

State of Alaska Department of Commerce, Community, and Economic Development	P&P No:	Page: 1
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Policies and Procedures	Subject: Conflicts of Interest	
Division: Community and Regional Affairs		

Purpose:

To provide guidance on DCRA procedures for the prohibition of conflicts of interest.

Ethics and Standards of Conduct in all activities are detailed at the State of Alaska, Department of Law, Ethics Information for Public Employees (AS 39.52):

[http://law.alaska.gov/doclibrary/ethics/EthicsInfo.html.](http://law.alaska.gov/doclibrary/ethics/EthicsInfo.html)"

The following prohibited Conflicts of Interest (COI) should be avoided:

- A. When a CDBG-DR or CDBG-MIT Subrecipient contracts for the procurement of goods and services, the Conflict of Interest provision in the "Common Rule" (24 CFR 85.36) are applicable. These rules prohibit local officials and staff from being a party to any contract assisted with CDBG-DR and CDBG-MIT funds. Such a conflict would arise when:
 - 1. The employee, officer or agent,
 - 2. Any member of his immediate family,
 - 3. His or her partner, or
 - 4. An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The Subrecipient's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Subrecipients may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or Local Law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the subrecipient's officers, employees, or agents, or by contractors or their agents.
- B. In addition, the Conflict of Interest prohibition at 24 CFR Part 570.489 (h) is applicable to all CDBG-DR and CDBG-MIT Agreements and activities. This rule, generally, prohibits elected officials, and staff who are in a position to influence decisions, from receiving any benefit in a CDBG-DR or CDBG-MIT-assisted project. This includes the benefit from living or owning property in a CDBG-DR or CDBG-MIT target area that receives CDBG-DR or CDBG-MIT improvements.

The following summarizes this regulation:

- 1. Conflicts prohibited. No persons described in paragraph 2 (below) who exercise or have exercised any functions or responsibilities with respect to activities assisted with CDBG-DR or CDBG-MIT funds or who are in a position to participate in a decision making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from a CDBG-DR or CDBG-MIT-assisted activity, or have an interest in any contract, subcontract or subagreement with respect thereto, or in the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.
- 2. Persons Covered. The conflict of interest provisions of paragraph 1 (above) apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the state, or of a unit of general local government, or of any designated public

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agencies, or subrecipients which are receiving or administering CDBG-DR or CDBG-MIT funds.

3. Definition of Family or Business Ties. The Grantee defines the meaning of the term "family or business ties" as follows:
 - a. Family: "A group of people related by ancestry or marriage; relatives."
 - b. Business: "The buying and selling of commodities and services; commerce, trade."
 - c. Ties: "Something that connects, binds or joins; bond; link."

- a. Exceptions: Upon written request, the Grantee may grant an exception to the provisions of paragraph A (above), on a case-by-case basis, before federal funds are expended. Exceptions can only be granted when the Grantee determines that the exception will serve to further the purposes of the CDBG-DR and CDBG-MIT Program and the effective and efficient administration of the CDBG-DR and CDBG-MIT program or project. To seek an exception, a written request for an exception must be submitted by the Subrecipient to the Grantee which:
 - (i) Fully discloses the conflict or potential conflict of interest, prior to the unit of government undertaking any action which results or may result in a conflict of interest, real or apparent;
 - (ii) Describes how the conflict of interest was publicly disclosed;
 - (iii) Includes a map showing the location of any target area property owned by the covered official;
 - (iv) Includes a written opinion of the local government's attorney that the conflict of interest for which the exception is sought would not violate state or local law; and.
 - (v) Includes a written statement signed by the Chief Elected Official, Authorized Representative, city or borough attorney, or by the official designated by the governing body to sign such statement addressing the factors the Grantee must consider when allowing a prohibited conflict of interest. See item G below for more information on the factors the Grantee must take into account.

- b. Public Disclosure: The request for an exception must include a description of how the conflict of interest was publicly disclosed. the Grantee requires, at a minimum, that the recipient include a complete description of the COI on the agenda for the public meeting where the COI will be disclosed, that the agenda be posted/advertised as required by law, that the COI be fully disclosed at a public meeting, and that the discussion of the COI be included in the minutes of the meeting. Note that state law requires the agenda to be posted prior to public meetings. The description of the method of disclosure, the public meeting announcement and the minutes of the public meeting must be included with the request for an exception.

- c. Non-Involvement: One factor included in the Grantee's decision to grant a COI exception is whether or not the involved officials have abstained from involvement with the Agreement. The request for an exception must include an explanation of the extent of

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involvement of covered persons with any votes or discussion of the Agreement. Officials should abstain from any involvement as soon as any COI is foreseen.

- d. Factor to be considered for exceptions: In determining whether to grant a requested exception after the Subrecipient has satisfactorily met the requirements for an exception, the Grantee will consider the cumulative effect of the following factors, where applicable:
- (i) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;
 - (ii) Whether the person affected is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
 - (iii) Whether the affected person has withdrawn from his or her function or responsibilities, or the decision-making process with respect to the specific assisted activity in question;
 - (iv) Whether the interest or benefit was present before the affected person was in a position as described in paragraph B.2 (above);
 - (v) Whether undue hardship will result either to the participating jurisdiction or to the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
 - (vi) Any other relevant considerations presented to the Grantee.
- e. Owners and Developers of Housing: No owner, developer or sponsor of a project assisted with CDBG-DR or CDBG-MIT funds (or officer, employee, agent or consultant of the owner, developer or sponsor) whether private, for profit or non-profit, may occupy a CDBG-DR or CDBG-MIT assisted affordable housing unit in a project. Any exceptions must be approved in advance by the Grantee and then only when the local government CDBG-DR or CDBG-MIT Subrecipient can demonstrate to the Grantee that the exception will serve to further the purposes of the CDBG-DR or CDBG-MIT program.
- This provision does not preclude an income-eligible, volunteer/owner participating in the construction of a single-family dwelling unit as part of a self-help homeownership program (e.g. Habitat for Humanity) when the individual is not an official, employee, agent, or consultant of the developer.

DCRA has added the prohibition of conflicts of interest to the subrecipient grant agreement.