

Meeting Agenda
State College Zoning Hearing Board
Regular Meeting
Tuesday, January 8, 2019
12:00 p.m.

I. Call to Order

II. Roll Call

Stanford Lembeck
Lee Lowry
Donna Queeney
David Bailey

III. Reorganization of the Board

IV. Public Hour - Hearing of Citizens

V. Other Matters for Discussion

A. 2019 ABC Memo and Policy

VI. Adjournment

Borough of State College MEMORANDUM

to: All Borough Employees
from: Ed LeClear, Director of Planning and Community Development
re: Conflict of Interest Policy and Code of Conduct with Regard to HUD Programs
date: November 15, 2018

A Conflict of Interest Policy and Code of Conduct with Regard to HUD Programs was adopted by the State College Borough Council in 2005 and updated by Borough Council as recently as 2017. This attached policy will be distributed to Borough employees annually.

Please review the policy.

If you have questions or comments, please contact me at 234-7109.

BOROUGH OF STATE COLLEGE

Conflict of Interest Policy and Code of Conduct With Regard to HUD Programs

SECTION 1 NON-PROCUREMENT CONFLICTS OF INTEREST

A. COVERED INDIVIDUALS:

Any employee, agent, officer, elected official, appointed official or consultant of the Borough of State College (Participating Jurisdiction) or; any member of an employee's, agent's, officer's, elected official's or appointed official's immediate family; an employee's, agent's, officer's, elected official's or appointed official's partner; or an organization that employs or is about to employ any of the above.

CONFLICTS PROHIBITED:

No person(s) described in Paragraph 1 of section 1 who exercises or has exercised any functions or responsibilities with respect to activities assisted with HOME Investment Partnerships Program (HOME) or Community Development Block Grant (CDBG) or other U.S. Department of Housing and Urban Development (HUD) funds, or who is in a position to participate in a decision-making process or gain inside information with regard to these activities, may obtain a real or apparent financial interest or financial benefit from a HOME, CDBG, or other HUD-assisted activity, or has a real or apparent financial interest in any contract, subcontract, or agreement with respect to HOME, CDBG, or other 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. Immediate family ties include (whether by blood, marriage or adoption) the spouse, parent (including a stepparent), child (including stepchild), brother, sister (including a stepbrother or stepsister), grandparent, grandchild and in-laws of a covered person. Occupancy of a HOME-assisted unit by a covered person constitutes a financial interest.

EXCEPTIONS:

Threshold Requirements – Upon the written request of the participating jurisdiction, the U.S. Housing and Urban Development (HUD) or its successor, may grant an exception to the provisions of the CONFLICTS PROHIBITED of section 1 on a case-by-case basis when it determines that the exception will serve to further the purpose of the HOME, CDBG or other HUD program and the effective and efficient administration of the Borough's program or project. An exception may be considered only after the participating jurisdiction has provided the following:

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; and
2. An opinion from the Borough's attorney that the interest for which the exception is sought would not violate state or local laws.

*The requirements for public disclosure include publication in a local newspaper or disclosure during an advertised public hearing.

Factors to be considered for Exceptions – In determining whether to grant a requested exception after the participating jurisdiction has satisfactorily met the requirements of paragraphs a. and b. above, HUD, or its successors, will consider the cumulative affect of the following factors, where applicable:

1. Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;
2. Whether the person affected is a member of a group or class of low-income persons intended to be the beneficiary of the assisted activity, and the exception will permit such person(s) to receive generally the same interests or benefits as are being made available or provided to the group or class;
3. Whether the affected person(s) has withdrawn from his/her functions or responsibilities or the decision-making process with respect to the specific assisted activity in question;
4. Whether the interest or benefit was present before the affected person was in a position as described in the COVERED PERSONS Paragraph of this section
5. Whether undue hardship will result either to the participating jurisdiction or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
6. Any other relevant considerations.

B. OWNERS AND DEVELOPERS:

Any owner, developer or sponsor of a project assisted with HOME, CDBG or other HUD funds (or officer, employee, agent, elected or appointed official or consultant of the owner, developer or sponsor or immediate family member of an officer, employee, agent, elected or appointed official, or consultant of the owner, developer or sponsor) whether private, for-profit or non-profit (including a community development organization (CHDO) when acting as an owner, developer or sponsor)

CONFLICTS PROHIBITED:

No person(s) described in Paragraph 2.A of section 2 may occupy, or appear to occupy, a HOME, CDBG or other HUD-assisted affordable housing unit in a project during the required period of affordability specified in §92.252(e) or §92.254(a)(4). This provision does not apply to an individual who receives HOME, CDBG or other HUD funds to acquire or rehabilitate his or her principal residence or to an employee or agent to the owner or developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker.

