

# CDBG-DR Conflict of Interest Policy



**NEW MEXICO HOME RECOVERY PROGRAM  
DEPARTMENT OF HOMELAND SECURITY AND  
EMERGENCY MANAGEMENT**

This policy is effective as of 3/20/2026 and may be updated periodically to reflect program implementation and evolving guidance from the U.S. Department of Housing and Urban Development (HUD).

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## I. PURPOSE AND SCOPE

**Purpose:** The purpose of this Conflict of Interest Policy is to uphold the integrity, fairness, and transparency of all Community Development Block Grant – Disaster Recovery (CDBG-DR) funded activities within the State of New Mexico. This policy is consistent with guidance provided by the U.S. Department of Housing and Urban Development (HUD) and federal regulations.

**Scope:** This policy applies to all employees, officers, agents, consultants, elected officials, and appointed officials who are involved in the planning, approval, procurement, implementation, or oversight of any CDBG-DR funded project or activity.

## II. BACKGROUND

Following the federally declared 2024 disasters—DR-4795 (South Fork Fire, Salt Fire, and subsequent flooding) and DR-4843 (severe storms and flooding in Chaves County)—the U.S. Department of Housing and Urban Development (HUD) allocated \$137,178,000 in CDBG-DR funding to the State of New Mexico. The New Mexico Department of Homeland Security and Emergency Management (DHSEM) was designated as the lead agency responsible for the administration of this funding. As such, DHSEM is required to comply with all relevant conflict of interest rules and regulations outlined by HUD, cross-cutting federal agencies, and the State of New Mexico.

## III. POLICY STATEMENT

The purpose of this Conflict of Interest Policy is to uphold the integrity, fairness, and transparency of all Community Development Block Grant – Disaster Recovery (CDBG-DR) funded activities within the State of New Mexico. This policy is consistent with guidance provided by the U.S. Department of Housing and Urban Development (HUD) and federal regulations.

## IV. DEFINITIONS

Term	Definition
<b>Conflict of Interest</b>	Occurs when an official, employee, or agent involved with project funds gains a personal financial benefit or interest in a project, contract, or activity, or has family/business ties that comprise impartiality.



## V. SCOPE OF WORK AND EVALUATION CRITERIA

### A. *Identification and Disclosure of Conflicts*

The New Mexico Department of Homeland Security and Emergency Management (DHSEM), and its subrecipients, must identify, evaluate, disclose, and manage any apparent, potential, or actual conflicts of interest related to CDBG-DR funded projects and activities. All individuals covered under this policy must disclose any personal or financial interest that could reasonably be perceived to conflict with their official duties.

### B. *Prohibited Financial Interests*

No person who exercises or has exercised any functions or responsibilities with respect to CDBG-DR activities, or who is in a position to participate in a decision-making process or gain inside information regarding such activities, may obtain a financial interest or benefit from a CDBG-DR assisted activity. This restriction applies during the individual's tenure and for one year thereafter.

### C. *Exceptions to Conflict Provisions*

Under the State of New Mexico Procurement Code, specifically Section 13-1-190 NMSA 1978, it is unlawful for any state agency or local public body employee to participate directly or indirectly in a procurement when the employee knows that they or any member of their immediate family has a financial interest in the business seeking or obtaining a contract. However, exceptions to this provision are permitted under certain circumstances:

- **University Research Park and Economic Development Act:** This act allows for certain exceptions where the involvement of employees in procurement processes is deemed beneficial for research and economic development purposes.
- **New Mexico Research Applications Act:** Similar to the above, this act provides exceptions to facilitate the application of research findings, allowing employees to participate in procurement under specific conditions.

HUD may grant an exception to the conflict-of-interest provisions on a case-by-case basis when it determines that such an exception will serve to further the purposes of the CDBG-DR program. Any request for an exception must be supported by adequate documentation and justification, including evidence of no undue influence and full disclosure.

### D. *Training*

#### *1. State of New Mexico Training*

The New Mexico Department of Finance and Administration (DFA) provides training modules for local governments for the application and administration of CDBG-DR funding:



- CDBG-DR Application Training Series: A virtual series of training modules is available for eligible local governments planning to apply for CDBG-DR funds. Completion of these modules is required for applicants.
- CDBG-DR Implementation Training Series: This series includes modules on various aspects of CDBG-DR project implementation, such as finance and accounting, federal requirements, and monitoring.

