

Montana Department of Commerce
HOME Investment Partnerships Program and Community Development Block Grant Program
Conflict of Interest Process and Procedures

Conflict of Interest

This guidance describes the procedural steps necessary to preclude conflict of interest violations. Conflict of interest provisions are found in 2 CFR Part 200.112, 24 CFR Part 570.611, and 24 CFR Part 92.356.

No persons covered by the conflict of interest provisions who exercise or have exercised any functions or responsibilities with respect to activities assisted with HUD-funded projects administered by the Montana Department of Commerce (MDOC) Community Development Division (CDD) or who are in a position to participate in a decision-making process or gain inside information with regard to these activities may obtain a financial interest or financial benefit from the HUD-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to the HUD-assisted activity, or the proceeds from such activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

Persons Covered are defined as an employee, agent, consultant, officer, or elected or appointed official of the recipient or of any designated entities receiving HUD funds provided by CDD.

Any circumstances that may result in a real or perceived conflict of interest must be remedied by considering factors for exceptions, publicly disclosing the conflict, and an opinion of the local government grantee's attorney that the interest for which the exception is sought would not violate state or local law.

Upon the written request of a local government grantee, MDOC may grant an exception to the conflicts prohibited on a case-by case basis when the local government grantee has satisfactorily met the threshold requirements, taking into account the cumulative effects of the factors to be considered for exceptions. MDOC will consider an exception only after the grantee has provided the following documentation:

1. A disclosure of the nature of the conflict, accompanied by documentation of a public disclosure of the conflict and a description of how the public disclosure was made;
2. An opinion of the local government grantee's attorney that the interest for which the exception is sought would not violate state or local law; and
3. Documentation demonstrating that the cumulative effect of the required factors to be considered justifies an exception.

Local government grantees must provide documentation that the following factors have been considered:

1. Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
2. Whether an opportunity was provided for open competitive bidding or negotiation;

3. 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;
4. 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;
5. Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section;
6. Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
7. Any other relevant considerations.