

CONFLICT OF INTEREST

The Conflict of Interest is defined in 24 CFR 570.489(b) and ss. 946.13, Wis. Stats and ss. 19.59, Wis. Stats.

The conflict of interest provision 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 agencies, or sub-recipients.** Except for eligible administrative or personnel costs, the general rule is that no persons described above who exercise or have exercised any functions or responsibilities with respect to CDBG activities and who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties during their tenure or for one year thereafter.

IN NO CASE MAY
THE GRANTEE'S
CHIEF ELECTED
OFFICIAL RECEIVE
A CDBG LOAN.

For purposes of the CDBG Housing program “family” means:

- ✓ Spouse
- ✓ Fiancée/Fiancé
- ✓ Children and Children-in-Law
- ✓ Brothers and Brothers-in-Law
- ✓ Sisters and Sisters-in-Law
- ✓ Parents and Parents-in-Law
- ✓ Anyone who receives more than 50% of their support from the person (e.g., adopted child, foster child)

Note

Activities paid with CDBG funds where apparent conflict of interest exists and without appropriate and documented waiver from this conflict are considered ineligible and will be due for repayment.

Waiver process

An exception to the requirement (Waiver of Potential Conflict of Interest) may be requested from the Division of Housing. Prior to submitting the request, public disclosure of the conflict must be made. An opinion must be obtained from the Municipal Attorney stating that the interest for which the exemption is sought would not violate state or local law.

Use the following steps to determine a potential conflict of interest:

1. Identify “covered persons” for your CDBG program.
2. Add conflict of interest question to your CDBG application. All conflict of interest questions must be answered.
3. Inform applicants with potential conflict of interest that their name will be disclosed at the local Housing Committee meeting.
4. Add “disclosure of potential conflicts of interest” as a standing item on your loan approval committee agenda.
5. The covered person should not attend this meeting.
6. After loans have been approved, disclose the names and the nature of the conflicts of interest (type of family or business tie) for applicable approved loans. DO NOT disclose loan number or proposed work.
7. Ask all in attendance at the loan approval meeting if there are any objections to awarding the loans in question. The objective is to ask the public whether they have objections to awarding the
8. The Grantee’s attorney must certify that the identified potential conflict would not violate state or local law, Request for Exception to Conflict of Interest Provision, specifies the format for that certification.

9. Submit “REQUEST FOR EXCEPTION TO CONFLICT OF INTEREST PROVISION” on municipal letterhead, signed by your attorney, and the agenda and minutes of the meeting to Division of Housing.
10. DO NOT sign any loan closing documents until you have received approval from DOH.

In order to assess whether there is an apparent conflict of interest, Grantee must gather this information at the point of application submittal. The following question must be included on the initial loan application form:

Do you have family or business ties to any of the following people? __yes __no

A list of covered persons must be included on the application form. The applicants must answer this question regardless there is a relationship or not.

Please become familiar with the language included in the Code of Federal Regulations before you execute any projects paid with CDBG funds.

Code of Federal Regulations Title 24 PART 570 Subpart I

Sec. 489 Program administrative requirements. (h) Conflict of interest

(1) Applicability. (i) In the procurement of supplies, equipment, construction, and services by the States, units of local general governments, and subrecipients, the conflict of interest provisions in paragraph (g) of this section shall apply.

(ii) In all cases not governed by paragraph (g) of this section, this paragraph (h) shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance with CDBG funds by the unit of general local government or its subrecipients, to individuals, businesses and other private entities.

(2) Conflicts prohibited. Except for eligible administrative or personnel costs, the general rule is that no persons described in paragraph (h)(3) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this subpart or who are in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

(3) Persons covered. The conflict of interest provisions for paragraph (h)(2) of this section 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 agencies, or subrecipients which are receiving CDBG funds.

(4) Exceptions: Thresholds requirements. Upon written request by the State, an exception to the provisions of paragraph (h)(2) of this section involving an employee, agent, consultant, officer, or elected official or appointed official of the state may be granted by HUD on a case-by-case basis. In all other cases, the state may grant such an exception upon written request of the unit of general local government provided the state shall fully document its determination in compliance with all requirements of paragraph (h)(4) of this section including the state's position with respect to each factor at paragraph (h)(5) of this section and such documentation shall be available for review by the public and by HUD. An exception may be granted after it is determined that such an exception will serve to further the purpose of the Act and the effective and efficient administration of the program or project of the state or unit of general local government as appropriate. An exception may be considered only after the state or unit of general local government, as appropriate, has provided the following:

(i) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(ii) An opinion of the attorney for the state or the unit of general local government, as appropriate, that the interest for which the exception is sought would not violate state or local law.

(5) Factors to be considered for exceptions. In determining whether to grant a requested exception after the requirements of paragraph (h)(4) of this section have been satisfactorily met, the cumulative effect of the following factors, where applicable, shall be considered:

(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 an opportunity was provided for open competitive bidding or negotiation;

(iii) Whether the person affected is a member of a group or class of low or moderate 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;

(iv) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decisionmaking process with respect to the specific assisted activity in question;

(v) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (h)(3) of this section;

(vi) Whether undue hardship will result either to the State or the unit of general local government or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(vii) Any other relevant considerations.