## 2. HUD CDBG-DR Training

HUD emphasizes the importance of training for grantees to ensure compliance and effective program implementation:

- Disaster Recovery Grant Reporting System (DRGR) Training: Grantees are encouraged to participate in DRGR training sessions to effectively report and manage CDBG-DR funds.
- Financial Management and Grant Compliance Certification: Grantees must certify that they have the capacity to carry out disaster recovery activities, which includes having trained personnel.

## VI. ROLES AND RESPONSIBILITIES

Stakeholder	Roles & Responsibilities
<b>DHSEM</b>	Must identify, evaluate, disclose, and manage any apparent, potential, or actual conflicts of interest related to CDBG-DR funded projects and activities. Employees must disclose any personal or financial interest that could reasonably be perceived to conflict with their official duties.
<b>Subrecipients</b>	Must identify, evaluate, disclose, and manage any apparent, potential, or actual conflicts of interest related to CDBG-DR funded projects and activities. Employees must disclose any personal or financial interest that could reasonably be perceived to conflict with their official duties.
<b>Contractors and Consultants</b>	Must disclose any personal or financial interest that could reasonably be perceived to conflict with their official duties.

## VII. COMPLIANCE & ENFORCEMENT

### A. Compliance with Federal Procurement Standards

The New Mexico Procurement Code (NMSA 1978, §§ 13-1-28 to 13-1-199) mandates that all state agencies and local public bodies adhere to federal procurement standards when federal funds are involved. Specifically:



- Section 13-1-30(B): When a procurement involves the expenditure of federal funds, the procurement must be conducted in accordance with mandatory applicable federal laws and regulations. If these federal requirements are inconsistent with the provisions of the Procurement Code, compliance with federal law or regulations is deemed compliance with the Procurement Code.

The HUD CDBG-DR program requires grantees to follow federal procurement standards as outlined in 2 CFR Part 200, in addition to the grantees procurement policy (the more stringent policy will prevail):

- **Written Standards of Conduct:** Grantees must establish and maintain written standards of conduct covering conflicts of interest and governing the actions of employees engaged in the selection, award, and administration of contracts.
- **Conflict of Interest Provisions:** No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by federal funds if a real or apparent conflict of interest exists.
- **Monitoring and Oversight:** Grantees are responsible for ensuring that all procurement transactions are conducted in a manner providing full and open competition, and they must maintain records sufficient to detail the significant history of a procurement.

### ***B. Enforcement and Reporting***

The New Mexico Governmental Conduct Act (GCA), NMSA 1978, §§ 10-16-1 to 10-16-18, outlines the ethical standards for public officers and employees in New Mexico. The Enforcement Mechanisms are as follows:

- **Criminal Penalties:** Violations of the GCA can result in criminal charges. For instance, knowingly and willfully requesting or receiving anything of value in exchange for official acts is classified as a fourth-degree felony.
- **Administrative Actions:** The State Ethics Commission has the authority to investigate complaints, hold hearings, and impose civil penalties for violations of ethics laws.
- **Reporting Procedures:** Under the State of New Mexico Conflict of Interest Policy, specifically the Governmental Conduct Act (GCA) (NMSA 1978, Chapter 10, Article 16), public officers and employees are mandated to uphold ethical standards and report any real or potential conflicts of interest:
  - **Duty to Disclose:** Public officials and employees must fully disclose any real or potential conflicts of interest. This includes situations where personal interests might compromise official duties.
  - **Written Complaints:** Any individual who believes a violation of the GCA has occurred can file a written, sworn complaint with the appropriate authority, such as the Secretary of State, the Attorney General, or a District Attorney.



- Agency-Specific Procedures: Certain agencies, like the New Mexico Children, Youth and Families Department, have specific protocols. For instance, if an employee has a close personal relationship with a client, they must immediately report this to their supervisor, and another employee will be assigned to the case.
- State Ethics Commission: Established in 2020, the New Mexico State Ethics Commission has jurisdiction over state-level public officials and employees. It handles complaints related to ethics violations, including conflicts of interest, and provides advisory opinions.
- Annual Disclosures: Agencies may require employees to complete annual conflict of interest disclosure forms to ensure ongoing compliance with ethical standards.
- Disclosure Requirements: Public officers and employees must disclose any potential conflicts of interest, including financial interests and outside employment, to their respective agencies.
- Complaint Filing: Any individual may file a written, sworn complaint alleging unethical conduct by a public official with the appropriate oversight body, such as the State Ethics Commission or the Legislative Council.

