



Anti-Fraud, Waste, and Abuse Policy

2022 CBDG-DR

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1 ODOC's Anti-Fraud, Waste, and Abuse Policy

1.1 Overview

The Oklahoma Department of Commerce (ODOC), as a grantee, is committed to the responsible management of the Community Development Block Grant Disaster Recovery (CDBG-DR) funds. The U.S. Department of Housing and Urban Development (HUD) allocated these funds to address Oklahoma's long-term recovery needs associated with the 2022 disaster. In doing so, ODOC is dedicated to being a good steward of resources while maintaining a comprehensive policy for preventing, detecting, reporting, and rectifying fraud, waste, or abuse (FWA).

To that end, ODOC encourages any individual who is aware or suspects any kind of conduct or activity that may be considered an act of fraud, waste, or abuse, regarding the CDBG-DR Program, to report such acts to ODOC's Internal Auditor or directly to the Office of Inspector General (OIG) at HUD, or any local or federal law enforcement agency. Complaints regarding fraud, waste, or abuse of government funds should be forwarded to the HUD OIG Fraud Hotline (phone: 1-800-347-3735 or email: hotline@hudoig.gov).

Any fraud, waste, and abuse suspected, reported, or discovered through the CDBG-DR program will be documented and reviewed by ODOC's CDBG-DR staff and forwarded to ODOC's Internal Auditor or the HUD OIG.

1.2 Scope

This policy applies to all ODOC's employees, providers, vendors, contractors, consultants, subrecipients, partners, citizens, applicants, external departments, and agencies doing business with ODOC, as well as beneficiaries and others associated with, working for, accessing, or attempting to access benefits under the CDBG-DR program

1.3 Roles and Responsibilities

ODOC and its subrecipients and applicants have a shared responsibility to prevent and detect FWA. Subrecipients are responsible for the day-to-day monitoring of project activities and ethical management practices to ensure there is no FWA within the program, and to report FWA if it is identified.

ODOC staff are responsible for the overall detection and prevention of FWA, including regular monitoring to maintain accountability of subrecipients and applicants, as well as coordinating investigations if any FWA is reported and/or to determine if CDBG-DR funds are being spent within the confines and parameters of relevant HUD and other Federal requirements. For further details regarding the monitoring of subrecipients, see ODOC's Monitoring and Closeout Policies.

1.4 Definitions

Fraud is the willful intent to mislead or misrepresent information for illegitimate gain. Examples of fraud include, but are not limited to the following:

- Misrepresentation of information on applications such as income, household composition, financial assets, citizenship status, or residency

- Forgery of signatures on various documents including applications, timesheets, checks, contracts, or purchase orders

Waste is the careless mismanagement, consumption, or use of resources that cause unnecessary costs or detriment. Examples of waste may include but are not limited to the following:

- Unnecessary use of supplies causing increased replacement

Abuse is the excessive or improper use of something in a manner contrary to the natural or legal rules for its use. It encompasses intentional destruction, misapplication, or misuse of resources. This does not include physical or emotional abuse of a person. Examples of abuse may include, but are not limited to the following:

- Making purchasing decisions contrary to existing policies
- Receiving some form of benefit or favor for awarding a contract to a particular vendor
- Creating unnecessary overtime
- Requiring staff to perform personal errands
- Purposefully destroying property to increase the possible grant amount

Other actions constituting fraud, waste, and abuse include, but are not limited to:

- Any dishonest or fraudulent act
- Misappropriation of funds, supplies, or assets
- Impropriety in handling or reporting money or financial transactions
- Profiting because of insider knowledge
- Unauthorized disclosure of confidential or private information
- Accepting or seeking anything of material value from contractors, vendors, or any person that seeks a beneficial decision, contract, or action from DED or any subrecipient
- Accepting or seeking anything of material value from contractors, vendors, or any person that is providing services for CDBG-DR activities
- Unnecessary costs or expenditures
- Diversion of program resources

1.5 Fraud, Waste, and Abuse-Related Training

ODOC will alert CDBG-DR program staff, partners, and subrecipients to fraud-related training when it is offered by the HUD OIG. Attendance is strongly recommended.

1.6 Preventing Fraud, Waste, and Abuse

Ideally, fraud, waste, and abuse will be prevented rather than discovered and investigated. ODOC has adopted the following policies and procedures to prevent fraud, waste, and abuse.

