

Lorraine McNamara-McGraw, S.C.

Attorney at Law

①

May 2, 2002

Alderman Don Richards
5360 N. 45th Street
Milwaukee, WI 53218

Dear Don:

I am enclosing some of the documents which we spoke of, and which you requested that I send to you at home. I advised you that I reviewed the financial disclosure filings per § 303-11 of the Code of Ordinances of various city officers. Enclosed please find the relevant portion of Ald. Hines' filing. (Exhibit A). Please note that he lists his wife as a manager at the Milwaukee Women (sic) Center. Please note that the Milwaukee Women's Center received \$³⁰⁰300,599 from CDBG for the year 2001. If my supposition is correct, these two listed organizations are one and the same. If I recall my conversation with you correctly, Ald. Hines was and is on the Committee, and did vote, at least in 2001, both on the Committee and on the Council floor. If I am wrong on any of these suppositions I would hope you will so advise me immediately.

I am further including some of the letters from the City Attorney to Ald. Cameron and from the Block Grant office to Williamsburg Heights which I have highlighted in pink. (Exhibits C & D). Please note that the alleged conflict relates to the status of an adult daughter of Ald. Cameron as alternately an "office manager" (city attorney letter), and as a "paid employee" (CBGA letter) of Williamsburg Heights. This is the challenged status, not that of a higher title, etc.

What is one to conclude here? If Ald. Hines' wife can be a "manager" or a "paid employee," and her agency can get its CDBG money without all this hassle, why can't Williamsburg Heights be treated similarly? My answer to this question is that the real purpose is to hassle Ald. Cameron, without regard to the fate of the community organization she started. If I am wrong about this I count on you as my old colleague and friend to set me straight.

As I explained to you, my point is not to disparage The Womens' Center, or Ald. Hines. My point is that a double standard is at work here which is political and not legal. I also believe that you are not being given the straight story by the City Attorney. Please understand my position: I do not believe it is correct for the City Attorney to have told Williamsburg Heights that "Mr. Robert Berlan of the local HUD office has advised us that if Williamsburg Heights terminates the *prohibited employment*, CBGA may reimburse eligible contract costs..." (Exh. C) (emphasis added). This statement is misleading. It is drafted so as to suggest that Berlan has told the city attorney that the employment of a daughter *was* prohibited employment. Robert

see, 2010 memo to ask an except
Berlan, based on my conversations with him, has not himself concluded that the employment of a daughter was *ipso facto*, prohibited employment. Further, exceptions such as the one the City Attorney wants you to believe are needed here, are granted all the time. The suggestion, also made by the city attorney, that if an exception is granted, "HUD could sue us," is patently absurd. In sum, the city attorney has added heat rather than light to issues which deserve clarification. The city attorney obfuscates these issues, as they have done in their correspondence to me.

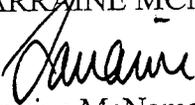
Here's the bottom line: believe what you want about there being a conflict. But, please hold a hearing on a resolution proposing an exception. I believe that Williamsburg Heights has a legal right to receive CDBG monies which have been properly allocated to them. At the very least they deserve a hearing before the money is taken away.

Feel free to call me with questions. For the moment my mobile seems to be not working and I'll be in D.C. till Sunday.

I appreciate your attention to this matter. Feel free to call me at any time.

Very truly yours,

LARRAINE MCNAMARA-MCGRAW, SC


Lorraine McNamara-McGraw
Attorney at Law

Enclosures

Statement of Economic Interests

DUE: February 28, 2002

Filed in 2002 for calendar year 2001 • Print legibly in black ink or type

CITY OF MILWAUKEE

2

Name: Willie L. Hines Jr

2002 FEB 28 PM 1:58

City Position (held or sought): Alderman
(include department, title, board, commission, elective office if applicable)

RONALD D. LEONHARDT
CITY CLERK

Home Address: 2361 N. 46th St City: Milwaukee Zip Code: 53210

DEFINITIONS: "Income" means gross income before deductions and depreciation, from whatever source derived, as defined by the Internal Revenue Code, but excludes dividends and interest.
"Immediate family member" means your spouse, and any child, step-child, parent, or parent-in-law who receives more than one-half of his or her support from you or from whom you receive more than one-half of your support.