The Community Development Block Grant – Disaster Recovery (CDBG-DR) program mandates strict adherence to conflict-of-interest regulations as specified in 24 CFR § 570.489(h), in addition to the grantees enforcement and reporting policies (the more stringent policy will prevail):

- Monitoring and Audits: HUD conducts regular monitoring and audits of grantees to ensure compliance with conflict-of-interest provisions. Non-compliance can lead to findings that require corrective actions or sanctions.
- Risk Assessments: Grantees are subject to risk analysis to evaluate their capacity to manage funds appropriately, including the identification and mitigation of conflicts of interest.
- Reporting Procedures: Under the HUD Community Development Block Grant – Disaster Recovery (CDBG-DR) program, conflict of interest provisions are outlined in 24 CFR § 570.489(h). These regulations apply to individuals involved in CDBG-DR activities, including employees, agents, consultants, officers, and elected or appointed officials of the state, local governments, designated public agencies, or subrecipients receiving CDBG-DR funds. Here are the Reporting Procedures:
  - Mandatory Disclosure: Any person who exercises or has exercised functions or responsibilities with respect to CDBG-DR activities, or who is in a position to participate in decision-making processes or gain inside information regarding such activities, must disclose any potential or actual conflicts of interest. This includes financial interests or benefits from CDBG-DR-assisted activities, contracts, subcontracts, or agreements, either for themselves or for those with whom they have family or business ties, during their tenure or for one year thereafter.



- **Written Documentation:** The disclosure must be documented in writing, detailing the nature of the conflict and the parties involved. This documentation should be maintained in the program's records and made available for review by HUD upon request.
- **Public Disclosure:** In cases where an exception to the conflict-of-interest provisions is sought, there must be public disclosure of the conflict. This includes a description of how the public disclosure was made, ensuring transparency in the process.
- **Requesting Exceptions:** Exceptions to the conflict-of-interest provisions may be granted by HUD on a case-by-case basis. **Full Disclosure:** A detailed account of the nature of the conflict and assurance that public disclosure has been made.
  - **Legal Opinion:** An opinion from the attorney for the state or the unit of general local government stating that the interest for which the exception is sought does not violate state or local law.
  - **Justification:** A written justification explaining why the exception would serve to further the purposes of the CDBGDR program and the effective and efficient administration of the project.
- **HUD Review:** HUD will review the request for an exception, considering factors such as the nature of the conflict, the integrity of the program, and the public interest. An exception may be granted if it is determined that it will not violate any applicable laws and will further the program's objectives.
- **Disclosure Forms:** Employees, agents, consultants, and contractors involved in CDBG-DR programs must complete conflict of interest disclosure forms if a potential or actual conflict arises.
- **Exception Requests:** In certain cases, grantees may request exceptions to conflict-of-interest provisions by submitting detailed justifications to HUD, demonstrating that the exception serves the public interest.

### ***C. Reporting Conflicts of Interest***

#### ***1. Employees, Former Employees and Consultants***

To ensure transparency, fairness, and compliance with federal and state regulations, the following provisions govern conflicts of interest involving current employees, former employees, and consultants engaged in activities funded by Community Development Block Grant – Disaster Recovery (CDBG-DR) programs:

##### ***a. Prohibited Conflicts for Current Employees and Consultants***

In accordance with 2 CFR § 200.318(c)(1) and HUD CPD Notice 21-07:



- No employee, officer, agent, or consultant of the Grantee, Subrecipient, or Contractor who exercises decision-making authority or has inside information regarding CDBG-DR activities may:
  - Obtain a financial interest or benefit from a CDBG-DR funded activity;
  - Have an interest in any contract, subcontract, or agreement for work, services, or property paid for with CDBG-DR funds;
  - Participate in the selection, award, or administration of any contract supported by CDBG-DR funding where a real or apparent conflict of interest exists.

*b. Former Employees and One-Year Cooling-Off Period*

In alignment with New Mexico Governmental Conduct Act (NMSA 1978, §10-16-8):

- A former state employee may not represent a person or organization before the state agency they previously worked for within one year of leaving public service if the representation involves a matter they were directly and substantially involved in during their employment.
- This restriction ensures no undue influence is exerted by former staff or contractors who previously held decision-making roles.