1.6.1 Procedures to Verify Information Provided by Applicants

ODOC has established the following procedures to verify applicant information. The verification check is designed to identify discrepancies that may indicate fraud, waste, and abuse. Subrecipients are required to adopt these procedures.¹

- Applicants must provide at least two forms of official identification. These can include, but are not limited to:
 - ID card issued by federal, state, or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address
 - School ID card with a photograph
 - Voter registration card
 - U.S. military card or draft record
 - Military dependent's ID card
 - U.S. Coast Guard Merchant Mariner Document (MMD) card
 - Native American tribal document
 - Driver's license issued by a Canadian government authority
- The applicant must provide documentation that ties them to the address for which they are requesting assistance, such as:
 - Any correspondence delivered by the U.S. Postal Service, FedEx, or UPS (Junk mail or personal letters will not be accepted.)
 - Utility bill (electric, land or cell phone, gas/oil/propane, water, sewer, cable/satellite). The address being verified may be listed as a service address separate from the mailing address.
 - OK state or tribal vehicle or boat title or registration
 - W-2 or any type of 1099
 - OK voter registration card
 - Statement from bank or other financial institution (savings or checking, mortgage, auto or other installment loan) Payday loan company documents are not accepted.
 - Copy of federal or OK tax return (Return must show manual or electronic signature or may show associated proof of electronic filing.)
 - Copy of lease signed by the tenant and property owner
- Before the award of any assistance, ODOC and the subrecipient will use the best, most recent available data from FEMA, the Small Business Administration (SBA), insurers, and any other sources of funding to verify financial assistance disclosed as part of the Duplication of Benefits process. ODOC will engage in a sharing agreement with FEMA,

¹ 88 FR 32066

SBA, and as applicable, other Federal agencies to ensure access to the best available data.²

- ODOC has established regular channels of communication with other State and local agencies involved in disaster recovery efforts to be on guard for issues related to fraud, waste, and abuse. Any findings are reported to ODOC staff and vice versa.

1.6.2 Criteria Used to Evaluate the Capacity of Subrecipients

1.6.2.1 [Capacity Assessment Required](#)

Applicants for CDBG-DR funding must verify their capacity to maintain adequate staffing to meet all grant requirements. Applicants must submit a staff chart with descriptions of staff responsibilities as they pertain to the CDBG-DR grant, using the Capacity Assessment Worksheet provided. Subrecipients should also include if their staff has successfully managed federal grants before. If the subrecipient cannot currently manage the CDBG-DR grant, the subrecipient must include future improvements to capacity in their staff organization to meet the minimum requirements such as:

- Hiring additional, experienced staff
- Partnering with other organizations
- Contracting for expert services
- Training existing staff

1.6.2.2 [Risk Assessment Required](#)

In addition, when the State agreed to assume administrative responsibilities for the CDBG Program, it certified that activities would be conducted in a manner consistent with all applicable Federal laws. The primary tool for confirming this assurance being met is for the State to perform a Risk Assessment for each funded subrecipient and to monitor the activities of its subrecipients according to the results of the Risk Assessment. The Risk Assessment is an evaluation of the subrecipient financial and staffing capacity to manage CDBG funds effectively and successfully following all Federal and State Requirements, which will in turn direct the ODOC CDBG staff in developing a technical assistance and monitoring plan. The Risk Assessment is completed by ODOC CDBG-DR staff and is used to inform the frequency of monitoring that the subrecipient will be subject to.³

1.6.3 Monitoring

When the State agreed to assume administrative responsibilities for the CDBG Program, it certified that activities would be conducted in a manner consistent with all applicable Federal laws. The primary tool for confirming this requirement is for the State to monitor the activities of its subrecipients, just as HUD monitors the state.

ODOC staff will monitor all CDBG-DR subrecipients by performing regular desk monitoring through the State's web-based OKGrants Management System. ODOC CDBG-DR Staff will review all materials required with submissions in OKGrants. Examples of documents required

² 88 FR 32050

³ 88 FR 32066

with various submittals include procurement documentation, environmental review forms, purchase orders, invoices, fair housing forms, ledgers, equal opportunity forms, payrolls, and Section 3 documents. The regular review of documentation before approving Pay Requests, Release of Funds, Notices of Award, and Monthly and Quarterly Reports, provides significant oversight before official onsite and desk monitoring occurs.

ODOC will require on-site monitoring when subrecipients have expended 50% of funds. ODOC will ensure that subrecipients are on track to achieve milestones and adhere to all Federal guidelines. ODOC CDBG-DR Staff will fill out a monitoring checklist to check that subrecipients are following all Federal Guidelines for CDBG-DR funds.

Monitoring is accomplished in three ways, on-site monitoring, desk monitoring, and pre-monitoring. These are described in greater detail in ODOC's Monitoring and Closeout Policies.⁴

1.6.3.1 Contractor (Vendor) Monitoring

Contractors, as defined in 2 CFR 200.331, hired by ODOC, are subject to the requirements and conditions of the contract for goods and services. Contractors will be monitored before any contract renewal and at 50% expended. Monitoring will be conducted via email. More information on contractor monitoring can be found in ODOC's Monitoring and Closeout Policies.

