

SECTION I. PROJECT START-UP

OVERVIEW

This section of the Guidebook outlines the eight procedural steps which typically precede actual initiation of CDBG project activities. The eight initial steps are:

- STEP 1: RECEIPT OF THE AWARD LETTER.**
- STEP 2: NEGOTIATION AND EXECUTION OF THE CONTRACT.**
- STEP 3: PREPARATION OF THE ENVIRONMENTAL REVIEW RECORD.**
- STEP 4: SELECTION OF A LOCAL MANAGEMENT STRUCTURE.**
- STEP 5: IDENTIFICATION OF LOCAL REQUIREMENTS THAT MAY AFFECT PROJECT IMPLEMENTATION.**
- STEP 6: ADDRESSING SPECIAL FEDERAL AND STATE REQUIREMENTS.**
- STEP 7: ESTABLISHING A RECORDKEEPING SYSTEM.**
- STEP 8: STATE CDBG MONITORING.**

These steps are considered to be typical. All eight steps, however, are not necessarily present in all projects. Also, **THE STEPS ARE NOT INTENDED TO BE STRICTLY SEQUENTIAL OR SEPARATE.** In some cases the order of the steps may be altered, and in many cases a number of the steps can be undertaken concurrently.

STEP 1: RECEIPT OF THE AWARD LETTER

A letter announcing the award is sent to each successful CDBG program applicant. This letter specifies the amount of the award, the activity or activities for which the award is being made, and any special conditions or requirements placed on the award. It also identifies the state staff person whom the grantee should contact in order to initiate contracting procedures. For OED projects the contract is generally sent with the award letter. **Finally, and perhaps most importantly, the award letter cautions the grantee that it CANNOT begin to incur either administrative or program costs associated with the project until:**

- A. A contract between the State and the locality is fully and properly executed. The State **CANNOT REIMBURSE THE GRANTEE FOR EXPENSES INCURRED PRIOR TO THE EFFECTIVE DATE OF A CONTRACT.** (The effective date of the contract appears on the first line of page one of the contract.) Included in costs that **CANNOT** be reimbursed are: expenditures associated with preparation of the application, including expenditures for architectural, engineering and other professional work performed prior to the effective date of the contract; and costs associated with preparation of the Environmental Review Record which are incurred prior to the effective date of the contract.
- B. **THE GRANTEE HAS COMPLETED AN ENVIRONMENTAL REVIEW AND FUNDS HAVE BEEN RELEASED BY THE STATE AS APPLICABLE.**

STEP 2: NEGOTIATION AND EXECUTION OF THE CONTRACT

Following the receipt of the award letter, the grantee should contact the state staff project monitor identified in the award letter to initiate contracting procedures. The contract is a written agreement entered into by the State and the local grantee which specifies the responsibilities, authority and benefits of both parties and of subcontractors of the grantee.

Based on the grantee's application and subsequent negotiations and discussions with the grantee, the state project monitor prepares the final draft contract for signature by all parties. The state staff then transmits three copies of the contract to the grantee for review and signature. It is recommended that local officials have the municipal/county attorney review the document for accuracy and to ensure that it

is consistent with local power and authorities. Any discrepancies or issues should be raised with the state project monitor assigned to the project.

Following local review and acceptance of the contract, the chief elected official or his/her authorized designee must **SIGN ALL THREE COPIES OF THE CONTRACT, HAVE THE SIGNATURE ATTESTED AND RETURN ALL THREE COPIES TO THE STATE.** The state will then execute the contract and specify the effective date (on the last page of the main body of the contract.) A fully executed copy of the contract will then be returned to the grantee.

Once the contract is fully executed by all parties and an environmental review has been completed, the grantee can begin to incur costs **SUBJECT TO:**

LIMITATIONS AND RESTRICTIONS RESULTING FROM FEDERAL ENVIRONMENTAL REVIEW REQUIREMENTS; and

ANY SPECIAL CONDITIONS (which are identified in the award letter and/or contract).

This procedural step is not always applicable, however, special conditions are occasionally imposed by state staff. Any special conditions that may have been established are usually identified in both the award letter and contract. An example of such a special condition may be a requirement that certain other financial commitments be finalized within certain time frames. If these special conditions are not met, then the State may withdraw its award.

STEP 3: PREPARATION OF THE ENVIRONMENTAL REVIEW RECORD

This step is discussed in detail in **SECTION IV, ENVIRONMENTAL REVIEW**, of this Guidebook.