*c. Consultant Restrictions*

Consultants engaged in program design, project evaluation, or procurement may not compete for contracts or subgrants related to the work they helped design or evaluate.

- Consultants who serve as technical advisors to the state or subrecipient may not receive personal gain from any award or transaction they helped to shape, select, or approve.

*d. Disclosure and Exceptions*

Any real or potential conflict must be disclosed in writing to the appropriate oversight authority:

- For State programs: Report to the State Ethics Commission or agency ethics officer;
- For HUD-funded activities: Submit a conflict disclosure and exception request to HUD through the responsible Grantee (per 24 CFR § 570.611).

HUD may grant an exception if:

- The person involved no longer exercises control over CDBG-DR decisions;
- The transaction serves the public interest; and
- Adequate disclosure has been made and publicly recorded.



### *e. Enforcement and Recordkeeping*

- Violations of this subsection may result in disciplinary action, contract termination, debarment, or referral for civil/criminal enforcement under federal and state laws.
- All conflict disclosures, investigations, and exceptions must be documented and retained per HUD and State of New Mexico records retention requirements.

### *2. Applicants and Participants*

Although the New Mexico Governmental Conduct Act (GCA) primarily focuses on public officers and employees, the Act's provisions also have implications for applicants interacting with state agencies. Specifically, the GCA emphasizes the importance of ethical conduct and the avoidance of conflicts of interest in all dealings involving state agencies.

#### Key Provisions:

- Section 10-16-3(C): This section underscores that full disclosure of real or potential conflicts of interest is a guiding principle for determining appropriate conduct. It mandates that reasonable efforts be made to avoid undue influence and abuse of office in public service.
- Section 10-16-4(A): This section makes it unlawful for a public officer or employee to take an official act for the primary purpose of directly enhancing their financial interest or financial position. Violations of this provision are considered a fourth-degree felony.

These sections directly address the conduct of public officers and employees, however applicants interacting with state agencies are expected to uphold the same ethical standards. Engaging in activities that could improperly influence public officials or employees, or that could be perceived as conflicts of interest, is discouraged and may be subject to scrutiny under the GCA.

Any person applying for CDBG-DR assistance must disclose any potential conflicts of interest. HUD's regulations require that no person who exercises or has exercised any functions or responsibilities with respect to CDBG-DR activities may obtain a financial interest or benefit from a CDBG-DR-assisted activity. This includes applicants who may have a relationship with individuals involved in the decision-making process. This standard is codified in the following section of Title 24:

#### *Code of Federal Regulations, 24 CFR § 570.611 – Conflict of Interest*

“No persons who are employees, agents, consultants, officers, or elected officials or appointed officials of the recipient or of any designated public agencies, or of subrecipients that are receiving funds under this part, who exercise or have exercised any functions or responsibilities with respect to CDBG-DR activities assisted under this part, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-DR-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto...” 24 CFR § 570.611 – Conflict of Interest



### *3. Contractors, Bidders, and Applicants*

The State of New Mexico GCA prohibits public officers or employees from participating in any official act that directly affects their financial interest. Additionally, Section 10-16-7 restricts state agencies from entering into contracts with public officers or employees of the state, their families, or businesses in which they have a substantial interest.

HUD's CDBG-DR standards require contractors and bidders to adhere to procurement standards outlined in 2 CFR Part 200.318-327, which include maintaining written standards of conduct covering conflicts of interest. These standards prohibit employees, officers, or agents from participating in the selection, award, or administration of a contract supported by federal funds if a real or apparent conflict of interest exists.

The more stringent of these requirements should be adopted.

### *4. Subrecipients of Programs*

Subrecipients operating within New Mexico must comply with the GCA, ensuring that their operations do not violate conflicts of interest policy requirements. They are expected to implement policies that prohibit and discourage employees from engaging in activities that could result in personal gain from their official positions.

Subrecipients are required to establish and maintain written standards of conduct governing the performance of their employees engaged in the award and administration of contracts funded through HUD's CDBG-DR program. These standards must provide for disciplinary actions for violations and ensure that conflicts of interest are avoided in procurement transactions.