1.6.4 Raising Awareness of Fraud, Waste, and Abuse in CDBG-DR Beneficiaries

Following a disaster, property owners and renters are frequently the targets of persons fraudulently posing as government employees, creditors, mortgage servicers, insurance adjusters, and contractors.

ODOC will make beneficiaries aware of the risks of contractor fraud and other potentially fraudulent activity that can occur in communities recovering from a disaster, by having a fraud, waste, and abuse section on the 2022 CDBG-DR website that includes the following language and documentation⁵:

- “Please note, accessing CDBG-DR assistance is completely free. Report anyone attempting to collect fees for disaster recovery assistance or any other fraud, waste, or abuse to DisasterRecovery@okcommerce.gov. The CDBG-DR program is a federal grant, and there is no fee or cost for municipalities or residents to apply.
 - El programa CDBG-DR (un programa de subvención federal) es gratuito para municipios y residentes. No hay ninguno costo para solicitar o recibir asistencia. Por favor, manda un correo electrónico a DisasterRecovery@okcommerce.gov para informarnos si alguien está cobrando dinero por el programa o si usted cree que se ha encontrado fraude, malversación o abuso.”
- After a disaster, scam artists, identity thieves, and other criminals often attempt to take advantage of disaster survivors: watch for and report any suspicious activity.”

⁴ 88 FR 32066

⁵ 88 FR 32067

- FEMA Disaster Fraud Resources - <https://www.fema.gov/about/offices/security/disaster-fraud>
- HUD OIG Hotline - <https://www.hudoig.gov/hotline>
- Avoiding Post-Disaster Scams and Fraud - <https://files.hudexchange.info/resources/documents/OHC-DR-Toolkit-Avoiding-Post-Disaster-Scams-and-Fraud.pdf>
- Oklahoma Attorney General Consumer Protection - <https://www.oag.ok.gov/consumer-protection>
- Oklahoma Attorney General Disaster Fraud Prevention - https://www.oag.ok.gov/sites/g/files/gmc766/f/documents/2023/2023_disaster_scam_prevention_packet.pdf

Information for beneficiaries, contractors, subrecipients, ODOC staff, and others on reporting fraudulent activity can be found in the “How to Report” section of this policy. This AFWA will be posted on the 2022 CDBG-DR website.

1.6.5 If A Beneficiary Is a Victim of Fraud

If a beneficiary experiences contractor or other fraud, ODOC and its subrecipients will help the individual report the fraud to the proper agencies. In addition, ODOC’s Internal Auditor will investigate the fraud as described in [Section 1.7 Reporting and Investigation](#).⁶

ODOC and its subrecipients will assist beneficiaries with remaining unmet need. If a beneficiary was the victim of contractor or other fraud, the additional or alternative need created by the fraud will be included in the calculation of unmet need for the beneficiary. Contractor fraud does not constitute a duplication of benefits.⁷

If a beneficiary is a victim of fraud after the award was calculated or provided, ODOC or its subrecipient will reassess the unmet need of the individual. ODOC and its subrecipients will:

1. Reassess the applicant’s unmet need
2. Identify the total assistance available
3. Identify the DOB amount and the total CDBG-DR Award; and
4. Reassess the applicant’s unmet need when necessary.

These steps will be followed in accordance with the process outlined for determining a CDBG-DR award in ODOC’s [Prevention of Duplication of Benefits](#) policy. The process will be documented according to the policy and will determine if the award amount should be increased. More information on recalculating a beneficiary’s unmet need can be found in ODOC’s [Prevention of Duplication of Benefits](#) Policy.

⁶ 88 FR 32067

⁷ 88 FR 32053

1.7 Reporting and Investigation

1.7.1 How to Report Fraud, Waste, or Abuse

Every citizen has an ethical responsibility to report any concern, either known or suspected, of acts of fraud, waste, abuse, or mismanagement relating to the CDBG-DR funds. Moreover, reporting these types of acts deter others from committing such illegalities and protect the integrity of the CDBG-DR Programs.

While reporting acts of fraud, waste, abuse, or mismanagement, the complainant may choose to remain anonymous or request that their contact information remain confidential. However, the complainant should be able to provide the following information, to the extent known, regarding the incident:

- Who was involved? (Name(s) and phone(s) number(s), if available)
- What happened? (Summary of events, additional sources of evidence; loss to the CDBG-DR Program)
- When did it happen? (Date or range of dates, time, and frequency)
- Where did it happen? (Location; city & state)
- Why? (Gain to the person who allegedly committed the fraud, waste, abuse, or mismanagement)
- How did it happen? (Narrative of complainant's description of incident or scheme)
Incomplete or vague information can result in the inability to investigate the allegations reported.