STEP 4: SELECTION OF A LOCAL MANAGEMENT STRUCTURE

Local management of CDBG projects generally takes one of three forms. In some cases the local governing body designates a new or existing public agency and/or public employee to manage the CDBG program. In other instances the locality will contract with a private individual or entity to manage the activities. In still other cases the local government may choose to carry out program activities using both their own public agencies/employees and contractors.

Management by Public Agencies/Employees

When using existing staff or hiring additional public employees, the responsibilities of local officials include ensuring that hiring and employment are consistent with Equal Employment Opportunity requirements of Section 109 of the Housing and Community Development Act of 1974, as amended for all projects, **and** Section 3 of the Housing and Community Development Act, as amended for projects containing construction, conversion or rehabilitation of housing or other public construction in which the total project costs exceed \$200,000 (see below for more information.) See **SECTION V, CIVIL RIGHTS** for more detailed information. Other responsibilities of local officials include complying with various other applicable laws and accurately documenting all costs relating to the project.

Documentation of Equal Employment Opportunity -- Generally, when using existing staff or hiring additional staff on the local payroll, the local governing body should ensure that:

The locality has written personnel and employment policies that specifically prohibit discriminatory practices based on race, national origin, religion, sex, age, or handicaps;

"Equal Employment Opportunity" is specified in advertisements for new employees;

Sufficient records are maintained related to persons interviewed and hired with specific data on race, color, national origin, sex, age, and handicaps; and

Sufficient records are maintained related to training for, promotion of, or compensation to any individual paid with CDBG administrative funds.

Documentation of Section 3 Employees and Contracts - For projects containing the activities of **construction, reconstruction, conversion or rehabilitation of housing, or other public construction which includes buildings or improvements assisted with housing or community development**

assistance and in which total project costs exceed \$200,000, the local governing body needs to report annually on any new hires or contracts in excess of \$100,000 which occur as a result of the project.

For more information regarding grantee and subgrantee responsibilities pertaining to training and employment under the new federal regulations known as "Section 3", **please refer to SECTION V., CIVIL RIGHTS** of this guidebook.

Documentation of Administrative Costs -- When using local employees for CDBG project management, the key is to document **ALL** expenditures of **TIME AND DOLLARS** associated with the administrative activities.

Samples of documentation include:

Employees' time and attendance sheets which indicate the amounts of time allocated for administration of the project;
Documentation of all other direct expenses (e.g., printing, telephones and advertising); and
Evidence of an approved cost allocation plan for claiming indirect costs, if applicable.
See SECTION II: FINANCIAL MANAGEMENT for further guidance.

Management by Private Contractor

When opting to contract for private professional services for project management, the local government is required to follow certain procedures to ensure compliance with applicable standards for procurement of services specified in the Administrative Requirements for the CDBG program. (A copy of the Administrative Requirements is included in **SECTION II: FINANCIAL MANAGEMENT** of this Guidebook.) **The primary local responsibility is to ensure that there is open and fair competition among potential service providers.**

Using a procedure known as "Competitive Negotiation" or "Requests for Proposals" (RFP), the grantee prepares an invitation for contractors to submit competitive proposals to provide the desired services. The RFP contains information describing the scope of desired services, the type of payment (e.g., cost reimbursement or fixed price), information that the locality needs from each bidder to make the selection, and the method by which proposals will be evaluated. A sample RFP is available from state staff upon request.

Upon selecting the successful candidate, the locality executes a contract that sets forth the specific activities to be performed by the contractor, the amount of compensation the locality will provide the contractor, and other terms and conditions of the contract. (A sample contract for professional services is available from state staff upon request.)

OED REVOLVING LOAN FUNDS ONLY

A grantee is not required to follow procurement procedures when contracting with a non-profit corporation (sub-grantee) to administer revolving loan funds for the grantee.

HOUSING PROJECTS ONLY

Program Design

Of all CDBG supported activities, housing projects (particularly housing rehabilitation and/or alternative relocation) place the greatest administrative burden on the local grantee. This is a result of the number of ultimate applicants and beneficiaries and the specific characteristics of each case. Additionally, the local CDBG administering agency remains constantly involved in the process, from the determination of eligibility requirements, to selection of recipients, to the final inspection of rehabilitation work performed by contractors.

HOUSING PROJECTS ONLY Program Design (Cont.)