EXCEPTIONS:

Upon written request of a housing owner or developer, the Borough may grant an exception to the provisions of the above paragraph of this section on a case by case basis when it determines that the exception will serve to further the purposes of the HOME, CDBG or other HUD program and the effective and efficient administration of the owner's or developer's HOME, CDBG or other HUD-assisted project. In determining whether to grant a requested exception, the Borough shall consider the following factors:

1. Whether the person receiving the benefit is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted housing, and the

- exception will permit such person to receive generally the same interest or benefits as are being made available or provided to the group or class:
2. Whether the person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted housing in question;
 3. Whether the tenant protection requirements of Sec. 92.253 are being observed;
 4. Whether the affirmative marketing requirements of Sec. 92.351 are being observed and followed; and
 5. Any other factor relevant to the Borough's determination, including the timing of the requested exception.

SECTION 2 PROCUREMENT CONFLICT OF INTEREST

COVERED INDIVIDUALS:

Any employee, officer, or agent of the Borough of State College (Participating Jurisdiction).

CONFLICTS PROHIBITED:

The CDBG, HOME and other HUD Programs follow the procurement policy of the Borough of State College located in the Borough of State College Code of Ordinances, Chapter 1, Part N. If any provisions of 2 CFR 200.318, 24 CFR 570.611, and 24 CFR 92.356 are not included or conflict with the Borough's Procurement Policy, the provisions of 2 CFR 200.318, 24 CFR 570.611, and 24 CFR 92.356 shall supersede the Borough's Procurement Policy.

No Covered Individuals in section 2 may participate in the selection, award or administration of a contract supported by HOME, CDBG or other HUD Program if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when any of the following parties has a financial or other interest in the firm selected for award:

- employee, agents, or officer of the Borough of State College;
- any member of an employee's, agent's or officer's immediate family;
- an employee's, agent's or officer's partner; or
- an organization that employs or is about to employ any of the above

No employee, officer, or agent of the Borough or subrecipient may solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors or parties to subagreements.

EXCEPTIONS:

There are no exceptions for real or apparent procurement conflicts of interest.

A request for a regulatory waiver can be submitted pursuant to 24 C.F.R. § 5.110

Upon determination of good cause, the Secretary may, subject to statutory limitations, waive any provision of this title and delegate this authority in accordance with section 106 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3535(q)).

SECTION 3 CODE OF CONDUCT:

Persons covered in section 2, paragraph 1, are expressly forbidden from soliciting or accepting money, gifts, gratuities, services, favors, or anything of monetary value (excepting unsolicited calendars, pens, or other items of nominal value used as an advertising medium) from any person, company, firm, or corporation to which any purchase order or contract is, or might, be awarded or from a party to any potential subcontract.

The Borough shall also take disciplinary action in accordance with the Borough Personnel Rules and Regulations against any covered persons in section 2 paragraph 1 who violate this conflict of interest policy.

Employees will receive a copy of the conflict of interest policy on an annual basis as a mailer included in a paycheck. Elected and appointed officials will receive a copy of the policy at a regular meeting of their respective council, authority, board or commission. Distribution of the policy will be noted in the minutes of the meeting. Members who are absent will receive a copy by mail. Consultants and agents will be provided a copy of the policy as part of their contracts.

SECTION 4 SUB-RECIPIENTS:

Applicable Conflict of Interest and Procurement Policies for the Borough's subrecipients are covered under CFR 200.318, 24 CFR 570.611 and 24 CFR 92.356. Each subrecipient has developed its own Conflict of Interest Policy and Procurement Policy in accordance with the applicable regulations.

Authorized Official: Ed LeClear, Director of Planning and Community Development
243 S. Allen Street
State College, PA 16801
814-234-7109

Summary of Revisions:

Adopted by the State College Borough Council on April 18, 2005.

Revised by staff on April 30, 2015.

Revised policy adopted by the State College Borough Council on November 6, 2017.

Borough of State College
MEMORANDUM

to: All Borough Employees

from: Ed LeClear, Director of Planning and Community Development

re: Drug-Free Workplace Requirements for the Community Development Block Grant and HOME Programs

date: November 15, 2018

The State College Borough Community Development Department is mandated by the Department of Housing and Urban Development to notify all employees who are engaged in the performance of the Community Development Block Grant program and the HOME program of the status of drugs in the workplace.

It is unlawful to manufacture, distribute, dispense, possess or use a controlled substance in the workplace. Any employee who does manufacture, distribute, dispense, possess or use a controlled substance in the workplace shall be prosecuted under all applicable State and Federal laws, and shall face appropriate personnel action, up to and including termination; or the employee shall participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement or other appropriate agency.

Employees must notify the Borough in writing of their conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction. The State College Community Development Department is required to notify HUD, within ten calendar days after receiving notice from an employee or otherwise receiving actual notice of a conviction.

State College Borough has in place an Employee Assistance Plan designed to deal with drug and alcohol problems in the employee population. The telephone number for the Employee Assistance Plan is 1-800-252-4555; the website is www.theEAP.com.

If you have any questions or comments, please contact me at 234-7109.