Each section must be completed or form will be sent back. Questions about completing this form? Call (414) 286-8641

PART I. SOURCES OF INCOME.

List each employer from which you or an immediate family member received income of \$1,000 or more in 2001. You are not required to identify any source of income from which you or an immediate family member received less than \$1,000. You are not required to identify any source of income which is from an individual unless the income you or your family received came from the individual's operation of a business.

Check (✓) if None or Not Applicable

	Name of City Agency, Business Organization, or Employer; or General Nature of Business	City and State
Yourself	Common Council City of Milwaukee Alderman	Milwaukee, WI
Immediate Family Members	Milwaukee Women Center (wife) Manager	Milwaukee, WI

(attach additional sheets if necessary)

PART 2. REAL ESTATE.

Identify all real estate located in Milwaukee, Ozaukee, Waukesha, Racine or Washington County in which you or an immediate family member held at least a 10% interest valued at \$5,000 on December 31, 2001. Include real estate you or your family owned directly or through: (a) a partnership; (b) a corporation; (c) a trust; or (d) other enterprise. Do not list your principal residence unless you used it for the conduct of a business or for rental purposes.

Check (✓) if None or Not Applicable

County in Which Property is Located	Type of Property (farm, apartment, commercial property or recreational home)	Nature of Interest (own, lease, option, land contract)

(attach additional sheets if necessary)

A

PART B. HONORARIA AND PAYMENT OF EXPENSES

List each individual or organization from which you received, in 2001, lodging, transportation, meals, expenses, or honoraria having a total value of more than \$50, for attendance at a conference, presentation of a talk, participation in a meeting, or for a published work about issues initiated by or affecting city government or city agencies. You are not required to list information about lodging, transportation, meals, money or any other thing of pecuniary value: (1) if you returned it within 30 days, or deposited it with the treasurers office. (2) if you received it from the agency of which your city public office is a part; (3) if you received it as a source listed in Part I, or (4) if you already reported the payment to the Ethics Board as a matter of public record. (5) if your receiving it is unrelated to or did not arise from holding public office or a position with the city.

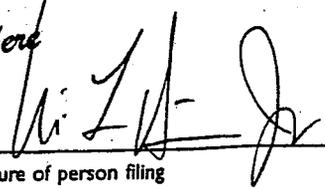
Check (✓) if None or Not Applicable

Name of Organization or Person	Value of Honorarium, Expenses, etc.	Circumstances Relating to Acceptance of Honorarium, etc.
Honorarium:		
Payment of Expenses:		

(attach additional sheets if necessary)

Before signing, please review your Statement to be sure that for each part you have listed the required information or checked the box for "None or Not Applicable."

I certify that the information contained in this Statement of Economic Interests is true, complete and correct to the best of my knowledge, information and belief.


Sign Here

Signature of person filing
2/28/02
Date
286-2659
Daytime telephone number

Statements of Economic Interests are open for public inspection.
 Failure to file a completed form may result in compensation loss or other penalties.

MAIL OR FAX TO:
 City of Milwaukee Board of Ethics
 Office of the City Clerk, Room 205
 200 East Wells Street
 Milwaukee, WI 53202
 Fax: (414) 286-0723

Organization NSP Area Activity Accomplishments Fund Type 2001 Award Annual Goal 3rd Quarter Result

Citywide Housing - Security Installations- (non-NSP) # Security installations CDBG \$50,000.00 50 32

Milwaukee Community Service Corp

14 Public Service-Job Training & Placement Full-time job placements- # placed (pay for performance) CDBG \$16,500.00 3 0 Not funded for activity in 2002

17 Public Service-Job Training & Placement Full-time job placements- # placed (pay for performance) CDBG \$16,500.00 3 0 Not funded for activity in 2002

Citywide Cityscape Beautification Program Lots completed/special front yards and community gardens - # of lots improved CDBG \$103,285.00 39 33

Milwaukee LGBT Community Center

07 Public Service - Youth Youth recreation activities - # served CDBG \$18,750.00 15 45 Exceeded goals

Milwaukee Public Schools, Division of Recreation

04 Andrew Douglas Academy Youth & Family Center Youth recreation/tutoring /mentoring - # served CDBG \$69,800.00 590 1142 Exceeded goals

Milwaukee Urban League

09 Public Service-General Neighborhood outreach, training, counseling CDBG \$30,000.00 200 36 Not funded for activity in 2002