For Division of Housing Revolving Loan Fund (RLF) Policies, **SEE SECTION I – EXHIBIT C.**

THE EXTENT OF ADMINISTRATIVE INVOLVEMENT IN A HOUSING REHABILITATION AND/OR ALTERNATIVE RELOCATION PROGRAM CAN LEAVE THE ADMINISTRATIVE UNIT OPEN TO CRITICISM OR QUESTIONING from recipients, non-recipients, and contractors performing the work. **It is important, therefore, to establish and publish the procedures by which the local program will be conducted.**

Before proceeding, please read the Civil Rights section of this guidebook. These laws apply to every phase of your program from hiring staff through awarding funds and selecting contractors. Discrimination of any kind under any circumstances is not permitted, and affirmative actions in minority contracting and fair housing are mandated.

Whether doing rehabilitation grants and loans, acquisition and relocation, or code enforcement, the grantee must establish written local program guidelines. **The rehabilitation program design and guidelines must be approved by the local governing body.** The local program guidelines should contain, at the least, the following elements:

- **Program Purpose.** A general statement outlining the reasons why the locality has elected to establish a rehabilitation program.
- **Designated Authority.** Establishes the public agency or third party contractor who will be responsible for administering the local program and outlines the administrator's responsibilities.
- **Recipient Eligibility Requirements.** Establishes a threshold for participation in the program including income limits and geographic boundaries if the program is targeted to specific areas.
- **Allowable Rehabilitation Expenses.** Outlines the range of housing repairs and/or improvements for which CDBG funds may be used. The range or allowable expenses may be written directly into the guidelines or may be referenced.
- **Property Rehabilitation Standards.** States the minimum standards that must be achieved as a result of any CDBG assisted rehabilitation effort. Generally, these are established by local building codes or HUD's Section 8 Housing Quality Standards and Cost Effective Energy Conservation and Effectiveness Standards. **FOR SINGLE FAMILY HOUSING REHABILITATION, HUD'S SECTION 8 HOUSING QUALITY STANDARDS WILL BE REQUIRED, AS A MINIMUM REHABILITATION STANDARD.**
- **Maximum Assistance Amounts.** Establishes the maximum amount a single household may receive and describes other rehabilitation dollars that may be leveraged with CDBG funds.
- **Assistance Options.** Describes the range of assistance that can be provided with CDBG dollars including grants, loans, loan guarantees, or interest subsidies.
- **Recipient Application Procedures.** Outlines the length of time and the process by which the local agency will receive applications for assistance.
- **Selection of Beneficiaries.** Outlines the criteria by which the applicants will be selected. There are two major methods of selecting recipients: 1) first come, first served (This is the easiest method, but it is not the most effective way of allocating scarce funds.); or, 2) a priority rating system. Generally, rating systems give priority to the most needy applicant based upon the lowest incomes and with the most serious housing deficiencies. For example, the eligibility and selection determination may be based on the following factors:

**HOUSING PROJECTS ONLY
Program Design (Cont.)**

- The extent to which the applicant is below the established income limits;
- The condition of the structure, i.e., extent and urgency to which the grant or loan would be used to eliminate unsafe and unsanitary and overcrowded conditions; and
- Restriction of housing choice, i.e., households with members who are handicapped or disabled, elderly, the single head of household with dependent children and households with four or more dependent children.

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- **Recipient Eligibility Requirements.** Establishes a threshold for participation in the program including income limits and geographic boundaries if the program is targeted to specific areas.
- **Grievance/Complaint Procedures.** Outlines the process by which the local agency will review complaints submitted by recipients, non recipients, and/or contractors.
- **Security Requirements.** Presents options by which the local agency secures the CDBG assistance if it is provided as a direct loan, loan guarantee or as a grant.
- **Use of Contractors.** Provides options (e.g., selecting a general contractor, homeowner as general contractor, or self help) and guidelines for bidding, contract qualifications, the contract document, and method of payment.
- **Inspection Procedures.** Establishes the local agency's responsibility for periodic progress inspections and a final inspection.
- **Other Program Considerations.** Includes procedures for amending or waiving the guidelines (e.g., authority to make emergency grants where there is an immediate danger to the health and safety of an occupant), and instances that represent a conflict of interest related either to assistance recipients or the awarding of rehabilitation contracts.

The primary reasons for the program design are for your own protection, and also to enable you to administer your program in a fair and consistent manner, making sure to address the most serious problems. The second reason is that if we don't know what your rules are, we can't evaluate your program adequately. Exhibits at the end of this Section contain examples of a housing rehabilitation assistance program design, an alternative relocation resolution and an alternative relocation policy model. The object is to adopt guidelines that fit your needs.