Although proof of improper activity is not required at the time the incident is reported, anyone reporting fraud, waste, abuse, or mismanagement must have reasonable grounds for doing so.

Any person, including any employee of the CDBG-DR Program, who suspects, witnesses, or discovered any fraud, waste, or abuse, relating to the CDBG-DR Program, should report it immediately by any of the means listed below. A citizen may disclose acts of fraud, waste, or abuse of CDBG-DR funds to any CDBG-DR Program staff (e.g., at intake centers, field/regional offices, events, etc.). ODOC is dedicated to addressing fraud in Oklahoma. If you think you might have encountered fraudulent behavior involving ODOC, please contact the Oklahoma Attorney General's Office.

The following table outlines the various agencies and methods for reporting potential fraud, waste, and abuse.

To ODOC Staff	
Email	DisasterRecovery@okcommerce.gov
Phone	(405) 343-3622

To ODOC's Internal Auditor	
Email	Jake Winkler - Jake.winkler@arledge.cpa
Phone	(405) 348-0615

Phone (Toll-Free)	877-348-0615
Additional Email Contact	LaDonna Sinning - ladonna.sinning@arledge.cpa
Additional Email Contact	Kency Duarte - kency.duarte@arledge.cpa

To the Oklahoma Attorney General	
Email	ConsumerProtection@oag.ok.gov
Phone (Toll-Free)	1-833-681-1895
Phone	405-521-2029

To the HUD OIG	
Email	hotline@hudoig.gov
Phone (Toll-Free)	1-800-347-3735

To the Oklahoma State Auditor (for government fraud only)	
Web Form (must be filled out and mailed or emailed)	https://www.sai.ok.gov/docs/Report%20Fraud%20in%20Government%20Form.pdf
Email	fraud@sai.ok.gov
Phone (Toll-Free)	1-855-372-8366

1.7.2 Investigation

Upon receiving the allegations by any of the reporting means stated previously, the Internal Auditor will have the primary duty of analyzing the complaint. ODOC's Internal Auditor will report to the Executive Director of ODOC or Chief Legal Counsel and notifies those supervisors of any active investigations. If the allegations have no grounds or are not supported by any documentation, the file must be closed. Such determination must be made in writing and included in the file, with the consent of the ODOC's Internal Auditor.

If the allegations are substantiated, ODOC's Internal Auditor will investigate the allegations and may seek advice from Human Resources or the Legal Division, if necessary. To the extent that any substantiated actions violate Federal, State, or local laws, Oklahoma officials shall evaluate pursuing appropriate criminal or civil penalties of the State of Oklahoma. The issue would be investigated immediately to avoid further damage. The Oklahoma State Auditor and Inspector have the authority to investigate any complaints or suspicions of fraud directly if that office determines such an investigation to be necessary.

All cases of fraud, waste, or abuse of government funds shall be forwarded by ODOC to the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG)

Fraud Hotline via phone 1-800-347-3735 or email hotline@hudoig.gov and ODOC's HUD Community Planning and Development (CPD) Representative.

1.7.3 Procedures to Detect and Prevent Fraud, Waste, or Abuse

Subrecipients must have adequate procedures to detect and prevent fraud, waste, and abuse. Therefore, subrecipients must submit to ODOC internal policies to prevent, detect, and respond to Fraud, Waste, and Abuse. The policies and procedures must indicate:

- How the subrecipient will verify the accuracy of information provided by applicants.
- Criteria to be used to evaluate the staff capacity and the capacity of subrecipients and contractors.
- Frequency with which the subrecipient will monitor other agencies, subrecipients, and contractors and which items will be monitored.
- A written standard of conduct and conflicts of interest policy that complies with 24 CFR 570.611 and 2 CFR 200.318, as applicable, and includes the process for promptly identifying and addressing such conflicts; and
- How the subrecipient assists in investigating and acting when fraud occurs within the subrecipient's CDBG-DR activities and/or programs.

1.7.4 Confidentiality

All allegations or complaints received by ODOC, ODOC's Internal Auditor, the Oklahoma State Auditor, and the State Attorney General's Office shall be treated with absolute confidentiality. The complainant may choose to remain anonymous and therefore does not have to provide their contact information (i.e., name, address, telephone, or email) to report the alleged or suspected act of FWA. The complainant's contact information must be kept confidential unless the complainant authorizes in writing otherwise.

