



City of Rochester, New Hampshire

Office of Community & Economic Development

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CITY OF ROCHESTER

Conflict of Interest Policy for Community Development Block Grant (CDBG) Program

November 2016

FINAL

Remarque: Vous pouvez obtenir ce document en français gratuitement. S'il vous plaît contacter la Division du développement communautaire de la Ville de Rochester pour l'assistance.

I. PURPOSE OF THE POLICY

The purpose of this policy is to formalize the process by which the City of Rochester handles Community Development Block Grant (CDBG) funds, received from the U.S. Department of Housing and Urban Development (HUD), and to prevent any real or perceived conflict of interest with regard to the use of these funds.

II. SCOPE AND APPLICABILITY OF THE POLICY

This policy shall apply to City of Rochester employees and/or their family members or close relationships, that request assistance in the form of grants or loans funded by the CDBG program and administered by the City or the City's subrecipients, as well as to elected City officials. The definition of "family members" and "close relationships" shall be identical to the definitions provided in the City of Rochester's Anti-Nepotism Policy (#2.001, approved 6-5-13).

III. PROCESS

Disclosure of a potential conflict of interest must be made before negotiations to sell, purchase, and/or lease a property assisted with CDBG funds; before an employee gains any financial interest in any property to be assisted with CDBG funds; before an employee receives any services provided, partly or in whole, through the use of CDBG funds; and/or before an elected City official with a financial or other interest in a potential CDBG subrecipient votes on allocating CDBG funds. Two types of employee disclosures and requests are outlined in this policy, as well as disclosures by elected City officials.

A. Employees of Departments or Divisions Which Receive and/or Administer CDBG Funds

Employees who work in departments that receive and/or administer CDBG funds have an obligation to disclose any potential conflict of interest with regard to use of these federal funds. If such employee or their family member requests to use HUD funds for an eligible activity, they must follow the procedure outlined herein to include review by the City Attorney, public disclosure, and an exception requested from HUD.

In general, the process includes the following steps:

1. Legal Review

For the purposes of this policy, legal review consists of an opinion of the City Attorney that the interest for which the exception is sought would not violate state or local law. If legal review concludes that access to the use of CDBG funds would violate state or local law, the employee is notified that the request is denied.

2. Public Disclosure

A public disclosure must be made of the nature of the request for funds, including information about the City Attorney's opinion.

3. HUD Review

The City submits a formal request to HUD to review and grant an exception to the employee's conflict of interest. In determining whether to grant the requested exception after the City has satisfactorily met the requirements of legal review and public disclosure, HUD will consider the cumulative effect of the following factors, where applicable, that such an exception will serve to further the purposes of the HUD-funded program and the effective and efficient administration of the City's program or project:

- a. 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;
- b. Whether an opportunity was provided for open competitive bidding or negotiation;
- c. 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 being made available or provided to the group or class;
- d. Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process, with respect to the specific assisted activity in question;
- e. Whether the interest or benefit was present before the affected person was in a position as described in paragraph (c) of this section;

- f. Whether undue hardship will result either to the City or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
- g. Any other relevant considerations.

4. Employee Notification

HUD determination is communicated to employee. If the request is approved, the individual may proceed with the use of CDBG funds. If the request is denied, the individual is so notified.

B. Employees of Other City Departments and Divisions

For City employees who do not work in City departments receiving and/or administering CDBG funds, a request to access programs funded by the CDBG program may be considered only after the following has been provided:

1. Legal Review

For the purposes of this policy, legal review includes an opinion of the City Attorney that the request would not violate state or local law. If legal review concludes that access to use of CDBG funds would violate state or local law, the employee is notified that the request is denied.

2. Public Disclosure

If legal review concludes that access to use of CDBG funds would not violate State or local law, the City proceeds with public disclosure of the nature of the request. If any reasonable public objection is received during public disclosure, final decision as to employee participation will be made by the City Manager or the City Manager's designee.

3. Employee Notification

Upon successful completion of steps 1 and 2 above, employee is notified that they may proceed with the requested use of CDBG funds.

C. Elected City Officials

For elected City officials, including the mayor and city councilors, a declaration of interest (verbal or written) must be made before any votes, at either the level of the committee or the full City Council, on the allocation of the City's CDBG funds in the following circumstances:

1. Financial Interest (For-Profit Entities)

The elected official holds a financial interest in the potential CDBG subrecipient, including but not limited to shareholder status, company owner, lienholder, or creditor status.

2. Other Interest (Non-Profit Entities)

The elected official holds other interests in the potential CDBG subrecipient, including but not limited to sitting on the board of directors of the organization, serving as a previous or current officer within the organization, or being a current or former major donor to the organization (\$10,000 or more).

In cases where the conflict of interest is a financial interest, the elected official shall abstain from voting on the allocation of CDBG funds after declaring the interest. In all other cases, the elected official may abstain from voting on the allocation of CDBG funds after declaring the interest, at his or her discretion.

IV. INCORPORATION BY REFERENCE OF ANTI-NEPOTISM POLICY

This policy incorporates and includes the City of Rochester's existing Anti-Nepotism Policy (#2.001, approved 6-5-13).