09 Business Assistance Full-time jobs created - # placed (pay for performance) CDBG \$38,000.00 6 1 Not on target to reach goals

11 Business Assistance Full-time jobs created - # placed (pay for performance) CDBG \$36,800.00 12 1 Not on target to reach goals

14 Business Assistance Full-time jobs created - # placed (pay for performance) CDBG \$39,855.00 7 1 Not on target to reach goals

Milwaukee Women's Center, Inc

Citywide Milwaukee Women's Refuge for Battered Women Emergency shelter /services - # families served CDBG \$716,500.00 100 116

Citywide Milwaukee Women's Refuge for Battered Women Emergency shelter /services - # families served ESG \$4,599.00

Friday, November 16, 2001

Willie Flores
Wags & Nags, Page 17 of 36

ESG funds are used with CDBG funds for same activity

B

CITY OF MILWAUKEE

GRANT F. LANGLEY
City Attorney

RUDOLPH M. KONRAD
Deputy City Attorney

THOMAS E. HAYES
PATRICK B. McDONNELL
CHARLES R. THEIS
Special Deputy City Attorneys



3

BEVERLY A. TEMPLE
THOMAS O. GARTNER
LINDA ULISS BURKE
BRUCE D. SCHRIMPF
ROXANE L. CRAWFORD
SUSAN D. BICKERT
HAZEL MOSLEY
HARRY A. STEIN
STUART S. MUKAMAL
THOMAS J. BEAMISH
MAURITA F. HOUREN
JOHN J. HEINEN
MICHAEL G. TOBIN
DAVID J. STANOSZ
SUSAN E. LAPPEN
DAVID R. HALBROOKS
JANA A. SMOKOWICZ
PATRICIA A. FRICKER
HEIDI WICK SPOERL
KURT A. BEHLUNG
GREGG C. HAGOPIAN
ELLEN H. TANGEN
JAY A. UNORA
DONALD L. SCHRIEFER
EDWARD M. SHRLICH
CHRISTOPHER J. CHERELLA
LEONARD A. TOKUS
MIRIAM R. HORWITZ
MARYNELL REGAN
G. O'SULLIVAN-CROWLEY

Assistant City Attorneys

OFFICE OF CITY ATTORNEY
200 EAST WELLS STREET, SUITE 800
MILWAUKEE, WISCONSIN 53202-3551
TELEPHONE (414) 286-2601
TDD 286-2025
FAX (414) 286-8550

June 15, 2001

Aldерwoman Rosa Cameron
Alderwoman, Tenth Aldermanic District
200 East Wells Street, Room 205
Milwaukee, Wisconsin 53201-2181

Re: Williamsburg Heights - Conflict of Interest under HUD Regulations

Dear Alderwoman Cameron:

By correspondence dated May 23, 2001, you requested our advice concerning Community Development Block Grant (CDBG) funding for the Williamsburg Heights Community Block Club. Williamsburg Heights is currently under contract with the City of Milwaukee to receive CDBG funds for performing certain activities in calendar year 2001.

We understand that Williamsburg Heights has employed your daughter, Roberta Allen, in the position of office manager. Ms. Allen is listed on staff rosters submitted by Williamsburg Heights for the time period from January 1 through March 31, 2001. It does not appear that the salary for Ms. Allen's position was directly paid with CDBG funds.

In a previous opinion dated March 14, 2001, we advised you with respect to HUD regulations concerning conflicts of interest in the administration of CDBG funds. ~~Ms. Allen's employment by Williamsburg Heights violates these regulations.~~ If Williamsburg Heights continues the prohibited relationship, no CDBG funds may be paid under its contract with the City.

~~Mr. Robert Berlan of the local HUD office has advised us that if Williamsburg Heights terminates the prohibited employment, CBGA may reimburse eligible contract costs which accrue after the conflict of interest has been eliminated.~~ Mr. Berlan has also advised that if the City obtains an exception from HUD regarding the prohibited relationship, Ms. Allen may continue as an employee of Williamsburg Heights, and eligible costs incurred during the entire term of the contract may be reimbursed. If such an exception is granted by HUD, you would be

C

required to refrain from any voting or lobbying regarding CDBG funding for any category of activity for which Williamsburg Heights has a contract or a pending application for funding.