Due diligence and review results will not be disclosed or discussed with anyone other than those who have a legitimate need to know. Confidentiality is important to avoid damaging the reputations of persons/entities suspected but subsequently found innocent of wrongful conduct.

1.8 Internal Audit Policy

As a requirement of the CDBG Disaster Recovery Program, an Internal Audit function is in place to provide programmatic and financial oversight of subrecipient and ODOC activities as well as implementing procedures to detect fraud, waste, and abuse.⁸ The Internal Audit function is independent of the Community Development Division and reports directly to the Oklahoma Department of Commerce Executive Director.

The fundamental purpose, nature, and scope of internal auditing is to be an independent, objective assurance and consulting activity designed to add value and improve the CDBG-DR program's operations and to serve as a trusted advisor to management.

The Internal Auditor will review a sufficient cross-section of Disaster Recovery operations while addressing certain risks. In evaluating risk, the following factors are considered:

⁸ 88 FR 32066, 32067

- Prior audit/monitoring findings from HUD and/or others
- Inherent riskiness of a subject matter
- Subrecipient Risk
- Recent major changes in operations, personnel, or operating results
- Input from senior management
- Observations made in preliminary internal audits to date
- General issues involved in Oklahoma State Agency fiscal operations
- Input & direction from the Oklahoma Department of Commerce Executive Director

Additional audits may be added based on emerging issues such as fraud tips. The Oklahoma Department of Commerce Executive Director, Secretary of Commerce and Workforce, and Division Director may also request audits of areas that they have concerns about. If significant changes to this plan are necessary, the Internal Auditor will obtain the approval of the Oklahoma Department of Commerce Executive Director for the revised plan. The Internal Auditor's progress relative to this plan will be reported to the Oklahoma Department of Commerce Executive Director continually until the program ends.

The Auditor's emphasis will be on reviewing the program division's responses to all HUD monitoring and management reviews, ensuring all responses have been implemented. Additional auditing shall be conducted as necessary as there are several program requirements identified as potential program risks, including duplication of benefits, program income, subrecipient monitoring, and fraud reporting.

1.8.1 Standard Operating Procedures for the Internal Auditor

- A. Evaluate the current Oklahoma Department of Commerce (ODOC/CD) procedures and significant control points for effectiveness, adequacy, and efficiency of operations for the CDBG DR processes utilized by ODOC/CD.
- B. Review of the ODOC/CD CDBG DR policies and procedures, and financial internal controls to identify the key risks.
- C. Review the ODOC/CD responses to the HUD monitoring reports received to ensure that all agreed-upon actions have been implemented.
- D. On an as-needed basis, other audits or reviews will be completed using an approved audit program. The results will be reported through a formal report along with any findings.
- E. The State of Oklahoma's HUD-approved Action Plan(s) is the predominant source document for the Manual, Policies, and SOPs, which are written with the intent to add clarity where needed and stipulate the processes necessary to successfully implement the Action Plan. Concurrent reference to the Action Plan, Manual, Policies, and SOPs should provide the contextual understanding necessary to accurately interpret and apply the information contained in these documents.
- F. The audit plans will be flexible enough to respond to emerging risks and organizational changes. The audit plans will be periodically visited throughout the year.

- G. Reports, findings, and comments will be thoroughly discussed with management to be sure of their understanding and a written draft of such will be provided to management to review and to encourage corrective action comments. Sufficient time will be given for management to respond; however, the reports must be issued promptly to be effective.

1.8.2 Internal Auditor Role

The role of the Internal Auditor for the CDBG Disaster Recovery Program will be to conduct internal monitoring/audits of the Community Development Division within the Oklahoma Department of Commerce. The Community Development Division administers the Community Development Block Grant Disaster Recovery (CDBG-DR) programs and activities as required by HUD guidelines. The scope of responsibility of the Internal Auditor encompasses all funds allocated by Community Development Block Grant Disaster Recovery (CDBG-DR) funds awarded under the Public Law per declared disaster appropriations and evaluate compliance related to the actions of personnel, contractors, vendors, subrecipients, and subrecipients while in pursuit of the objectives of the Disaster Recovery Program.

The internal auditor provides both programmatic and financial oversight of Subrecipient and ODOC activities. The internal auditor performs procedures necessary to determine the Program's compliance with applicable requirements and performs tests as considered necessary in these circumstances.

Specifically, the firm provides services in the following manner:

- The firm will apply auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States.
- Evaluate compliance related to the actions of personnel, contractors, vendors, grantees, and -subrecipients regarding policies, procedures, and applicable laws, regulations, and governance standards of the Program.
- Monitoring will be conducted every quarter and reports will be rendered quarterly unless conditions require more frequent reporting.

