



North Carolina
Department of Commerce
Division of Community Assistance

Beverly Eaves Perdue, Governor
J. Keith Crisco, Secretary

Henry C. McKoy, Asst. Secretary
Gloria Nance-Sims, Director

BULLETIN 10-8 (Replaces 93-2)

SUBJECT: Conflict of Interest, as Revised by 24 CFR Part 570,
Community Development Block Grants; State Program
Final Rule, of November 9, 1992

DATE REVISED: August 30, 2010

ATTENTION: CDBG Recipients

The Community Development Block Grant (CDBG) Program federal regulations, published in the Federal Register of November 9, 1992, and codified as 24 CFR Part 570, address numerous state and local government responsibilities under Paragraph 570.489, Program Administrative Requirements. This Bulletin 10-8 speaks to specific requirements involving conflict of interest as included in sections 570.489(g) and 570.489(h). CDBG grantees should also be aware of, and adhere to, Sections .0908 and .0914 of the North Carolina Community Development Block Grant Regulations 4 NCAC 19L.

The referenced federal and state regulations also advocate full and open competition for procurement policies and procedures for the CDBG program. (See 24 CFR 570.489(g) and 4 NCAC 19L .0908.)

In cases involving grant activity related to a grantee employee, agent, consultant, officer, or elected or appointed official of local government, the state may determine if a potential conflict of interest exists and if an exception can be made. Such an exception must be based on a determination that the purpose of the Housing and Community Development Act of 1974 (as amended) is furthered and the granting of the exception is appropriate.

When a potential conflict of interest could result from actions involved in a local CDBG program, the local government grantee must a written request to the state for a ruling or an exception after the local government has completed the following:

1. A public disclosure of the nature of the conflict has been made. An assurance must be provided by the local government that the disclosure of the conflict has been accomplished, along with a description of how and when it was made. Note: At a minimum the disclosure must be made at a regular, scheduled meeting of the local governing body, or at a properly advertised special hearing for the disclosure, if at a time other than a regular meeting of the local governing body.
2. A written opinion from the attorney for the local government that the conflict for which the exception is being sought would not violate state and local law.

The written request for state concurrence with the written opinion from the attorney for the local government that state or local law is not violated or a request for an exception must contain a description of the potential conflict of interest; date, location and method that public disclosure was made; and a copy of the written opinion from the attorney for the local government.

In determining that the exception be allowed under the terms of 4 NCAC 19L .0104, Waivers, the following questions will be considered by the state:

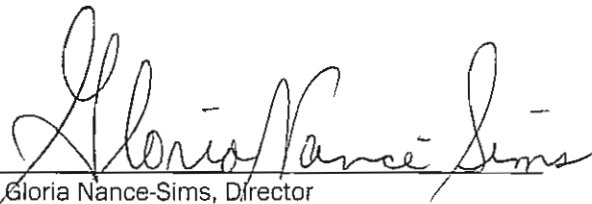
1. Would the exception provide significant cost benefit or expertise to the program that would not otherwise be available?
2. Was an opportunity provided for open, competitive bidding or negotiation?
3. Is the person affected a member of a group or class of low or moderate income (LMI) persons intended to benefit from the project, and will the person receive generally the same benefits as being made available to the group?
4. Has the person affected withdrawn from his/her functions or responsibilities, or the decision-making process with respect to the activity in question?
5. Was the interest or benefit present before the person affected was in the position presenting before the person affected was in the position presenting the conflict?
6. Will any undue hardship to the unit of local government or the person affected result when the conflict is weighed against the public interest served by avoiding the conflict, and
7. Are there other relevant considerations?

No project cost involved with the request for the exception from a conflict of interest shall be incurred before a ruling is made by the state for the case in question.

As noted under the federal regulation first cited above, any conflict of interest involving persons covered under CDBG program rules and related to State government may only be considered for exceptions through a request by the state to HUD. HUD will be asked to review such requests and decide any exceptions on a case-by-case basis.

Please address any questions or need for additional information to your grant Program Representative.

ISSUED BY:


Gloria Nance-Sims, Director

DATE:

08-01-2010