

AN ORDINANCE OF THE CITY OF PORTAGE DES SIOUX, MISSOURI, TO ADOPT THE STANDARD OF CONDUCT INVOLVING CONFLICT OF INTEREST FOR THE MISSOURI BLOCK GRANT PROGRAM.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF PORTAGE DES SIOUX, MISSOURI, AS FOLLOWS:

SECTION I

THE FOLLOWING RULES WILL BE FOLLOWED BY THE CITY REGARDING THE STANDARD OF CONDUCT INVOLVING CONFLICT OF INTEREST FOR THE MISSOURI BLOCK GRANT PROGRAM:

1) **Persons Covered:** The conflict of interest provisions of this policy shall apply to any person who is an employee, elected or appointed official, agent, consultant, officer, or any immediate family member* or business partner of the above, of the recipient, or of any designated public agencies, or sub-recipients which are receiving funds from the Missouri Block Grant program.

***Immediate family is defined as husband, wife, son, daughter, stepchild, adopted child, foster child and wards.**

2) **Applicability:**

- a) In the area of procurement of supplies, equipment, construction and services by recipients, sub-recipients or designated public agencies, the conflict of interest provisions in 24 CFR 85.36 or OMB Circular A-110, as applicable, shall apply.
- b) In all cases not governed by 24 CFR 85.36, the provisions of this policy shall apply. Such cases include the acquisition and disposition of real property and the provisions of assistance by the recipient or sub-recipient to individuals, business and other private entities in the form of grants, loans, or other assistance through eligible activities of the program which authorize assistance.

3) **Conflicts Prohibited:** Except for approved eligible administrative or personnel cost, no persons described in 1; above who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under the State program 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 personal or financial interest or subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. For the State CDBG Economic Development Program, the above restrictions shall apply to all activities that are a part of the funding approval for all projects, and shall cover any such interest or benefit during, or at any time after, such person's tenure.

4) **Exception:** The State may, on a case by case basis, grant an exception to

Section 3 above after a determination has been made by the State that the exception will serve the purpose of the Housing and Community Development Act of 1974 and the State's adopted Final Statement for each year therefor only after the recipient has provided to the State the following written documentation:

- a) A disclosure of the nature of the conflict accompanied by an assurance that there has been a public disclosure of the conflict and description of how the disclosure was made; (which may include either a public hearing or an appropriate comment period) and
- b) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

Standard of Determining Exception

In determining whether to grant an exception, after the above two items have been received, the State shall consider 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 an opportunity was provided for open competitive bidding or negotiation;
- 3) 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 interest or benefits as are being made available or provided to the group or class;
- 4) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;
- 5) Whether the interest or benefit was present before the affected person was in a position as described in Section 3;
- 6) Whether undue hardship will result either to the recipient or the person affected when weighted against the public interest served by avoiding the prohibited conflict; and
- 7) Any other relevant considerations.

If after all considerations, determination is made to grant an exception, the State shall issue a waiver noting such exception and the conditions and basis of the issuance of same.

BILL NO. 299

ORDINANCE NO. 299

SECTION II

THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FULL FORCE FROM AND AFTER ITS
PASSAGE AND APPROVAL BY THE MAYOR AND THE BOARD OF ALDERMEN.

PASSED AND APPROVED THIS 1st DAY OF December, 2014.

MARK D. WARNER, MAYOR

ATTEST: _____

SUZIE A. CISSELL, CITY CLERK

CITY SEAL

BILL NO. 299

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