

CONFLICT OF INTEREST POLICY APPLICABLE TO CONTRACTS OF TOWN OF NAGS HEAD SUPPORTED BY FEDERAL FINANCIAL ASSISTANCE

I. Scope of Policy

- a. Purpose of Policy. This Conflict of Interest Policy ("*Policy*") establishes conflict of interest standards that (1) apply when the Town of Nags Head enters into a Contract (as defined in Section II hereof) (2) meet or exceed the requirements of North Carolina law and 2 C.F.R. § 200.318(c).
- b. Application of Policy. This Policy shall apply when the Town (1) enters into a Contract to be funded, in part or in whole, by Federal Financial Assistance to which 2 C.F.R. § 200.318(c) applies, or (2) makes any Subaward to be funded by Federal Financial Assistance to which 2 C.F.R. § 200.318(c) applies. If a federal statute, regulation, or the terms of a financial assistance agreement applicable to a particular form of Federal Financial Assistance conflicts with any provision of this Policy, such federal statute, regulation, or terms of the financial assistance agreement shall govern.

II. Definitions

Capitalized terms used in this Policy shall have the meanings ascribed thereto in this Section II: Any capitalized term used in this Policy but not defined in this Section II shall have the meaning set forth in 2 C.F.R. § 200.1.

- a. "*COI Point of Contact*" means the individual identified in Section III(a) of this Policy.
- b. "*Contract*" means, for the purpose of Federal Financial Assistance, a legal instrument by which the Town purchases property or services needed to carry out a program or project under a Federal award.
- c. "*Contractor*" means an entity or individual that receives a Contract.
- d. "*Covered Individual*" means a Public Officer, employee, or agent of the Town.¹
- e. "*Direct Benefit*" means, with respect to a Public Officer or employee of the Town, or the spouse of any such Public Officer or employee, (i) having a ten percent (10%) ownership interest or other interest in a Contract or Subaward; (ii) deriving any income or commission directly from a Contract or Subaward; or (iii) acquiring property under a Contract or Subaward.
- f. "*Federal Financial Assistance*" means Federal financial assistance that the Town receives or administers in the form of grants, cooperative agreements, non-cash contributions or donations of property (including donated surplus property), direct appropriations, food commodities, and other Federal financial assistance (except that the term does not include loans, loan guarantees, interest subsidies, or insurance).
- g. "*Governing Board*" means the Board of Commissioners of the Town of Nags Head.
- h. "*Immediate Family Member*" means, with respect to any Covered Individual, (i) a spouse, and parents thereof, (ii) a child, and parent thereof, (iii) a parent, and spouse thereof, (iv) a sibling, and spouse thereof, (v) a grandparent and grandchild, and spouses thereof, (vi) domestic partners and parents thereof, including domestic partners of any individual in (ii) through (v) of this definition; and (vii) any individual related by blood or affinity whose close association with the Covered Individual is the equivalent of a family relationship.²
- i. "*Involved in Making or Administering*" means (i) with respect to a Public Official or employee, (a) overseeing the performance of a Contract or Subaward or having authority to make decisions regarding a Contract or Subaward or to interpret a Contract or Subaward, or (b) participating

in the development of specifications or terms or in the preparation or award of a Contract or Subaward, (ii) only with respect to a Public Official, being a member of a board, commission, or other body of which the Public Official is a member, taking action on the Contract or Subaward, whether or not the Public Official actually participates in that action.

- j. "*Pass-Through Entity*" means a non-Federal entity that provides a Subaward to a Subrecipient to carry out part of a Federal program.
- k. "*Public Officer*" means an individual who is elected or appointed to serve or represent the Town (including, without limitation, any member of the Governing Board), other than an employee or independent contractor of the Town.
- l. "*Recipient*" means an entity, usually but not limited to a non-Federal entity, that receives a Federal award directly from a Federal awarding agency. The term does not include Subrecipients or individuals that are beneficiaries of the award.
- m. "*Related Party*" means (i) an Immediate Family Member of a Covered Individual, (ii) a partner of a Covered Individual, or (iii) a current or potential employer (other than the Town of Nags Head) of a Covered Individual, of a partner of a Covered Individual, or of an Immediate Family Member of a Covered Individual.
- n. "*Subaward*" means an award provided by a Pass-Through Entity to carry out part of a Federal award received by the Pass-Through Entity. It does not include payments to a contractor or payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
- o. "*Subcontract*" means mean any agreement entered into by a Subcontractor to furnish supplies or services for the performance of a Contract or a Subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.
- p. "*Subcontractor*" means an entity that receives a Subcontract.
- q. "*Subrecipient*" means an entity, usually but not limited to a non-Federal entity, that receives a subaward from a Pass-Through Entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.
- r. "*Town*" has the meaning specified in Section I hereof.

