

U. S. Department of Housing and Urban Development

Community Planning and Development

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February 1, 2018

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CITY MANAGER

Gregory T. Doyon, City Manager
City of Great Falls
P.O. Box 5021
Great Falls, MT. 59403

Subject: Conflict of Interest Finding

Dear Mr. Doyon:

We appreciate the thorough review of the City of Great Falls' 2012-2017 CDBG funding decisions. Your letter dated December 20, 2017 concluded that the City did not violate the Community Development Block Grant (CDBG) Conflict of Interest rules at 24 CFR § 570.611. The City's opinion appears to be based on a narrow interpretation and application of the regulations.

The U.S. Department of Housing and Urban Development's Region VIII Office of Community Planning and Development must take a broader approach to the enforcement of those regulations to preserve the integrity of the program. The Department's opinion on this matter is detailed within this letter, which includes a Finding constituting a regulatory violation of the CDBG Conflict of Interest rules at 24 CFR § 570.611.

Review of Great Falls Funding History

The CDBG conflict of interest regulations at 24 CFR § 570.611 are necessarily broad. No person *in a position* to either exercise decision-making authority or to gain inside information may obtain a financial benefit. The regulations cover any "employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or of subrecipients that are receiving funds." 24 CFR § 570.611(c).

We emphasize the broad scope, interpretation, and application of the conflicts of interest rules; the purpose is to avoid the appearance of impropriety in the CDBG funding process. Note that a subrecipient organization must also abide by the conflict regulations. While a subrecipient organization may receive funding from multiple sources, the aggregate funding allows the organization to function as a whole. HUD will not trace specific budget allocations in determining whether a conflict exists. If an individual with access to the CDBG funding decision making process works with a subrecipient, there is a conflict. A benefit is available to both the individual and the subrecipient organization.

The broad nature of the conflict regulations does not necessarily preclude those with an apparent conflict from participating in a CDBG activity. Requests for exceptions are available under 24 CFR § 570.611(d).

With regard to the City of Great Falls, we consider any member of the City's Commission or Community Development Council to be in a decision-making position and able to gain "inside information" on the CDBG funding process. The City's letter dated December 20, 2017 identified 14 individuals who participated in the Commission or Council between 2012 and 2017, and who would also be identified as persons covered by Section 570.611(c). In total, \$522,252.00 was awarded by the Commission and Council between 2012 and 2017 to entities from which the 14 members noted above, or those with whom they have business or immediate family ties, obtained a financial interest or benefit.

Further, it is the opinion of this office that the Anderson Zurmuehlen & Co., P.C. audit is unnecessary. The introduction of CDBG funding into a subrecipient organization, whether intended or not, supplants other resources and otherwise contributes to the total capacity and growth of an organization as to create a net benefit for all individuals associated with the entity. Carol Bronson's relationship to Bill Bronson and her position with NeighborWorks Great Falls creates a conflict of interest, because of the exposure to "inside information" and potential for financial benefit for herself and the organization. That her responsibilities and wages are not associated with CDBG activities will be significant and useful information to consider in a request for a conflict of interest exception.

The City of Great Falls must take action to resolve both past violations of HUD's Conflict of Interest rules and develop protocols to avoid the appearance of future conflicts. The Finding below summarizes the conditions leading to the violation, HUD's criteria for compliance, the cause of the conflict, its effect on the City's funding, and the required corrective action to close this Finding.

Finding – Conflict of Interest

Condition: Between 2012 and 2017, both the City of Great Fall's Commission and Community Development Council included members who had existing business or personal relationships with organizations seeking CDBG funding.

Criteria: 24 CFR § 570.611 prohibits those in a position to participate in the decision-making process for CDBG awards or gain information about such funding decisions from receiving a financial interest or benefit from organizations seeking CDBG funding, either for themselves, family members, or business relations.

Cause: Between 2012 and 2017, the City of Great Fall's CDBG decision making process included a Community Development Council made up of employees and board members of agencies receiving regular allocations of CDBG funds. The City Commission membership, the final approving authority for the City's CDBG funding, also included

members with business or personal relationships with employees of CDBG subrecipients or subrecipients themselves.

Effect: At a minimum, these actions create the appearance of impropriety in the CDBG funding process, as well as actual conflicts of interest in some cases. As a result, it is likely that the City of Great Falls CDBG funding did not reach the full spectrum of agencies within the community that would have otherwise been eligible.

Corrective Actions:

- A. The City must develop new Project Selection, Citizen Participation and Conflict of Interest policies and procedures that prevent CDBG funding from benefiting a person in a decision-making position at the City or a person with a business or personal relationship with those in a decision-making position at the City. These policies and procedures must be submitted to HUD in advance of their formal adoption for a review of consistency and compliance with applicable policies and regulations.
- B. The City of Great Falls must submit an Exception request pursuant to § 570.611(d) for its 2017 funding decisions.
- C. Corrective actions must be completed ninety (90) days from the date of this communication. Failure to comply will require the repayment of funds identified as subject to conflicts of interest from 2012 to the present.

Remaining 2017 Allocation

It is our understanding that the 2017 CDBG funding awards for Habitat for Humanity, Rural Dynamics, and NeighborWorks Great Falls have been suspended as a result of the associated conflicts of interest. As noted in the City's letter, and referenced throughout the Commission and Council meeting notes, there was a procedural error in the initial scoring of the 2017 applications. We need a more precise description of these procedures and the error before our office can provide guidance to help the City move forward with its outstanding CDBG awards. What procedures were violated; when and how were they violated; how was the violation identified; and how did the City respond?

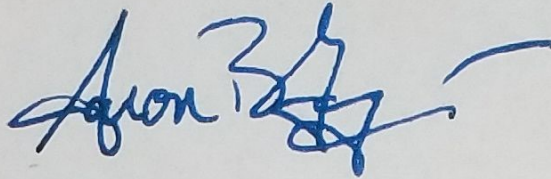
The City may also submit requests for conflict of interest exceptions in order to proceed with the 2017 CDBG awards to Habitat for Humanity, Rural Dynamics, and NeighborWorks Great Falls.

Finally, we are concerned with an exchange between the City Commission and the City Attorney as it relates to the 2017 allocation. The minutes for Great Falls' June 20, 2017, Regular City Commission Meeting, contain a statement by City Attorney Sara Sexe that "a representative from the Department of Housing and Urban Development had reported that there was not a conflict of interest." This statement is false. While we do not need a response to this issue, we

want to make it clear that this office did not previously review and excuse the City of an
nflit of Interests. We are currently engaged in that process.

If you have any questions about this letter, or need assistance in preparing the correc
ion, do not hesitate to contact Don Morris, Senior CPD Representative, at (303) 672-541
n.r.morris@hud.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Aaron B. Gagné", with a stylized flourish extending to the right.

Aaron B. Gagné
Regional Director