



Community Development Block Grant (CDBG) Conflict of Interest Module

**Housing & Revitalization Department
Neighborhood Services Division**



Why are we Required to have Conflict of Interest Policies

- ▶ Annual 990 Report to the IRS
- ▶ It's your duty to your partners as a nonprofit
- ▶ It protects the nonprofit, staff and board of directors
- ▶ It's required by HUD
- ▶ It's required by the City of Detroit
- ▶ It's required as part of your contract

What We Will Discuss Today

- ▶ HUD Guidance and Requirements
- ▶ City and State Governance
- ▶ Contract Obligations
- ▶ Purchasing Conflict of Interest
- ▶ Conflict of Interest Affirmation (Contract)
- ▶ Disclosing a perceived conflict/conflict
- ▶ Obtaining an exemption

Common Definitions

- ▶ Grantee: is the City of Detroit
- ▶ Recipient: is the City of Detroit

- ▶ Sub-grantee: is your organization
- ▶ Subrecipient: is your organization
- ▶ Non Federal Agency: is your organization

- ▶ Perceived Conflict of Interest: is treated as a conflict

Conflict of Interest Citations

- ▶ 24 CFR 570.611 (CDBG)
- ▶ 2 CFR Part 200.318 (OMB)
- ▶ State of Michigan *“Standards of Conduct for Public Officers and Employees”*
- ▶ City of Detroit Ethics Code
- ▶ Contract Cites: Section 11.01–11.7

24 CFR 570.611

HUD

- ▶ General rule, HUD conflict of interest guidelines prohibit any person who is an employee, agent, consultant, officer, or elected or appointed official of the recipient or subrecipient, who exercises any function or responsibilities with respect to CDBG activities or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, from obtaining a financial interest or benefit from a CDBG assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG assisted activity, 24 CFR 570.611(b)&(c).

2 CFR Part 200.318

OMB

(1) In the procurement of supplies, equipment, construction, and services by recipients and by Subrecipients, the conflict of interest provisions in 2 CFR 200.317* and 200.318 shall apply.

* 200.317 Refers to client rental property

2 CFR Part 200.318

OMB

- ▶ The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest.

2 CFR Part 200.318

OMB

(c)(1) states: No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, 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 the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for a situation in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

Monitoring Finding Alert!

- ▶ The Conflict of Interest Policy must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity

What Does Our Agreement Require?

The Subrecipient Agreement requires at Section 11.01 a Written Conflict of Interest Policy

Subrecipient Agreement

Section 11.01

11.01 The subrecipient warrants that its participation in this Agreement will conform to the requirements of the Detroit City Code Section 2-6-34 “Disclosure by Contractors” and all applicable CDBG regulations, including Sections 2 CFR 200.318 and 24 CFR 570.611 of the code of Federal Regulations, and further warrants that such participation will not result in any Organizational Conflict of Interest (as defined herein).

Subrecipient Agreement

Section 11.02

- ▶ 11.02 In the event the Subrecipient has any conflict of interest as defined herein, the Subrecipient shall disclose such conflict of interest fully in the submission of the proposal and/or during the life of the contracts.

Subrecipient Agreement

Section 11.03

- ▶ 11.03 The Subrecipient agrees that if after awarded he or she discovers any conflict of interest with respect to this contract, he or she shall make an immediate and full disclosure in writing to the Director of Housing and Revitalization Department, and to the Detroit Board of Ethics, which shall include a description of the action which Subrecipient has taken or intends to take to eliminate or neutralize the conflict. The Housing and Revitalization Department may, however, terminate the contract if it is in best interest of the City.

Subrecipient Agreement

Section 11.04

- ▶ 11.04 In the event the Subrecipient was aware of any conflict of interest before the award of this contract and intentionally did not disclose the conflict, the Housing and Revitalization Department may terminate the contract for default, and/or be subject to debarment or other applicable penalties.

Subrecipient Agreement

Section 11.05

- ▶ 11.05 The provisions of this clause shall be included in all subcontracts and consulting agreements.

Subrecipient Agreement

Section 11.06

- ▶ 11.06 No federal, state, or local elected official nor any member of the City of Detroit Planning Commission or employee of the Housing and Revitalization Department nor any corporation owned or controlled by such person, shall be allowed to participate in any share or part of this contract or to realize any benefit from it.

Subrecipient Agreement

Section 11.07

11.07 No member, officer, or employee of the City of Detroit Housing and Revitalization Department, no member of the governing body of the City of Detroit or any other local government and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, shall, during his or her tenure, or for **one year** thereafter, have any interest, direct or indirect, in this contract or the proceeds thereof.

Subrecipient Agreement

Section 11.08

- ▶ 11.08 The Housing and Revitalization Department reserves discretion to determine the proper treatment of any conflict of interest disclosed under this provision.

Subrecipient Agreement

Section 11.09

- ▶ 11.09 The subrecipient covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with performance of the Services under this Agreement. The Subrecipient further covenants that in the performance of this Agreement, no person having any such interest shall be employed. The Subrecipient further covenants that no elected or appointed official, or employee of the City and no other public official who exercises any function or responsibilities in the review or approval of the undertaking or performance of the Agreement has any personal or financial interest, direct or indirect in this Agreement or the proceeds thereof.

Subrecipient Agreement

Section 11.10

- ▶ 11.10 The Subrecipient also hereby warrants that it shall not and has not employed any person to solicit or secure this Agreement upon any agreement or arrangement for payment of a commission, percentage, brokerage or contingent fee, either directly or indirectly, and that if this warranty is breached, the City may, at its option, terminate the Agreement without penalty, liability or obligation and, in addition, may, at its election, deduct from any amounts owed to the Subrecipient hereunder, the amounts of any such commission, percentage, brokerage or contingent fee.

