purpose:

From time to time, people contact TVA to obtain something of value from TVA or contact TVA employees or members of the Board of Directors (“Directors”) to assist them in obtaining something of value from TVA. For example, the contact could be from:

- A member of the general public who is seeking a section 26a permit, or
- An elected official who is seeking something of value from TVA for his or her personal benefit.

No matter who makes the request, when something of value is being sought from TVA, the decision-making process needs to be fair, impartial, transparent, and evenhanded, both in fact and in appearance.

### Definitions:

A “Thing of Value” is:

- Any interest in real property held by TVA in the name of the United States,
- Any section 26a permit,
- A sole-source contract with a monetary value greater than \$25,000,
- A donation with a monetary value greater than \$10,000, or
- Surplus or excess property with a monetary value greater than \$10,000.

This protocol does not apply if a Thing of Value is being requested or obtained from TVA through a competitive process or is subject to a process which is similarly designed to ensure fair, impartial, transparent, and evenhanded decisions. It also does not apply to requests made by government entities (e.g., Tennessee Department of Transportation or city of Knoxville).

A “Covered Person” is one of the following persons seeking a Thing of Value from TVA for his or her personal benefit:

- An elected government official,
- A policy-making level employee of an entity that regulates TVA or its activities,
- A management level employee of a power customer of TVA,
- A Director,

- A TVA employee, or
- An immediate family member of one of the above individuals.

When a corporation or other entity is asking for a Thing of Value, the entity will be considered a Covered Person if:

- A person dealing with TVA for the entity would be a Covered Person as described above or
- A person known to have a financial interest in the entity would be considered a Covered Person if such person were making the request directly.

## **Process:**

### *Handling Requests*

Any person who submits a request to TVA for a Thing of Value will be required to identify whether a Covered Person stands to benefit if the request is approved. Additionally, the form used to request any Thing of Value will advise all persons that the request and communications that occur as part of the application process may be made public and could be reviewed formally by the Office of Inspector General (OIG).

When TVA receives a request for a Thing of Value from a Covered Person (“Request”), the TVA officer responsible for the affected program activity (“Responsible Officer”) shall disclose all relevant information about the Request to the Chief Ethics and Compliance Officer (“CECO”) and OIG.

For as long as the Request is active, the CECO shall be given access to all written correspondence to and from the Covered Person regarding such Request. Upon request, the OIG will also receive a copy of all correspondence related to such Request. All oral communication between TVA and the Covered Person regarding the Request shall be documented and maintained by TVA, including the date and time of the conversation and a general description of the items discussed. The CECO shall periodically review the records pertaining to each active Request to ensure that the process is impartial and evenhanded.

The CECO shall report to the Audit, Governance, and Ethics Committee of the Board of Directors or successor committee (“AGE Committee”) at least once every six months about the status of active Requests and any issues identified.

The OIG, at its discretion, may report to the AGE Committee about any Request at an AGE Committee meeting or in executive session.

Nothing about this policy changes the process within TVA for reviewing and deciding whether to grant a Request.

### *Handling Inquiries*

From time to time, Directors may receive inquiries about the status of or the details of Requests. Since some might perceive a Director's active response to such an inquiry as influencing the TVA decision-making process, a Director should inform the person making the inquiry that as a Director he or she cannot substantively respond to the inquiry and inform the person that his or her inquiry should be directed instead to the responsible officer.

**Training:**

Those individuals who review requests for Things of Value shall receive annual training in:

- Their process for approving requests for Things of Value,
- The requirements of this protocol,
- The identification of Covered Persons, and
- Other information that may be relevant.

The CECO will be responsible for providing such training.

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