

Request for Board of Commissioners' Action

From: Faye Hughes, County Administrator Date: March 19, 2021

Subject: 2021 CDBG – Conflict of Interest Item Number: VIII-E

Please see the attached information regarding the Conflict of Interest requirements for the upcoming 2021 CDBG Project - Siska Lane, Bob White Lane, Hawk Lane and Harrell Road.

Per the requirements of the CDBG, please state for the record that you do not own any property on or near the stated roads in the project nor will you receive any monetary gain from the project.

Motion made by _____

Second made by _____

Any discussion: _____

Votes _____ yes _____ no

Motion carried/ failed

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**Southern Georgia
Regional Commission
Community Development Division**

Memo

To: Local Governments Applying for 2021 CDBG Funding

From: SGRC – Community Development Division

Kimberly Hobbs 

Date: 1/8/2021

Re: Conflict of Interest Requirements

PLEASE BE ADVISED:

Local governments submitting 2021 CDBG applications must comply with Federal “Conflict of Interest” regulations. 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 applying for CDBG funding must pay strict attention to the following information:

If 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 could be affected (in any way) by CDBG funding, a FULL DISCLOSURE must be submitted to the Georgia Department of Community Affairs (DCA) as part of the 2021 CDBG application. Additionally, the person(s) affected must not participate in project discussion, planning, or voting. **Please notify the SGRC Community Development Division IMMEDIATELY if a conflict of interest is identified.**

The Conflict of Interest provision in the “Common Rule”, (24 CFR 85.36 and 24 CFR 84.42) are applicable when a local government CDBG Recipient contracts for the procurement of goods and services AS WELL AS to all CDBG grants and activities. The following summarizes this regulation:

A. **Conflicts Prohibited:** No persons described in paragraph B. below who exercise or have exercised any functions or responsibilities with respect to activities assisted with CDBG funds 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 benefit from a CDBG-assisted activity, or have an interest in any contract, subcontract or agreement with respect hereto, or in the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

B. **Persons Covered.** The conflict of interest provisions of paragraph A. above 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 or administering CDBG funds.

C. **Definition of Family or Business Ties.** DCA defines the meaning of the term “family or business ties” as follows:

- Family: “A group of people related by ancestry or marriage; relatives.”
- Business: “The buying and selling of commodities and services; commerce, trade.”
- Ties: “Something that connects, binds or joins; bond; link.”

D. **Exceptions:** Upon written request, DCA may grant an exception to the provisions of paragraph A above, on a case-by-case basis, before federal funds are expended. Exceptions can only be granted when DCA determines that the exception will serve to further the purpose of the CDBG Program and the effective and efficient administration of the CDBG program or project. To seek an exception, a written request for an exception must be submitted by the unit of local government to DCA which:

- Fully discloses the conflict or potential conflict of interest, prior to the unit of government undertaking any action which results or may result in a conflict of interest, real or apparent; and
- Describes how the conflict of interest was publicly disclosed; and
- Includes a written opinion of the local government’s attorney that the interest for which the exception is sought would not violate state or local law.

Please find enclosed a sample attorney’s letter and a sample certified meeting minutes document concerning possible conflicts of interest regarding CDBG applications and/or grants. If you have any questions or concerns regarding this Federal law, please call me as soon as possible. Please contact me immediately if there is the possibility of a conflict of interest issue.

(INSERT DATE)

Kimberly N. Carter, Community Development Director
Georgia Department of Community Affairs
60 Executive Park South, NE
Atlanta, GA 30329-2231

Re: FY 2021 CDBG Application:

Dear Ms. Carter:

In connection with the Georgia Department of Community Affairs' consideration of the **Name of City/County** request for an exception to the general conflict of interest prohibition rule at (24 CFR Part 570.489(h)(2)) as applied to the referenced grant, please accept the following as my opinion, as counsel for the **Name of City/County** that the interest for which the said exception is sought would not violate the Georgia law nor the Charter nor the Code of Ordinances for the **Name of City/County**.

The possible conflict of interest arises from the fact that the residence/property of (**said person**) is within the Target Area where (**type of improvements**) are scheduled to take place. The project consists primary of upgrading the existing (**streets, water, sewer**) to serve this particular target area. The residence/property of the (**conflicted persons**) are among many residential and commercial parcels that would benefit by the project and their property would receive no greater benefit than any of the other parcels.

It is my understanding that (_____) will read into the minutes of the regularly scheduled meeting of the (**Name of City Council/Commission**) a statement fully and publicly disclosing the potential conflict of interest, and will take no part in any future deliberations or decisions of the (**Name of City Council/Commission**) with respect to the project affecting their residence.

Based upon the foregoing it is my opinions that (**Name of conflicted persons**) interest in or benefit from the project would not violate the law as the State of Georgia nor the Charter nor the ordinances of the (**Name of City/County**). I therefore respectfully join with the (**Name of City/County**) in requesting that the Georgia Department of Community Affairs grant an exception in this instance to the strict application of aforesaid conflict of interest prohibition.

I trust this information will meet your present requirements, but if I may be of further assistance in this regard, please do not hesitate to call me at _____.

Sincerely yours,

Attorney for (**Name of City/County**)

Sample Minutes Addressing Conflict of Interest

City/County

Regular Council/Commission Meeting

Place

Date/Time

The City/County Council/Commission discussed applying for 2021 Community Development Block Grant funding for proposed **(water, sewer, streets)** improvements in the **(project area)**. It was noted that **(conflicted person or persons)** reside(s) in the target area where improvements are scheduled to take place.

(Conflicted person or persons) read into the minutes of the regularly scheduled meeting on **(date)** of the Council/Commission a statement fully and publicly disclosing the potential conflict of interest. **(Conflicted person or persons)** will take no part in any future deliberations or decisions of the Council/Commission with respect to the project affecting their property/residence.