## ***D. Reporting Procedures***

### *1. State of New Mexico*

Individuals should report unethical behavior or conflicts of interest to their agency's ethics officer or the New Mexico State Ethics Commission. The GCA provides for various enforcement mechanisms, including disciplinary action, civil actions, and criminal proceedings for violations.

In the State of New Mexico, individuals seeking to report unethical behavior or conflicts of interest involving public officials or employees can do so through the New Mexico State Ethics Commission (SEC). The SEC is an independent agency responsible for enforcing several ethics laws, including the Governmental Conduct Act (GCA).

#### *a. Agency Ethics Officer*

For concerns regarding ethical behavior and practices pertaining to a specific state or local government agency, individuals are encouraged to, first, report the issue to the agency's designated ethics officer or human resources department. Many agencies have internal procedures for handling such complaints.



*b. New Mexico State Ethics Commission*

For matters that fall under the SEC's jurisdiction, complaints can be filed directly with the Commission. The SEC has authority related to the following laws:

- Governmental Conduct Act
- Campaign Reporting Act
- Financial Disclosure Act
- Gift Act
- Lobbyist Regulation Act
- Voter Action Act
- Procurement Code
- State Ethics Commission Act
- Article 9, Section 14 of the New Mexico Constitution (Anti-Donation Clause)

Complaints may be submitted in two ways:

- **Informal Complaint:** Allows individuals to provide information regarding potential violations without initiating a formal investigation. This can be filed anonymously.
- **Administrative Complaint:** A formal process that requires the complainant to identify themselves and provide a sworn statement. This process may lead to an investigation and potential enforcement actions.

Allegations of violations may be reported to the New Mexico State Ethics Commission via mail, email or completion of form on their website using the following information:

- Address: 800 Bradbury Dr. SE, Suite 215, Albuquerque, NM 87106
- Phone: 505-554-7706
- Email: [Ethics.Commission@sec.nm.gov](mailto:Ethics.Commission@sec.nm.gov)
- Website: [www.sec.nm.gov](http://www.sec.nm.gov)

*2. HUD CDBG-DR*

Under the U.S. Department of Housing and Urban Development (HUD) regulations for the Community Development Block Grant Disaster Recovery (CDBG-DR) program, any potential conflicts of interest must be disclosed in writing to HUD. Recipients may request exceptions to conflict-of-interest provisions by submitting a written request to HUD, including a disclosure of the nature of the conflict and an assurance that there has been public disclosure of the conflict. Reporting conflict of interest standards are codified in the following section of Title 24:



*a. Conflict of Interest-24 CFR § 570.611(d)*

**Key Requirements:**

- **Disclosure of Conflict:** The recipient must provide a written disclosure detailing the nature of the conflict of interest.
- **Public Disclosure Assurance:** An assurance must be included that the conflict has been publicly disclosed, along with a description of how this disclosure was made.
- **Legal Opinion:** An opinion from the recipient's attorney stating that the interest for which the exception is sought does not violate state or local law.

The more stringent of these requirements should be adopted.

***E. Violations of Conflict of Interest***

*1. State of New Mexico*

*a. New Mexico Governmental Conduct Act (GCA) – NMSA 1978, § 10-16-3*

The GCA governs the ethical conduct of public officers and employees in New Mexico. Section 10-16-3 specifically addresses ethical principles, including conflicts of interest as noted below:

- **Full Disclosure:** Real or potential conflicts of interest must be fully disclosed.
- **Prohibited Conduct:** Public officers and employees may not request or receive, and no person may offer them, any money, thing of value, or promise thereof that is conditioned upon or given in exchange for promised performance of an official act.
- **Penalties:** Knowingly and willfully violating these provisions constitutes a fourth-degree felony.

*b. New Mexico Governmental Conduct Act (GCA) – NMSA 1978, § 10-16-4*

This section further elaborates on prohibited actions related to conflicts of interest:

- **Prohibited Actions:** Public officers and employees are prohibited from taking official acts for the primary purpose of enhancing their financial interests.
- **Disqualification:** They must disqualify themselves from participating in any official act that directly affects their financial interests.

