

OFFICE OF LONG-TERM RESILIENCY



CONFLICT OF INTEREST POLICY

VERSION 1.2

JANUARY 28, 2022

VERSION HISTORY

Version Number	Change Date	Summary of Changes
1.0	3/25/2021	Original Document
1.1	9/17/2021	Reformatted document to mirror other OTLR policy documents. Added Version History, Version Policy, Policy Change Control, and Table of Contents.
1.2	1/28/2022	Updated Section 4.3 Conflict of Interest Disclosure Process by creating two subsections, 4.3.1 DEO Employees and 4.3.2 DEO Applicant regarding the Conflict of Interest Disclosure Process for both DEO employees and applicants. Specified that all applicants seeking to receive CDBG-DR funds must fill out the Conflict of Interest Worksheet (Conflict of Interest Attachment D)

VERSION POLICY

Version history is tracked in the Version History Table (page i), with notes regarding version changes. Dates of each publication are also tracked in this table.

Substantive changes in this document that reflect a policy change will result in the issuance of a new version of the document. For example, a substantive policy change after the issuance of Version 1.0 would result in the issuance of Version 2.0, an increase in the primary version number. Non-substantive changes such as minor wording and editing or clarification of existing policy that do not affect interpretation or applicability of the policy will be included in minor version updates denoted by a sequential number increase behind the primary version number (i.e., Version 2.1, Version 2.2, etc.).

POLICY CHANGE CONTROL

Policy review and changes for the State of Florida Office of Long-Term Resiliency are considered through a change-control process. Policy clarifications, additions, or deletions are needed during the course of the program to more precisely define the rules by which the Program will operate. Program staff will document policy-change requests that will be tracked in the program files. Requests are compiled and brought before supervisory staff in a policy meeting. Subject matter experts working in a particular policy area or task area that will be affected by the policy decision may be invited to assist in policy evaluation, if necessary. Policy meetings will be held as frequently as is necessary to consider policy decisions critical to moving the Program forward in a timely manner. Policy decisions will be documented and will result in the revision of the document in question.

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Section 1 Purpose

The Florida Department of Economic Opportunity's (DEO) Office of Long-Term Resiliency (OLTR) is entrusted with administering Community Development Block Grant-Disaster Recovery (CDBG- DR) funds from the United States Department of Housing and Urban Development (HUD) to support long-term disaster recovery needs for housing, infrastructure and economic development while complying with Federal, state, and local statutes and regulations. Management, staff, consultants and agents of DEO have the responsibility of administering the affairs of DEO honestly and prudently, and of exercising their best care, skill, and judgment for the Department's benefit. Those persons shall exercise the utmost good faith in all transactions involved in their duties, and they shall not use their positions with DEO or knowledge gained therefrom for their personal benefit.

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200) at §200.318(c)(1) and (2) require DEO and related organizations, such as local housing authorities, economic development corporations, etc., to maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award, and administration of Federally-funded contracts. The regulation 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."

As stated in 2 CFR 200.112, DEO is required to disclose conflicts of interest to HUD when an exception is requested.

The State of Florida's Code of Ethics for Public Officers and Employees, adopted by the Legislature as Part III of Chapter 112, Florida Statutes states in section 112.311(5) that no state employee "shall have any interest, financial or otherwise, direct or indirect; engage in any business transaction or professional activity; or incur any obligation of any nature which is in substantial conflict with the proper discharge of his or her duties in the public interest."

Therefore, this Policy is intended to serve as guidance for the identification, evaluation, disclosure, and management of apparent, potential or actual conflicts of interest in all CDBG-DR assisted activities and/or operations.

Section 2 Scope

This Policy applies to all DEO and OLTR employees, officers, designees, subrecipients, sub grantees, partners, consultants, vendors and/or contractors affiliated to CDBG-DR funded projects, activities and/or operations, and/or any person who participates in auction bids, submits quotes, is interested in executing contracts or agreements or seeks to receive an economic incentive through his/her relationship with DEO and OLTR. This Policy applies to procurement activities and non-procurement, sub-granting/program delivery activities:

1. In the context of procurement, a conflict of interest would arise when the employee, officer, or agent, any immediate family member, partner, or an organization which employs/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 DEO may neither solicit nor accept gratuities, favors, or anything of monetary value from the contractors or parties to subcontracts. This Policy is intended to be enforced in combination with DEO Policy Number 4.02 – Purchasing Policy and the DEO Purchasing and Contracting Guidelines, which address conflicts of interest in procurement and contracting.
2. In the context of CDBG-DR funded projects, activities, and/or operations, a conflict of interest would arise when any person who is a public servant, employee, agent, consultant, officer, or elected official or appointed official of DEO, or of any designated public agencies, or of subrecipients that are receiving funds under the CDBG-DR Program may obtain a financial or personal interest or benefit that is or could be reasonably incompatible with the public interest, either for themselves, or with those whom they have

business, or an organization which employs or is about to employ any of the parties indicated herein, or a member of their family unit during their tenure or for two (2) years after.

Section 3 Funding Agency Specific Regulations

HUD CDBG-DR program specific guidance:

1. The conflict of interest regulation applicable to the CDBG-DR program is found at 24 C.F.R. § 570.489(h) and 24 CFR 570.611. The conflict of interest regulation applies to procurement (except as provided in 24 C.F.R. § 570.489(g)), acquiring and disposing real property, and assistance provided by DEO or subrecipients with CDBG-DR funds to individuals, businesses and other private entities.
2. Personnel involved with CDBG-DR funds must be aware of this regulation. 24 C.F.R. § 570.489(h)(3) states that the CDBG-DR conflict of interest regulation applies to people working for, or elected to office with the State, a unit of general local government, a designated public agency, or subrecipients which are receiving CDBG-DR funds. According to 24 C.F.R. § 570.489(h)(2), no such person may have any financial interest or benefit, or other interest in a contract, subcontract, or agreement concerning CDBG-DR activities or the proceeds from these activities “either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.”
3. Any individual or entity seeking CDBG-DR funds for any activity in which they or related individuals or organizations have an interest must disclose that interest when applying for CDBG-DR funding. Once the conflict of interest has been disclosed, HUD, or the State in instances involving a unit of local government or other subrecipient, is authorized to determine whether an exception may be granted for non-procurement conflicts of interest.

Section 4 Conflict of Interest Procedures

Section 4.1 Applicability

The Conflict of Interest Procedures are applicable to any person who is an employee, agent, consultant, officer, elected/appointed official of DEO, or of a subrecipient receiving CDBG-DR funds - if any of the following conditions apply to that person's role or duties:

1. Exercise functions or responsibilities regarding CDBG-DR funded/assisted activities;
2. Are in a position to participate in decision-making or gain inside information on activities;
3. May obtain financial interest/benefit from activity;
4. Have interest in CDBG-DR funded activity contract/subcontract/agreements; or
5. May receive proceeds for themselves or those with whom they have family/business ties, during their tenure or for one year thereafter.

Section 4.2 Conflict of Interest Training

Conflict of Interest Training will be required upon beginning with the agency and at least annually thereafter for all staff, officers, subrecipients, and other pass-through entities. To document this training, staff will be required to:

1. Annually submit certifications regarding outside businesses, outside employment, and volunteer positions;
2. Record a certification of attendance at trainings; and
3. Follow up with annual refresher sessions.

Section 4.3 Conflict of Interest Disclosure Process

4.3.1 DEO Employees

1. This Conflict of Interest Policy and attached Conflict of Interest memorandum [Attachment A] will act as DEO employee awareness training. This training must be provided at least annually and may be provided within departments through in person training or as an email briefing conducted by the DEO OLTR Compliance and Reporting Unit. DEO subrecipients must also follow the training and disclosure process detailed in this section.
2. DEO personnel meeting criteria in section 4.1 shall complete the Conflict of Interest Worksheet [Attachment B] and periodically review for status changes. If a conflict of interest arises at any time during program operations, DEO personnel should self-report the potential conflict by submitting an updated Conflict of Interest Worksheet and document using the process below. OLTR Compliance Officers will track/maintain worksheets.
3. If a stated or perceived conflict is documented, a determination must be made via the Conflict of Interest Flowchart [Attachment C]. If no conflict exists, the completed flowchart will be placed into the program files. If a conflict does exist, the flowchart shall be filed, and a notification will be documented. When a conflict or potential conflict of interest exists, the person with the conflict should advise OLTR management in writing and seek guidance on how to resolve the conflict. Conflict-of-interest notifications include:
 - A. The person's name, position, phone number and address;
 - B. Details of the nature of the conflict of interest, (perceived, apparent, or actual);
 - C. Date of notification; and
 - D. Requested action to address the conflict of interest (recusal, exemption request, etc.).