Procedures would include detecting fraud, waste, and abuse at ODOC as follows:

- Discuss with Programs Personnel to identify opportunities and risks for fraud, waste, and abuse.
- Inquire of Program personnel about their knowledge of any fraud, waste, and abuse.
- Follow up by changing further inquiry, scope, and test work as necessary.

In addition, the Internal Auditor will be responsible for the detection and prevention of fraud, waste, and abuse in the division and contractor-administered programs as well as the coordination of investigations of alleged fraud with division, state, and federal law enforcement agencies. This responsibility includes informing the Office of Inspector General for the U. S. Department of Housing and Urban Development if necessary.

The Internal Auditor generally adheres to Generally Accepted Government Auditing Standards (GAGAS). The Internal Auditor may conduct a Peer Review of this position. Such reviews are done after audit reports are issued and normally are done every 3-5 years.

The Internal Auditor will evaluate the current Oklahoma Department of Commerce (ODOC/CD) procedures and significant control points for effectiveness, adequacy, and efficiency of operations for the CDBG DR processes utilized by ODOC/CD. Included in this evaluation will be a review of ODOC/CD CDBG DR policies and procedures, financial internal controls, and identification of any key risks. The Internal Auditor will also review the ODOC/CD responses to the HUD monitoring reports received to ensure that all agreed-upon actions are implemented.

The Internal Auditor designs audit programs and conducts audits to determine if CDBG DR funds are being spent within the confines and parameters of the Disaster Recovery Program's Policies and Procedures and all relevant HUD guidelines.

The Internal Auditor audits, monitors, and issues reports and findings with the focused goal to detect and prevent waste, fraud, and abuse in all facets of the CDBG Disaster Recovery Program, including administrative, financial, and operational capacities, as well as ensuring that the funds are spent in compliance with appropriate HUD and applicable guidelines.

The Internal Auditor investigates any reports of waste, fraud, or abuse and follows them to their ultimate resolution, informing integral personnel as warranted. The Internal Auditor ensures that these cases will be posted publicly (e.g., Disaster Recovery website).

The Internal Auditor will acquire overall knowledge of the Program's processes, policies, risks, and controls to provide independent assurance that the Program complies in all relevant areas, including administrative, financial, and operational functional areas.

The Internal Auditor shall report significant findings and issue periodic (quarterly) audit reports to the Oklahoma Department of Commerce Executive Director. These reports will be posted to the Disaster Recovery website every quarter. The Internal Auditor shall remain independent of all external influence throughout his or her tenure with the Oklahoma Department of Commerce.

1.9 Conflicts of Interest

Conflicts of interest occur when officials, staff, or applicants stand to benefit, either directly themselves or indirectly through business partners or relatives, from the awarding or contracting of CDBG grant funds. ODOC has measures in place to build an organizational culture that is conscious of potential conflicts of interest, including mechanisms to promptly identify, disclose, and manage conflicts of interest as they arise to comply with applicable Federal and State rules and regulations.

CDBG program managers and project managers are responsible for ensuring conflict of interest rules are implemented and followed, including independent checks, or monitoring to ensure conflicts do not exist.

The CDBG requirements for conflict of interest are as follows:

Applicability. In the procurement of supplies, equipment, construction, and services by ODOC and its subrecipients, the following conflict of interest provisions apply.

Conflicts Prohibited: Except for the use of CDBG-DR funds to pay salaries and other related administrative or personnel costs, the general rule is that no persons covered (defined below) who exercise or have exercised any functions or responsibilities concerning CDBG-DR activities 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 assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds there under, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

Persons Covered: The conflicts of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the State, the unit of local government, or of any designated public agencies or subrecipients that are receiving CDBG-DR funds.⁹

1.9.1 ODOC's Employee Code of Ethics (excerpted from the Employee Handbook):

This section describes standards of conduct governing employees engaged in the award or administration of contracts.¹⁰

No associate shall have any interest, financial or otherwise, or engage in any business or transaction of any nature that conflicts with the proper discharge of their duties or with the public interest. Before engaging in any activity that might conflict with employment as a state employee, associates should first discuss it with their supervisor.