*2. HUD CDBG-DR*

*a. Violations, Conflict of Interest -24 CFR § 570.611*

This regulation outlines the conflict-of-interest provisions applicable to the CDBG-DR program. It prohibits individuals from obtaining a financial interest or benefit from a CDBG-DR-assisted



activity during their tenure or for one (1) year thereafter. The key provisions of this section of 24 CFR are listed below:

- Covered Persons: Employees, agents, consultants, officers, or elected officials of the recipient designated public agencies, or subrecipients.
- Prohibited Interests: Financial interests or benefits from CDBG-DR-assisted activities, including contracts, subcontracts, or agreements, either for themselves or those with whom they have business or immediate family ties.
- Exceptions: HUD may grant exceptions on a case-by-case basis upon written request, provided certain threshold requirements are met, including public disclosure and a legal opinion that the interest does not violate state or local law.

*b. General Procurement Standards-2 CFR § 200.318*

This section of 2 CFR mandates that non-federal entities must maintain written standards of conduct covering conflicts of interest and governing the performance of their employees engaged in the selection, award, and administration of contracts. Its key provisions are listed below:

- Organizational Conflicts: Situations where an entity's relationships or activities may impair its objectivity in performing federal contract work.
- Standards of Conduct: Must include provisions for disciplinary actions for violations and ensure that conflicts of interest are avoided in procurement transactions.

## **VIII. CONFLICTS OF INTEREST AND MODIFICATIONS**

### ***A. State of New Mexico***

#### *1. New Mexico Governmental Conduct Act (GCA) – NMSA 1978, § 10-16-4*

All DHSEM employees are bound by the Governmental Conduct Act (NMSA 1978, Chapter 10, Article 16) and the State Ethics Commission's Model Code of Ethics (1.8.4 NMAC), which prohibit engaging in activities that create real or apparent conflicts of interest. DHSEM supplements these standards with agency-specific conduct policies, pursuant to NM Stat §10-16-11.

The GCA governs the ethical conduct of public officers and employees in New Mexico. Section 10-16-4 specifically addresses conflicts of interest, prohibiting public officers or employees from taking official acts for the primary purpose of enhancing their financial interests. The key points are outlined below:

- Prohibited Conduct: Using public office to obtain personal benefits or pursue private interests.
- Disclosure Requirements: Mandates disclosure of real or potential conflicts of interest.



- Enforcement: Violations can result in disciplinary action, including dismissal, demotion, or suspension.

#### *2. N.M. Admin. Code § 1.8.4.9 – Disqualification from Matters Involving Financial Interest*

This administrative code stipulates that an officer or employee must be disqualified from any matters that could directly enhance or diminish their financial interest. The key points are outlined below:

- Disqualification: Mandatory recusal from decisions where a conflict exists.
- Scope: Applies to situations where personal financial interests could be affected by official actions.

Employees must disclose any financial or personal interests that could influence their duties and must recuse themselves from related decisions. All new employees receive an orientation overview of these ethics and conflict-of-interest requirements, and employees authorized to enter into contracts or manage procurements must complete additional training on procurement controls in accordance with the State Procurement Code.

### **B. HUD CDBG-DR**

HUD organizational conflicts of interest are codified in both Title 24 and Title 2 federal regulations. The following details, in reference to the governing federal titles, are discussed:

#### *1. Conflict of Interest -24 CFR § 570.611*

This regulation outlines conflict of interest provisions applicable to the CDBG-DR program. It prohibits individuals who are employees, agents, consultants, officers, or elected officials of the recipient or subrecipients from obtaining a financial interest or benefit from a CDBG-assisted activity during their tenure or for one year thereafter. This includes any interest in contracts, subcontracts, or agreements related to CDBG-DR-assisted activities.

Key Points:

- Covered Persons: Employees, agents, consultants, officers, elected officials, or appointed officials of the recipient, designated public agencies, or subrecipients.
- Prohibited Interests: Financial interests or benefits from CDBG-DR-assisted activities, including contracts or agreements, either for themselves or those with whom they have business or immediate family ties.
- Exceptions: HUD may grant exceptions on a case-by-case basis upon written request, provided certain threshold requirements are met, including public disclosure and legal opinion that the interest does not violate state or local law.



## 2. General Procurement Standards-2 CFR § 200.318

This section mandates that non-federal entities must maintain written standards of conduct covering conflicts of interest and governing the performance of their employees engaged in the selection, award, and administration of contracts. The key points related to this policy are as follows:

- **Organizational Conflicts:** Situations where an entity's relationships or activities may impair its objectivity in performing federal contract work.
- **Standards of Conduct:** Must include provisions for disciplinary actions for violations and ensure that conflicts of interest are avoided in procurement transactions.