The notification and subsequent actions will be recorded in minutes of OLTR management meetings.

1. If the conflict of interest can be resolved by a recusal, the person with the conflict will complete a notification and will acknowledge this action in the Conflict of Interest Flowchart [Attachment C]. These documents will be recorded in the appropriate applicant or agreement file, and the person will be removed from the decision-making process for that file.
2. If the conflict of interest is not addressed by recusal and can be addressed by an exception, the exception process shall be initiated with HUD as detailed in Section 4.4 below.

4.3.2 DEO Applicant

DEO applicants seeking to receive CDBG-DR funds shall be required to fill out the Conflict of Interest Disclosure Form [[Attachment D](#)] to prevent any potential issues and to avoid creating an unfair advantage to any applicant.

When a conflict or potential conflict of interest exists, DEO staff will conduct a thorough secondary review of the applicants file to ensure that no real conflict has occurred and there is no fraud, waste or abuse activity. If the CDBG-DR Program determines that a conflict of interest exists, the applicant may be deemed ineligible for the requested assistance and may be required to return funding received and/or the value of the services received from the program. The COI disclosure form and the Exception Request Form (approved) will both be included as a memo to the file at the time of Award (Grant Agreement Signing).

Section 4.4 Exception Process

An exception may be considered for non-procurement conflicts of interest only after the following has been completed:

1. 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.
2. An opinion of DEO Office of General Counsel has been provided stating that the interest for which the exception is sought would not violate state or local law.
3. The Exception Form [Attachment D] has been completed by the OLTR Director, with advisement by the DEO Office of General Counsel, in accordance with CDBG-DR regulations found at 24 CFR

570.489 (h)(4)-(5). The Exception Form includes all the exception criteria from 24 CFR 570.489(h)(5).

1. The completed Exception Form is sent to HUD for a final determination. According to 24 CFR 570.489(h)(4), Conflict of Interest exceptions may be granted on a case-by-case basis by HUD. Once a final determination has been made, the person(s) with the identified conflict will be notified of the decision and the acknowledgement, with documentation, is then appropriately filed. Submitting this request does not authorize the individual to engage in any activity or enter into any contract that constitutes a conflict. The individual may proceed only after receiving the approval in writing from HUD and OLTR has been provided confirmation or copy of HUD approval.

Section 4.5 Policy Violations and Resulting Disciplinary Actions

Violations of this policy may include but are not limited to concealing a conflict-of-interest relationship or willful failure or refusal to cooperate with an approved management plan.

If DEO OLTR has reason to believe that there has been a violation of this policy, the person(s) with the potential conflict will be notified and afforded an opportunity to explain the potential violation. If, after hearing the response and performing any additional investigation that may be necessary, a violation is deemed to have occurred, DEO OLTR shall take appropriate corrective action which could include termination of employment.

DEO OLTR management retains final authority to determine appropriate disciplinary measures for failure to comply with the terms of this policy.

Section 4.6 Reporting and Referrals

When an apparent or real conflict of interest situation is reported concerning an employee, officer or agent, OLTR Management shall conduct an investigation following established processes and procedures. The investigation will produce a report that includes the decision regarding the existence or lack of conflict of interest situation and its recommendations. This report will be referred to the corresponding area or division for consideration when attending to and mitigating the real or apparent conflict of interest:

1. If the COI situation pertains to a Fraud, Waste, Abuse or Mismanagement situation, refer to OLTR's Anti-Fraud, Waste, and Abuse Policy for further instructions;
2. If the COI situation pertains to personnel, refer to DEO's Bureau of Human Resources Management and copy the OLTR Director;
3. If the COI situation pertains to procurement, refer to DEO's Bureau of General Services and copy the OLTR Director;
4. If the COI situation pertains to a program Applicant, refer to the specific Program and copy the OLTR Director; and
5. If the COI situation pertains to any other situation, it shall be reviewed and attended to on a case by case basis.

OLTR and each specific area or bureau has the authority to determine how an apparent or real conflict of interest situation is handled but must ensure that all conflicts of interest are addressed in accordance with this policy and in compliance with all applicable federal and state laws.