I. Authority to Seek an Exception from HUD Regulation

Under the HUD regulations, an exception from the conflict-of-interest rules is sought by the City, not by an individual or organization. Under these circumstances, the decision whether to seek the exception is made by the Common Council.

Section 301-13 of the Milwaukee City Charter provides that the Community Development Committee shall have oversight with respect to CDBG matters:

301-13. Common Council Community Development Oversight. Common council oversight with respect to community development shall be assigned to a common council standing committee pursuant to the common council procedure and rules. The common council committee to which oversight is assigned shall provide policy direction to the office of community block grant administration, department of administration, in carrying out its responsibilities, and to review, reject or otherwise modify recommendations of the office with respect to community development programs and actions, including recommendations to the common council on submission of the city's annual federal community development block grant application.

Under this ordinance, if an exception is sought, it must be authorized by the Common Council, upon the recommendation of the Community Development Committee.

II. HUD Requirements for Obtaining an Exception to of a Conflict of Interest

A. Opinion of City Attorney and Board of Ethics

The regulations provide that HUD will consider an exception to the conflict-of-interest rules only after it receives documentation of:

- (1) the nature of the conflict, with 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 of the City Attorney that the interest for which the exception is sought will not violate State or local law;

If an exception is requested, in order for this office to properly review the issue of whether the exception will violate state or local law, you must first seek an advisory opinion from the City Ethics Board as to whether your daughter's employment with Williamsburg Heights violates the City Code of Ethics. The procedure for obtaining an advisory opinion is set forth in section 303-7-2-a of the Milwaukee City Charter.

C

June 15, 2001

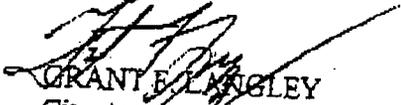
B. Factors considered by HUD

Assuming that the City Ethics Board provides you with a favorable opinion, and further assuming that this office is able to render the opinion required by HUD, there are several factors that HUD will consider in deciding whether to grant an exception. The factors are identified as follows in the regulations (24 C.F.R §70.611):

- (i) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
- (ii) Whether an opportunity was provided for open competitive bidding or negotiation;
- (iii) Whether the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
- (iv) Whether the alderman involved has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;
- (v) Whether the interest or benefit was present before the alderman involved was in a conflict-of-interest position;
- (vi) Whether undue hardship will result either to the recipient or the alderman involved when weighed against the public interest served by avoiding the prohibited conflict; and
- (vii) Any other relevant considerations.

If you wish to request that the City proceed to seek an exception to the conflict-of-interest rules, or have any other questions in this matter, please contact Ellen Tangen at 286-8411.

Very truly yours,


GRANT E. LANGLEY
City Attorney


Ellen H. Tangen
Assistant City Attorney

cc: Juanita Hawkins

C



Department of Administration
Community Block Grant Administration

May 23, 2001

John O. Norquist
Mayor

David R. Riemer
Director

Juanita Hawkins
Administration-Block Grant Director

4

Ms. Lazanda Moore
Williamsburg Heights Community Association
907 W. Atkinson Avenue
Milwaukee, WI. 53206

RE: Year 2001 Cost Reports

Dear Ms. Moore:

CBGA is returning cost reports 1 through 4, covering the months of January through April 2001 pending the resolution of possible conflict of interest issues involving the Williamsburg Heights Association.

According to a City Attorney opinion issued March 14, 2001, "...no person subject to the regulations who exercises or has exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who is in a position to participate in a decision-making process or gain inside information with regard to such activities (such as Alderpersons), may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

According to a staff roster and payroll information submitted with your cost reports, it appears that Ms. Roberta Allen, who is the daughter of Alderwoman Rosa Cameron [redacted] of the Williamsburg Heights Association [redacted].

Once these issues are resolved, CBGA will consider payment of the cost reports pending clarification and documentation of the following:

- 1) Several invoices are billed to "Rosa Cameron or Rosa Cameron Rollins, Williamsburg Heights Association." Please explain why invoices for the Williamsburg Heights Association are in the name of Rosa Cameron/Rollins. These include invoices from: Xerox Corporation, Office Depot Credit Plan, Pitney Bowes.
- 2) According to an invoice from Xerox corporation dated March 1, 2001, a copier is listed as "Ship to/installed at Williamsburg Heights, City of Milwaukee, 1220 W. Atkinson Avenue," and "Bill to Williamsburg Heights, City of Milwaukee, 907 W. Atkinson Avenue." Please clarify the current location of the copier. Please also verify the current location of the Williamsburg Heights Association.