## IX. DOCUMENTATION & RECORDKEEPING

### A. Acknowledgement and Certification

All individuals subject to this policy must sign an annual acknowledgment and disclosure form affirming that they have read, understand, and agree to comply with the Conflict of Interest and Disclosure Policy.

Under the New Mexico Governmental Conduct Act (GCA), NMSA 1978, §§ 10-16-1 to 10-16-18, public officers and employees are required to uphold ethical standards and avoid conflicts of interest. While the GCA mandates the disclosure of potential conflicts, specific acknowledgment and certification procedures may vary by agency.

The Community Development Block Grant – Disaster Recovery (CDBG-DR) program, administered by the U.S. Department of Housing and Urban Development (HUD), requires grantees and subrecipients to adhere to federal conflict of interest regulations, in addition to the grantees acknowledgment and certification standards (the more stringent policy will prevail):

According to 24 CFR §§ 570.611 and 2 CFR § 200.112, grantees must:

- Maintain written standards of conduct covering conflicts of interest and governing the actions of employees engaged in the selection, award, and administration of contracts.
- Ensure that no employee, officer, or agent participates in the selection, award, or administration of a contract supported by federal funds if a real or apparent conflict of interest exists.

To comply with these regulations, grantees may require individuals involved in CDBG-DR activities to complete a Conflict-of-Interest Certification form. This may include certification for each "covered person," including employees, agents, consultants, officers, elected officials, and appointed officials, to affirm that no conflict of interest exists.

Additionally, grantees may include conflict of interest clauses in their subrecipient agreements and contracts, requiring acknowledgment and certification from all parties involved.



## X. REFERENCES

Executive Order, Federal and State Laws and Regulations	Description
<b>2 CFR § 200.112</b>	Mandates that federal agencies create conflict of interest policies for federal awards, requiring non-federal entities (recipients/subrecipients) to disclose any potential conflicts of interest in writing to the awarding agency or pass-through entity, following specific agency guidelines.
<b>2 CFR § 200.318</b>	General Procurement Standards.
<b>2 CFR § 200.318(c)(1)</b>	Mandates that no employee, officer, or agent of a federally funded entity can participate in contract selection/award if they (or family/partner/employer) have a financial or personal interest in a firm considered for that contract.
<b>2 CFR § 200.318-327</b>	Require contractors and bidders to maintain written standards of conduct covering conflicts of interest.
<b>24 CFR § 570.489(h)</b>	CDBG-DR conflict of interest provisions.
<b>24 CFR § 570.490</b>	States administering CDBG-DR funds must maintain records that enable HUD to determine whether the state has met the requirements of the program.
<b>24 CFR § 570.506</b>	Grantees must maintain records that provide a full description of each activity assisted, including its status, compliance with applicable requirements, and the amount of funds budgeted, obligated, and expended.
<b>24 CFR § 570.611</b>	Conflict of Interest for the CDBG-DR Program.
<b>New Mexico Procurement Code (NMSA §§ 13-1-28 to 13-1-199)</b>	Mandates that all state agencies and local public bodies adhere to federal procurement standards when federal funds are involved.
<b>13-1-30(B) NMSA 1978</b>	When a procurement involves the expenditure of federal funds, the procurement must be conducted in accordance with mandatory applicable federal laws and regulations. If these federal requirements are inconsistent with the provisions of the Procurement Code, compliance with



