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Conflict of Interest (COI)

Lake County staff must adhere to the Lake County Ethics Ordinance.

In addition to this county policy, federal programs administered by CD impose program-specific conflict of interest requirements to address potential conflicts of interest. This section describes these requirements.

In accordance with **2 CFR 200.318**, it is Lake County Community Development's policy that no employee officer, or agent of Lake County Community Development may engage in the selection, award and administration of a contract supported by a federal, state or local government if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the individual, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ the individual has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of Community Development must neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to subcontracts.

As appropriate the Housing and Urban Development Office of Inspector General will be notified of conflicts of interest and given the full cooperation of this office. Consequences for breaches of this policy will be determined by the appropriate official. Possible outcomes include suspension, termination and criminal prosecution.

Responsible official:

Jodi Gingiss, Community Development Administrator

HOME Program COI

Requirements

In accordance with the HOME Program conflict of interest provisions at 2 CFR 200.318, it is Lake County policy that individuals who have a decision-making role or inside knowledge of the HOME Program process cannot have financial or contractual interests in a HOME project or activity or obtain benefits of any kind from a HOME project or activity. This requirement extends to anyone with whom an individual has familial or business ties during the funding process and up to one year thereafter. If an individual knowingly has any of the aforementioned connections to a HOME project or activity, and has not these ties publicly, then he or she has violated federal conflict of interest statutes.

These conflict of interest provisions apply to any individual who is an employee, agent, consultant, or elected or appointed official of Lake County as well as its subrecipients, CHDOs, developers, owners, or sponsors that receive HOME funds. In addition, in accordance with conflict of interest provisions found at 2 CFR 200.318, the County adopts the following guidelines to govern the performance of any employees engaged in awarding and administering contracts:

- No employee, officer, or agent of Lake County or its subrecipients, CHDOs, developers, owners, or sponsors are permitted to participate in the selection, award, or administration of a contract supported by HOME funds if a conflict of interest, either real or apparent, would be involved.

- No employee, officer, or agent of Lake County or its subrecipients, CHDOs, developers, owners, or sponsors are permitted to accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or any other party to a sub-agreement with the County.
- No employee, officer, or agent of Lake County or its subrecipients, CHDOs, developers, owners, or sponsors are permitted to occupy a HOME-assisted unit, with the exception of any individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker.
- Lake County reserves the right to impose any penalties, sanctions, or other disciplinary actions for violations of these standards.

Exceptions

Exceptions to the HOME-specific conflict of interest provisions may be granted in certain circumstances.

Lake County may grant an exception to the prohibition against occupying a HOME-assisted unit for CHDOs, owners, sponsors, and developers based on the following factors:

- If the individual receiving the benefit belongs to the group of low-income persons intended to be the beneficiaries of assisted housing, and the exception will permit him or her to receive generally the same interests or benefits as are being made available or provided to the group as a whole;
- If the individual has withdrawn from his or her functions, responsibilities, or the decision making process with respect to the specific assisted housing in question;
- If the tenant protection requirements of 24 CFR 92.253 (prohibited lease terms, termination of tenancy, and tenant selection) are being observed;
- If affirmative marketing requirements are being observed and followed; and
- If any other factors relevant to Lake County's determination are met, including the timing of the requested exception.

Only HUD can grant exceptions to the other conflict of interest provisions, and will consider requests on a case-by-case basis. To request an exception, funding recipients must submit the following documentation to Lake County Community Development:

- A written request for an exception to the conflict of interest prohibition.
- A copy of the minutes from a public meeting denoting that the affected person has publicly disclosed the conflict of interest and has stated that he/she has withdrawn from functions or responsibilities with respect to the assisted activity in question.
- An opinion from the funding recipient's attorney that the interest for which an exception is sought would not violate state or local law.

(Note: The County must provide the same documentation to request an exception on behalf of its own employees, officers, or agents.) The County will review the request and if it is deemed suitable, it will be forwarded for HUD's consideration.

The HUD Field Office may grant an exception to the provisions on a case-by-case basis when it determines that the exception will serve to further the purposes of the HOME Program and the effective and efficient administration of Lake County's program or project. The HUD Field Office will consider the cumulative effect of the following factors, where applicable:

- Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program which would otherwise not be available;
- 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 interest or benefits as are being made available or provided to the group or class

- 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;
- Whether the interest or benefit was present before the affected person was in a position constituting the conflict of interest.
- Whether undue hardship will result either to Lake County or the person affected when weighed against the public interest served by avoiding the prohibited conflict.
- Any other relevant considerations.

The Lake County Bureau of Economic Development will notify the funding recipient in writing whether an exception has been allowed or denied by HUD.

CDBG/NSP COI

The CDBG regulations that govern conflicts of Interest (2 CFR 200.318) are similar to those of the HOME program. In addition, the County requires subrecipients to maintain a written code of conduct to govern the performance of their officers, employees, or agents engaged in the award an administration of contracts supported by Federal funds. No employee, officer or agent of the subrecipient is permitted to participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when any of the following has a direct or indirect financial or other interest in the firm selected for award:

1. The employee, officer or agent
2. Any member of his or her immediate family
3. His or her partner
4. Any organization which employs, or is about to employ, any of the above.

The subrecipient's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. 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 County's and subrecipient's officers employees, or agents, or by contractors or their employee or agents.

ESG COI

The regulations governing conflicts of interest under ESG are found at 2 CFR 200.318. In addition to requirements similar to HOME and CDBG that prohibit persons in decision-making positions with regard to the administration of the ESG program from receiving any financial or other benefit or perceived benefit from their position with the organization. Further, under ESG, the subrecipient is required to comply with federal codes of conduct in regards to procuring goods and services under ESG.

The ESG rules prohibit the provision of any type or amount of ESG assistance based on an individual's or family's acceptance or occupancy of emergency shelter or housing owned by the recipient, the subrecipient, or a parent or subsidiary of the subrecipient. The subrecipient may not evaluate the eligibility of a household or provide homeless prevention services to it, if it occupies housing owned by the subrecipient, or any parent or subsidiary of the subrecipient.

Only HUD may grant an exception to these requirements. Any subrecipient interested in having the County pursue an exception on its behalf must disclose the nature of the conflict publicly and provide documentation that it has done so; provide a legal opinion that were the exception to be granted, it would not violate state or local law.

Resources and Links

Uniform Administrative Requirements: 2 CFR 200.318

Conflict-of-interest Requirements - HOME Regulations:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/affordablehousing/training/web/crosscutting/administrative/conflictregs

Chapter 6: A Handbook for CDBG Subrecipients on Administrative Systems:

http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_17116.pdf

Conflict-of-Interest Requirements – Exceptions:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/affordablehousing/training/web/crosscutting/administrative/conflictextcept