

Short Question: The Mayor holds a minority interest in 3 Anchorage restaurants (held and operated by business entities – LLCs) which are eligible to apply for hospitality industry municipal grants from the State Cares Act Funding . This is a request for review pursuant to *AMC 1.15.100B.2*. which provides that a public service may not acquire, receive, apply for, be a party to have a personal or financial interest in a municipal grant, “unless”:

- a. The public servant does not take official action that could directly affect the request for services, nor the award, execution, or administration of the grant, contract, or lease.
- b. If this requirement is not met, the public servant may request additional review by the board of ethics.

The Municipality received in excess of 150 million dollars from the State in Cares Act funding. After much public process, the administration brought before the Assembly various proposals for allocation of the funds. The Administration proposal was amended by the Assembly to allocate approximately 7.1 million dollars to the Tourism and Hospitality Industries. The Administration did not oppose the amendment.

Businesses may apply for grants based on eligibility criteria and the program is administered by a third party, usually a non-profit or a financial institution. In this case, Alaska CHARRS may be the grant administrator. The grant amounts include \$30,000 to bars that were mandated to be closed by EO 15 – the restaurants in which the Mayor holds an interest are not eligible for this grant amount. The next grant amount is \$15,000 for restaurants/bars which were closed, but could continue to provide takeout, delivery, or outside dining. It is anticipated that the restaurants in which the Mayor holds an interest will be eligible for this grant amount.

The Mayor interests in the restaurants are 6%, 4.3% (including Wife’s interest) and 10.4%.

Additional information: below is an e-mail from a group of state wide municipal attorneys facing a similar issue:

From: alaskamaa@googlegroups.com <alaskamaa@googlegroups.com> **On Behalf Of** Nicholas Spiropoulos
Sent: Monday, July 20, 2020 1:11 PM
To: alaskamaa@googlegroups.com
Subject: [AMAA] FW: Article 14 Guidance - Conflict of Interest Provision

Looks like the State is updating their guidance about municipal official participation in the grant programs.

Thank you for calling to request guidance on the CARES Act Community Distribution relating to Article 14 of the grant documents and the potential conflict of interest of local officials. The Department of Commerce, Community, and Economic Development has consulted with the Dept. of Law on the proper interpretation of Section 14 of the grant agreement. As a result, the Division of Community and Regional Affairs (DCRA) has updated the “*Coronavirus Relief Funds DCRA Grant Guidance for Local Governments*” document with the following guidance:

“Does the Article 14 Conflict of Interest Provision (Attachment C – Standard Provisions) apply to funds generally available to the public and subject to fixed eligibility standards?”

No. Article 14 of the grant agreement precludes officers, employees, etc... of the grantee from having a direct/indirect personal or pecuniary gain or interest in any *contract, subcontract, or the proceeds thereof for work to be performed in connection with the “project” funded by the grant.* This provision is designed to prevent an officer or employee of the grantee from awarding a contract or subcontract and then receiving a direct/indirect benefit from the award of the contract/subcontract. For example, if a local government was going to use grant funds to construct temporary medical facilities, and the Mayor owned a construction company, grant funds could not be used to compensate the Mayor’s construction company for construction of the temporary medical facilities. **This provision does not preclude officers, employees, etc... of the grantee from participating in programs implemented by the local government, generally available to the public, and subject to fixed eligibility standards.”**

The DCRA guidance document will be updated on the DCRA website today; here is a link to the website if you would like to view the complete document:

<https://www.commerce.alaska.gov/web/dcra/LocalGovernmentResourceDesk/COVID19.aspx>; please select US Treasury Coronavirus Relief Fund FAQ to view the complete guidance document.

This guidance is specific to Article 14 of the grant agreement; local governments may have adopted ethics standards that would require disclosure or other action.

If you have additional questions, or if DCCED may be of further assistance to the MatSu Borough, please do not hesitate to contact me.

Respectfully,

Amy Demboski

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and Economic Development
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