	federal law or regulations is deemed compliance with the Procurement Code.
<b>13-1-190 NMSA 1978</b>	It is unlawful for any state agency or local public body employee to participate directly or indirectly in a procurement when the employee knows that they or any member of their immediate family has a financial interest in the business seeking or obtaining a contract.
<b>Governmental Conduct Act (GCA) (NMSA 1978, §§ 10-16-1 to 10-16-18)</b>	This act establishes ethical standards for public officers and employees, including those involved in federal contracts.
<b>State of New Mexico Conflict of Interest Policy (NMSA 1978, Chapter 10, Article 16)</b>	Public officers and employees are mandated to uphold ethical standards and report any real or potential conflicts of interest.
<b>10-16-3 NMSA 1978</b>	Addresses ethical principles, including conflicts of interest.
<b>10-16-3(C) NMSA 1978</b>	Underscores that full disclosure of real or potential conflicts of interest is a guiding principle for determining appropriate conduct. It mandates that reasonable efforts be made to avoid undue influence and abuse of office in public service.
<b>10-16-4 NMSA 1978</b>	Public officers and employees are prohibited from taking official acts for the primary purpose of enhancing their financial interests.
<b>10-16-4(A) NMSA 1978</b>	Makes it unlawful for a public officer or employee to take an official act for the primary purpose of directly enhancing their financial interest or financial position.
<b>10-16-7 NMSA 1978</b>	Restricts state agencies from entering into contracts with public officers or employees of the state, their families, or businesses in which they have a substantial interest.
<b>Disqualification from Matters Involving Financial Interest (N.M. Admin. Code § 1.8.4.9)</b>	Stipulates that an officer or employee must be disqualified from any matters that could directly enhance or diminish their financial interest.
<b>N.M. Admin. Code § 2.110.2</b>	Outlines the administrative requirements from the Small Cities CDBG-DR Program.



<p><b>Anti-Donation Clause</b> (<i>Article 9, Section 14 of the New Mexico Constitution</i>)</p>	<p>A provision that prohibits the state and its local governments from giving public funds, credit, or property to private individuals, associations, or corporations.</p>
<p><b>University Research Park and Economic Development Act</b></p>	<p>Allows for certain exceptions where the involvement of employees in procurement processes is deemed beneficial for research and economic development purposes.</p>
<p><b>New Mexico Research Applications Act</b></p>	<p>Provides exceptions to facilitate the application of research findings, allowing employees to participate in procurement under specific conditions.</p>
<p><b>Campaign Reporting Act</b></p>	<p>Establishes rules for tracking and disclosing political contributions and expenditures to ensure transparency for candidates, PACs, and political committees, requiring detailed reports filed with the Secretary of State, setting limits on contributions (like anonymous ones), prohibiting "straw" donations, and defining rules for political advertising, all aimed at influencing elections and ballot measures.</p>
<p><b>Financial Disclosure Act</b></p>	<p>Requires state officials, legislators, and candidates for those offices, along with certain agency heads, to annually file detailed personal financial information (income sources, assets, liabilities, real estate, businesses) with the Secretary of State to prevent conflicts of interest and ensure transparency</p>
<p><b>The Gift Act</b></p>	<p>Establishes clear guidelines around gifts and gratuities to prevent undue influence and maintain public trust in state operations.</p>
<p><b>Lobbyist Regulation Act</b></p>	<p>Governs lobbyists, requiring them to register with the Secretary of State, pay fees, and file detailed activity/expenditure reports disclosing lobbying efforts, legislation, and costs, with specific deadlines before/during sessions, aiming for transparency in influencing state government, and includes restrictions for former officials.</p>
<p><b>Voter Action Act</b></p>	<p>Establishes a system for publicly financed campaigns for certain state-level offices, known as the Public Election Fund.</p>



<p><b>State Ethics Commission Act</b></p>	<p>Empowers the independent State Ethics Commission (SEC), establishing it to oversee ethics in state government by enforcing rules on officials, employees, lobbyists, and contractors, covering conflicts of interest, financial disclosures, and campaign finance, with jurisdiction over several statutes to investigate and penalize violations and promote transparency in public service.</p>
<p><b>HUD CPD Notice 21-07</b></p>	<p>Provides crucial guidance for HOME and Housing Trust Fund (HTF) grantees on the updated Section 3 requirements, focusing on creating economic opportunities for low-income persons through new rules for housing construction/rehab projects, detailing new compliance measures (like shifting from "new hires" to "labor hours"), tracking, reporting, and defining "Section 3 workers," replacing older guidelines</p>
<p><b>Chapter 2 of the HUD Monitoring Handbook (6509.2 REV-7, Chapter 2)</b></p>	<p>Provides comprehensive guidance on monitoring Community Planning and Development (CPD) programs, including expectations for identifying, documenting, and addressing conflicts of interest. Under these guidelines, any real or apparent conflict must be disclosed promptly, and mitigation measures must be taken to prevent personal or financial gain that could compromise the integrity of CDBG-DR activities.</p>
<p><b>CDBG-DR Implementation Manual</b></p>	<p>Grantees must maintain comprehensive records for each project, including financial documents, contracts, and compliance reports.</p>