ODOC Purchasing staff are required to follow the conflict of interest standards outlined by 74 O.S. § 85.3.¹¹ which state that no purchasing personnel shall:

- Sell to or otherwise provide acquisitions to any state agency subject to the Oklahoma Central Purchasing Act;
- Be employees, partners, associates, officers, or stockholders in or with any business entity that sells to or otherwise provides acquisitions to any state agency subject to the Oklahoma Central Purchasing Act;
- Be employed in any of the positions authorized by this section if a spouse or child owns any stock in any business entity which sells to or otherwise provides acquisitions to any agency subject to the Oklahoma Central Purchasing Act;
- Be employed in any of the positions authorized by this section if a relative within the third degree of consanguinity or affinity sells to or otherwise provides acquisitions to any state agency subject to the Oklahoma Central Purchasing Act or is interested in any business entity which does so, except that such relative, excluding a spouse or child, may own Twenty-five Thousand Dollars (\$25,000.00) worth or less, or one percent (1%) or less, whichever amount is the lesser amount, of the stock of a corporation or any business entity which sells to or otherwise provides acquisitions to any state agency subject to the Oklahoma Central Purchasing Act; or
- Violate applicable rules of the Ethics Commission promulgated pursuant to Article XXIX of the Oklahoma Constitution that relate to accepting gifts from a vendor or a vendor's agent.¹²

⁹ 24 CFR Part 570.489 (g) and (h)

¹⁰ 24 CFR 570.489(g)

¹¹ <https://oklahoma.gov/omes/guides/purchasing-reference-guide/oklahoma-central-purchasing-act/74-os-85-3-purchasing-division-state-purchasing-d.html>

¹² 74 O.S. § 85.3.

1.9.2 Conflict of Interest Disclosure

ODOC requires the disclosure of potential conflicts of interest from CDBG-DR subrecipients, beneficiaries, and ODOC staff involved in CDBG-DR. Any party involved in awarding contracts of CDBG-DR funds with an actual, potential, or perceived conflict of interest must inform ODOC in writing as soon as possible. ODOC, its subrecipients, and beneficiaries must disclose in writing any potential conflict of interest to HUD or ODOC.¹³

ODOC must disclose, in a timely manner, in writing to HUD all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the CDBG-DR award. ODOC is required to report certain civil, criminal, or administrative proceedings to SAM. Failure to make required disclosures can result in any of the remedies described in [§ 200.339](#). (See also [2 CFR part 180](#), [31 U.S.C. 3321](#), and [41 U.S.C. 2313](#).)¹⁴

ODOC is required to report to SAM each proceeding that:

1. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
2. Reached its final disposition during the most recent five-year period; and
3. Is one of the following:
 - a. A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
 - b. A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
 - c. An administrative proceeding, as defined in paragraph 5. of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
 - d. Any other criminal, civil, or administrative proceeding if:
 - i. It could have led to an outcome described in the above section 3. A-C;
 - ii. It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
 - iii. The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.¹⁵

1.9.2.1 Subrecipient Requirements

ODOC requires disclosure of potential conflicts of interest from CDBG subrecipients. In addition, subrecipients are required to complete a Non-Collusion Affidavit to swear that they are not a party to any collusion for the contract for CDBG programs or in the awarding of CDBG funds.

¹³ 2 CFR 200.112

¹⁴ 2 CFR 200.113

¹⁵ Appendix XII to Part 200, Title 2

ODOC's subrecipients are subject to the "No-Conflict Covenant" in the contract for CDBG funds, which states:

The Subrecipient covenants that no officers or employees of any governing board of the Subrecipient have any interest, direct or indirect, and that none shall acquire any such interest during their tenure or for one year thereafter that would conflict with the full and complete execution of this contract. The Subrecipient further covenants that in the performance of this contract no person having any such interest will be employed. The Subrecipient covenants that no employee of ODOC has any interest, direct or indirect, nor has any employee of ODOC received anything of value in connection with this contract.

In addition, subrecipients are required to disclose all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the CDBG-DR award, or any situations that meet the conditions outlined in Section 1.9.2 Conflict of Interest Disclosure.

1.9.2.2 ODOC Policies

Similarly, ODOC staff are required to disclose potential conflicts of interest in writing. ODOC's procurement officer(s) involved in procurement activities related to CDBG activities are required to sign a Non-Collusion Affidavit to attest that:

- They are fully aware of the facts and circumstances surrounding the making of the bid to which this statement is attached and have been personally and directly involved in the proceedings leading to the submission of such bid; and
- Neither the bidder nor anyone subject to the bidder's direction or control has been a party:
 - to any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding,
 - to any collusion with any state official or employee as to quantity, quality, or price in the prospective contract, or as to any other terms of such prospective contract, nor
 - in any discussions between bidders and any state official concerning exchange of money or other thing of value for special consideration in the letting of a contract, nor
 - to any collusion with any state agency or political subdivision official or employee as to create a sole-source acquisition in contradiction to 74 O.S. § 85.45j.¹⁶
- If awarded the contract, whether competitively bid or not, neither the contractor nor anyone subject to the contractor's direction or control has paid, given, or donated or agreed to pay, give, or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in procuring this contract herein.