III. COI Point of Contact.

- a. Appointment of COI Point of Contact. The Deputy Town Manager, an employee of the Town of Nags Head, shall have primary responsibility for managing the disclosure and resolution of potential or actual conflicts of interest arising under this Policy. In the event that the Deputy Town Manager is unable to serve in such capacity, the Town Manager shall assume responsibility for managing the disclosure and resolution of conflicts of interest arising under this Policy. The individual with responsibility for managing the disclosure and resolution of potential or actual conflicts of interest under this Section III(a) shall be known as the "*COI Point of Contact.*"

IV. Conflict of Interest Standards in Contracts and Subawards

- a. Town of Nags Head Supplemental Procurement Policies for Federal Projects or Federal Financial Assistance. The Town of Nags Head maintains written standards of conduct covering conflicts of interest. In addition to the prohibition against self-benefiting from a public contract under G.S. 14-234, no officer, employee, or agent of the Town of Nags Head may participate directly or indirectly in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of these parties, has a financial or other interest in or a tangible personal benefit from a firm considered for award. 2 C.F.R. § 200.318(c)(1).
- b. North Carolina Law. North Carolina law restricts the behavior of Public Officials and employees of the Town involved in contracting on behalf of the Town. The Town shall conduct the selection, award, and administration of Contracts and Subawards in accordance with the prohibitions imposed by the North Carolina General Statutes G.S. § 14-234.

c. Federal Standards.

i. Prohibited Conflicts of Interest in Contracting. Without limiting any specific prohibition set forth in Sections IV(a-b), a Covered Individual may not participate in the selection, award, or administration of a Contract or Subaward if such Covered Individual has a real or apparent conflict of interest.

1. Real Conflict of Interest. A real conflict of interest shall exist when the Covered Individual or any Related Party has a financial or other interest in or a tangible personal benefit from a firm considered for a Contract or Subaward.

2. Apparent Conflict of Interest. An apparent conflict of interest shall exist where a real conflict of interest may not exist under Section IV(c)(i)(1), but where a reasonable person with knowledge of the relevant facts would find that an existing situation or relationship creates the appearance that a Covered Individual or any Related Party has a financial or other interest in or a tangible personal benefit from a firm considered for a Contract or Subaward.

ii. Identification and Management of Conflicts of Interest.

1. Duty to Disclose and Disclosure Forms.

a. Any officer, employee, or agent with an actual, apparent, or potential conflict of interest as defined in this policy shall report the conflict to his or her immediate supervisor. Any such conflict shall be disclosed in writing to the federal award agency or pass-through entity in accordance with applicable Federal awarding agency policy.
2 C.F.R. § 200.112.

2. Identification After Award of Contract or Subaward.

a. If the COI Point of Contact discovers that a real or apparent conflict of interest has arisen after the Town has entered into a Contract or Subaward, the COI Point of Contact shall, as soon as possible, disclose such finding to the Town Manager and to each member of the Governing Board. Upon discovery of such a real or apparent conflict of interest, the Town shall cease all payments under the relevant Contract or Subaward until the conflict of interest has been resolved.

V. Gift Standards

a. Federal Standard. Subject to the exceptions set forth in Section V(b), a Covered Individual may not solicit or accept gratuities, favors, or anything of monetary value from a Contractor or a Subcontractor.

b. Exception. Notwithstanding Section V(a), a Covered Individual may accept an unsolicited gift from a Contractor or Subcontractor in which the financial interest is de minimus, not substantial, or the gift is an unsolicited item of nominal value. 2 C.F.R. § 200.318(c)(1).

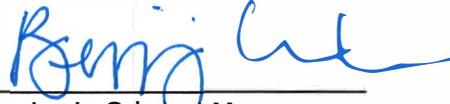
VI. Violations of Policy

a. Disciplinary Actions for Covered Individuals. Violations of the Town's written standards of conduct by officers, employees, or agents of the Town may result in dismissal for the Town employee or termination of a contract for a professional service provider and/or contractor 2 C.F.R. § 200.318(c)(1).

b. Protections for Whistleblowers. In accordance with 41 U.S.C. § 4712, the Town shall not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant: (i) a member of Congress or a representative of a committee of Congress; (ii) an Inspector General; (iii) the Government Accountability Office; (iv) a Treasury or other federal agency employee

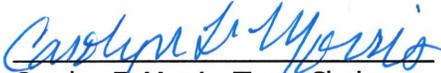
responsible for grant oversight or management; (v) an authorized official of the Department of Justice or other law enforcement agency; (vi) a court or grand jury; of (vii) a management official or other employee of the Town, a Contractor, or Subcontractor who has the responsibility to investigate, discover, or address misconduct.

Adopted this the 23rd day of January 2025.



Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:


Carolyn F. Morris, Town Clerk