City of Detroit Charter **DIVISION 2. -** **DISCLOSURE REQUIREMENTS** *(In Pertinent Part):*

- ▶ Except as otherwise provided for by applicable law, a public servant who exercises significant authority over a pending matter shall disclose:(1)Any financial interest, direct or indirect, that the public servant or an immediate family member has in any contract or matter pending before City Council;(2) Any financial interest, direct or indirect, that the public servant or an immediate family member has in any contract or matter pending before or within any office, department, or agency of the City;
- ▶ All disclosures that are required under Subsection (a) of this section shall be made, in writing...

Conflict of Interest Certification

- ▶ All organizations certify that no conflict exists

CONFLICT OF INTEREST CERTIFICATE

I hereby affirm that I have received copies of the provisions of the Code of Federal Regulations relevant to conflict of interest in regards to Subrecipient Agreements under the CDBG, HOME, and ESG programs and I hereby Certify that to the best of my knowledge and belief, no actual or apparent Conflict of interest exists with regard to the performance of this contract.

Name of Organization: _____

Name: _____
(Print)

Signature _____ Date _____
President of Board of Directors

Or authorized representative:

Signature Authorized Representative: _____

I've Discovered a Conflict; Now What?



Disclosure

Remember Section

11.02 In the event the Subrecipient has any conflict of interest as defined herein, the Subrecipient shall disclose such conflict of interest fully in the submission of the proposal and/or during the life of the contracts.

How to Disclose a Conflict

- ▶ 1. Subrecipient must inform the Housing and Revitalization Department Director in writing on organization letterhead the nature of the perceived/actual conflict of interest with a copy going to your director and their program manager
- ▶ 2. The notification must contain the nature of the perceived/actual conflict
- ▶ 3. The notification must be accompanied by an opinion from the organizations legal counsel opining on conflict



How to Disclose a Conflict

Notify

- ▶ The notification should explain the steps the organization has taken
- ▶ The notification should request an exemption, noting that the public good outweighs the conflict and no State or local laws have been violated
- ▶ The notification should contain an executive summary of the investigation and steps taken

HRD Notifications and Exemption

- ▶ HRD will prepare a summary and send a completed investigation to the City of Detroit Law Department
- ▶ The City of Detroit Law Department will draft the necessary determination opinion
- ▶ HRD may reach out to the subrecipient for more information
- ▶ The Program Director will arrange for the required “Notice to the Public” in a daily paper and the City of Detroit Website

HRD Notifications and Exemption

- ▶ Once the notice of publication has been published the Division Director will send all supporting documentation to the Local HUD Office for an opinion
- ▶ HUD Local Office (Detroit) will make a determination and either deny or approve the exemption
- ▶ HUD will notify the HRD department who will notify the subrecipient of the exemption/denial

Penalties for Non Disclosure

- ▶ In the event the Subrecipient was aware of any conflict of interest before the award of this contract and intentionally did not disclose the conflict, the Housing and Revitalization Department may terminate the contract for default, and/or be subject to debarment and/or other applicable penalties.

Summary

- ▶ Conflict of Interest Policies must be written
- ▶ They must extend to employees, subcontractors, executive staff, purchasing staff and the board of directors
- ▶ They must include a penalty for violation: most include “up to and including discharge”
- ▶ There may be financial penalties captured
- ▶ Violations may result in prison and debarment from future contracts
- ▶ Signed receipts of the policy are required and contained in the employee HR file



Any
Questions

▶ ETHICS

“Ethical behavior is doing the right thing when no one else is watching” – Aldo Leopold

- ▶ All City employees, vendors and others working or conducting business with the City are required to adhere to the Board of Ethics Ordinance.

Ordinance Enacted

- ▶ The Ethics Ordinance was enacted by the City Council in 2000 and amended in 2006, 2010 and 2012. It establishes disclosure requirements and standards of conduct public servants and those doing business with the City of Detroit.

Who Can File a Complaint?

- ▶ Any member of the public may file a complaint with the Board where a person believes there has been a violation of the ordinance
- ▶ The Board of Ethics issues advisory opinions addressing ethical conduct
- ▶ Advisory Opinions are filed with the City Clerk and made public
- ▶ HRD is the city Department that issues sanctions

Required Training

- ▶ As a Sub-recipient you are required to take the Board of Ethics training course
- ▶ www.detroitethics.org/trainings
- ▶ You will be issued a certification of completion.
- ▶ A copy of the certificate must be sent to your Program Manager

Deadline to Comply

- ▶ Those sub-recipients currently under contract must complete the training and send the certificate to their program manager on or before **November 30, 2021**
- ▶ New sub-recipients (not currently under contract) must complete the training and send the certificate to their program manager prior to execution of the contract (Notice to Proceed)

Resources

- ▶ Board of Ethics
www.detroitethics.org
- ▶ Board of Ethics Online Training
www.detroitethics.org/trainings
- ▶ Board of Ethics Website
www.detroitmi.gov/government/boards/board-ethics

HRD Contacts

- ▶ Tamra Fontaine Hardy
Fountainet@detroitmi.gov
- ▶ Kerry Baitinger
Baitingerk@detroitmi.gov
- ▶ Gordon Pearson
Pearsongong@detroitmi.gov
- ▶ Mandy Valentine
Valentinem@detroitmi.gov
- ▶ Andrew Gaines
Andrew.Gaines@detroitmi.gov
- ▶ Kayla Perrin
Kayla.Perrin@detroitmi.gov

Any
Questions

Technical Assistance Appointments

- ▶ Technical Assistance sessions are available on any topic or issue and are scheduled as requested by you or your project manager

Always Remember

Your Program Manager is your First Call