Parties procured by ODOC are subject to the "Conflict of Interest" policy as stated in their contract:

¹⁶ <https://oklahoma.gov/omes/legal/statutes/74/85-45j.html>

Conflict of Interest: The Contract hereunder is subject to the provisions of the Oklahoma Statutes. The Supplier certifies the name of any officer, director, or agency who is also an employee of the State of Oklahoma or any of its agencies has been disclosed. Further, the Supplier certifies the name of any state employee who owns, directly or indirectly, an interest of five percent (5%) or more in the Supplier's firm or any of its branches has been disclosed before the Contract.

All ODOC staff, including subrecipient and pass-through entity staff, are encouraged to disclose and self-report possible conflicts, raise suspected conflict of interest issues, or ask for guidance without fear of retaliation. All staff have multiple avenues to disclose or discuss a potential conflict of interest:

- Notify ODOC in writing using the Conflict of Interest Disclosure Form (attached)
- Report a potential conflict of interest or seek guidance by contacting ODOC's Internal Auditor via phone or email.
- Contact their manager, director, CDBG program manager, or CDBG project managers directly.

1.9.3 Conflict of Interest Non-Disclosure

If the CDBG program manager or project manager has reasonable cause to believe that any parties with an interest in CDBG activities have failed to disclose an actual or possible conflict of interest, the individual(s) will be informed and allowed to explain the failure to disclose. Parties with an interest in CDBG activities can include ODOC staff, subrecipient staff, pass-through entity staff, and procurement evaluators or advisors. CDBG program managers and project managers may conduct further investigations and take necessary disciplinary and/or corrective action.

1.9.4 Conflict of Interest Procedures

CDBG program managers and project managers track and monitor any potential conflicts of interest identified and will take swift and appropriate actions to document any conflict, including actions to address the conflict of interest. The following procedures describe the process for promptly identifying and addressing conflicts of interest.¹⁷

CDBG program managers and project managers will strive to investigate and resolve any potential conflicts of interest within 5 business days of disclosure or identification of a non-disclosure. Additional time may be required to adequately investigate and address a conflict of interest. Any potential conflicts of interest that are not resolved within 5 business days require a written statement from the party investigating the issue outlining the issues that contributed to a longer resolution timeline.

When a potential conflict of interest is identified, determinations of the existence of a conflict of interest will be decided by a forum of uninterested directors, officers, or key employees (uninterested parties). The forum of uninterested parties will review all information or documentation related to the potential conflict identified. Additional information or documentation may be requested from the disclosing individual(s) and/or associated

¹⁷ 88 FR 32066

individual(s). The disclosing individual(s) or associated individual(s) are prohibited from participating in or listening to the discussion of and voting on (1) the determinations of a conflict of interest, or (2) proposed actions to address any identified conflict of interest.

If a conflict of interest is determined to exist, one person from the forum of uninterested parties is designated to investigate alternatives and proposed actions to address the identified conflict. The remaining uninterested parties review the proposed actions and collectively determine the actions required to resolve the conflict. Documentation of conflict-of-interest disclosures or non-disclosures will include all the following:

- The disclosing/non-disclosing individual's name, position, phone number, and address
- Details of the nature of the conflict of interest (perceived, apparent, or actual)
- Date of notification/identification
- If applicable, the reason for non-disclosure
- Requested action to address the conflict of interest (recusal, exemption request, etc.).

Documentation of proceedings held by the forum of uninterested parties will include

- Names of the persons present for discussion and voting
- Reviews or investigations of alleged conflicts
- Assessment of the matter and how it was considered
- Action taken or resolution, including date of resolution
- Records of voting on conflict-of-interest determinations and actions for resolution
- If applicable, a written statement from the investigating party outlining the issues that prevented a conflict-of-interest resolution within 5 business days

1.9.5 Requesting an Exception from HUD

ODOC may request an exception from HUD for non-procurement conflicts of interest on a case-by-case basis. To request an exception, CDBG program managers and project managers will submit a written request for an exception to the local HUD CPD office. The request submitted will provide the following documentation for consideration by HUD:

- A public disclosure of the conflict (including how the disclosure was made); and
- An opinion from ODOC's attorney or designated attorney that the exception does not violate State or local law. ODOC will only proceed with activities after receiving approval in writing from HUD.

1.10 Attachments

Capacity Assessment

Risk Assessment

Conflict of Interest Disclosure Form

2 Record of Changes

Number	Date	Description
1	04/01/2024	Updated Conflict of Interest Disclosure Form Updated regulatory language on conflict of interests Updated role of Internal Auditor to include ODOC oversight