D

3) On the February 2001 cost reports, costs are being claimed for "Mitter Accounting." Please explain in detail what services were provided for the sum of \$900.

4) Explain in detail all administrative costs listed for the months January and February 2001, totaling \$3,625, with the amount being claimed \$906.25. These are possibly ineligible costs if CBGA is the only funding source and if there is no cost allocation plan on file with the City Comptroller's office.

5) The April 2001 cost report includes two entries under General Services for "rent," for March and April for the sum of \$500 each. CBGA cannot pay these costs as there are no check numbers listed and there is no "payee" listed.

6) Activity Reports:

1 → *1 → narrative*
> January and March - According to activity reports submitted, you established (1) new block club in January and in March. However, on an accompanying narrative report, you state, "in the month of January and March, we did not organize any block clubs." Explain this discrepancy.

The Activity Report says 2 in March
In addition, several activities are listed which are not a part of your contract with CDBG such as: "Best Friend-Best Man events, Front Door Initiative Program, Teen Pregnancy Prevention events, Revitalization project at Hopkins Street School." According to your CDBG contract, one position of Community Organizer is funded to perform the following activities:

- a. Maintain existing block clubs in Area 4
- b. Establish 30 new block clubs in Area 4.

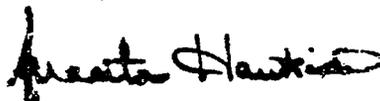
CBGA will not reimburse the Williamsburg Heights Association for additional activities undertaken which are not a part of the CDBG contract.

Please provide a written response to this request for additional information regarding the submitted cost reports within fifteen(15) days of receiving this letter.

Also, as previously indicated, CBGA cannot pay these cost reports until the issues of conflict of interest are resolved by the affected parties.

Should you have further questions, contact Program Officer Nick Robertson at x2337.

Sincerely,



Juanita Hawkins
Director

D



U.S. Department of Housing and Urban Development

Wisconsin State Office
Suite 1380
Henry S. Reuss Federal Plaza
310 West Wisconsin Avenue
Milwaukee, WI 53203-2289

FEB 15 2002

LaZanda Moore
Executive Director
Williamsburg Heights Community
Block Club Association
907 W. Atkinson Avenue
Milwaukee, WI 53206

Dear Ms. Moore:

This letter is in response to your correspondence of November 13, 2001 regarding a waiver request for a possible violation of the Community Development Block Grant (CDBG) conflict-of-interest regulations at 24 CFR 570.611. As we discussed in a phone conversation on December 20, 2001, the City of Milwaukee would have to make the determination that there has been a violation of the conflict of interest regulations and they then can decide to request an "exception" for that violation from HUD.

The conflict of interest regulations at 570.611(d) state that HUD may grant an exception to the City for persons covered by the regulations (see 570.611(c) or the City of Milwaukee's subrecipient contract with Williamsburg Heights Community Block Club Association, pg. 11) when the City can show it has met the following threshold requirements:

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 of the City's Attorney that the interest for which the exception is sought would not violate State or local law.

Your letter stated that the person with the conflict of interest is Alderwoman Rosa Cameron. The City would have to provide documentation that Alderwoman Cameron complied with the first of the two threshold requirements and provide us a letter from their City Attorney addressing the second threshold requirement.

When HUD receives a request for an exception, we also expect an explanation from the City on whether or not any of the factors listed in the regulations at 570.611 (d)(2) would apply to the conflict of interest situation. We would suggest that your organization review the factors listed at 570.611(d)(2) and provide the City with any information that

may assist them in providing this information to HUD. You may send your comments on which factors would apply, and how they apply to this situation, to Juanita Hawkins, Director of the Community Block Grant Administration (CBGA) for their review and consideration when making this exception request to HUD.

A copy of the CDBG conflict of interest regulations is enclosed with this letter to assist you in communicating with the City of Milwaukee's CBGA Office. If we can be of further assistance to you, please to not hesitate to contact us.

Sincerely,

A handwritten signature in black ink that reads "Robert S. Berlan". The signature is written in a cursive style and is followed by a horizontal line.

Robert S. Berlan, Director
Office of Community Planning
And Development

Enclosure

cc: Juanita Hawkins
Ellen Tangen
Alderwoman Rosa Cameron

paint debris shall be disposed of in accordance with applicable Federal, State or local requirements. (See e.g., 40 CFR parts 260 through 271.)

[53 FR 34456, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988; 61 FR 11481, Mar. 20, 1996]

§ 570.609 Use of debarred, suspended or ineligible contractors or subrecipients.

The requirements set forth in 24 CFR part 5 apply to this program.

(The above streamlined text replaced the following language:

Assistance under this part shall not be used directly or indirectly to employ, award contracts to, or otherwise engage the services of, or fund any contractor or subrecipient during any period of debarment, suspension, or placement in ineligibility status under the provisions of 24 CFR part 24.)

[53 FR 34456, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 61 FR 5209, Feb. 9, 1996]

§ 570.610 Uniform administrative requirements and cost principles.

The recipient, its agencies or instrumentalities, and subrecipients shall comply with the policies, guidelines, and requirements of 24 CFR part 85 and OMB Circulars A-87, A-110 (implemented at 24 CFR part 84), A-122, A-133 (implemented at 24 CFR part 45), and A-128² (implemented at 24 CFR part 44), as applicable, as they relate to the acceptance and use of Federal funds under this part. The applicable sections of 24 CFR parts 84 and 85 are set forth at § 570.502.

[53 FR 34456, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 57 FR 33256, July 27, 1992; 60 FR 56916, Nov. 9, 1995]

§ 570.611 Conflict of interest.

(a) *Applicability.*

- (1) In the procurement of supplies, equipment, construction, and services by recipients and by subrecipients, the conflict of interest provisions in 24 CFR 85.36 and 84.42, respectively, shall apply.
- (2) In all cases not governed by 24 CFR 85.36 and 84.42, the provisions of this section shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance by the recipient or by its subrecipients

² See footnote 1 for §570.200 (a) (5).

to individuals, businesses, and other private entities under eligible activities that authorize such assistance (e.g., rehabilitation, preservation, and other improvements of private properties or facilities pursuant to § 570.202; or grants, loans, and other assistance to businesses, individuals, and other private entities pursuant to §§ 570.203, 570.204, 570.455, or 570.703(i)).

- (b) *Conflicts prohibited.* The general rule is that no persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter. For the UDAG program, the above restrictions shall apply to all activities that are a part of the UDAG project, and shall cover any such financial interest or benefit during, or at any time after, such person's tenure.
- (c) *Persons covered.* The conflict of interest provisions of paragraph (b) of this section apply to any person who is an 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 under this part.
- (d) *Exceptions.* Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis when it has satisfactorily met the threshold requirements of (d)(1) of this section, taking into account the cumulative effects of paragraph (d)(2) of this section.
 - (1) *Threshold requirements.* HUD will consider an exception only after the recipient has provided the following documentation:
 - (i) 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
 - (ii) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.
 - (2) *Factors to be considered for exceptions.* In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of paragraph (d)(1) of this section, HUD shall conclude that such an exception will serve to further the purposes of the Act and the effective and efficient

administration of the recipient's program or project, taking into account the cumulative effect of the following factors, as applicable:

- (i) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
- (ii) Whether an opportunity was provided for open competitive bidding or negotiation;
- (iii) Whether the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
- (iv) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decisionmaking process with respect to the specific assisted activity in question;
- (v) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section;
- (vi) Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
- (vii) Any other relevant considerations.

[53 FR 34456, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 57 FR 27120, June 17, 1992; 60 FR 56916, Nov. 9, 1995]

§570.612 Executive Order 12372.

- (a) *General.* Executive Order 12372, Intergovernmental Review of Federal Programs, and the Department's implementing regulations at 24 CFR part 52, allow each State to establish its own process for review and comment on proposed Federal financial assistance programs.
- (b) *Applicability.* Executive Order 12372 applies to the CDBG Entitlement program and the UDAG program. The Executive Order applies to all activities proposed to be assisted under UDAG, but it applies to the Entitlement program only where a grantee proposes to use funds for the planning or construction (reconstruction or installation) of