STEP 5: IDENTIFICATION OF LOCAL REQUIREMENTS THAT MAY AFFECT PROJECT IMPLEMENTATION

Beyond the State and Federal program requirements outlined in this Guidebook, each grantee may also be subject to local resolutions, laws and rules specific to that jurisdiction. Prior to the implementation of

actual project activities, the locality should review each project element to determine if any local zoning, land use, or other requirements may apply.

STEP 6: ADDRESSING SPECIAL FEDERAL AND STATE REQUIREMENTS

The grantee certified at the time of project application that they will have an excessive force policy in effect that prohibits the use of excessive force in non-violent civil rights demonstrations. Please refer to **EXHIBIT I-B** for a sample resolution that addresses this issue.

Intergovernmental Agreement for Multi-Jurisdictional Projects

If two or more municipalities and/or counties are proposing to carry out a "multi-jurisdictional" project, it is required that one of the participating municipalities or counties be authorized by the other participating municipalities and counties to act in a representative capacity for all of the participants. This designated entity must assume overall responsibility for ensuring that the entire project is carried out in accordance with all program requirements. This overall responsibility and any related individual responsibilities must be specified in a legally binding cooperation agreement between the designated entity and all other directly participating municipalities and counties. (A model for such an intergovernmental agreement is available from the state staff upon request.)

Each participating jurisdiction, to meet the requirements of Section 106(d)(5)(A-D) of the Act, must comply with: Displacement, Fair Housing, Citizen Participation, Civil Rights and Section 504 (described in the Civil Rights Section of this manual) and regulations pertaining to special assessments.

OED REVOLVING LOAN FUNDS ONLY

Subgrantee Agreements

For economic development projects, responsibility of program operations can be assigned to a non-profit organization through a locally negotiated agreement; however, the grantee is ultimately responsible for compliance and is liable for the non-performance of sub-grantees. The agreement must explicitly define and delegate responsibilities. The grantee's contract with OED should be attached or incorporated by reference in the agreement so that all parties are aware of provisions and applicable regulations.

The items to be covered in the agreement, at a minimum, are:

1. The method for the submission of payment requests and disbursement of grant revenues received;
2. The name of the responsible administrator. It is advisable that this person be someone other than the staff person(s) who will directly administer the program to ensure adequate checks and balances;
3. The name of the Certifying Officer for environmental review;
4. Which entity is to receive program income and funds returned by the businesses after the expiration of the grant contract;
5. How the audit will be conducted and what funds will pay the cost of the audit;
6. What type of notice and opportunity for comment will be given to the local governments other than the grantee where an assisted business is located;
7. Which entity will be responsible for affirmatively furthering fair housing;
8. The services to be provided by each entity including accounting, preparation of quarterly reports, preparation and execution of updated disclosure forms, office space, supplies, clerical support; and
9. For multi-jurisdictional projects, explanation of the relationship between the sub-grantee and participating governments.

Additionally, the non-profit corporation's Articles of Incorporation, along with its resolution authorizing specific individuals to take specific actions on behalf of the non-profit corporation must be available for review. The subgrantee agreement should be amended/revised as necessary and as applicable state contract terms change

Local Determinations
(does not typically apply to RLF's)

Additionally, Federal CDBG law and regulations require certain local determinations in the case of certain activities as a condition for eligibility of such activities. Specifically, cases in which local determinations are required **AND MUST BE DOCUMENTED** include:

- **PREPARATION OF APPLICATIONS FOR OTHER FEDERAL PROGRAMS.** This activity is eligible if the grantee "determines that such activities are **NECESSARY OR APPROPRIATE** to achieve its community development objectives."
- **RELOCATION PAYMENTS AND ASSISTANCE NOT REQUIRED BY OR ABOVE THOSE REQUIRED BY THE UNIFORM ACT** (unless such payments or assistance are made pursuant to State or local law). Such activities are eligible "only upon the basis of a written determination that such payments are **APPROPRIATE.**"
- **LOANS FOR REFINANCING EXISTING INDEBTEDNESS SECURED BY A PROPERTY REHABILITATED WITH CDBG FUNDS.** Such loans are eligible "if such financing is **NECESSARY OR APPROPRIATE** to achieve the (grantee's) community development objectives."
- **INTERIM REPAIR OF PUBLIC FACILITIES AND PROVISION OF SPECIAL PUBLIC SERVICES.** Such activities may be undertaken on an interim basis in areas exhibiting objectively determinable signs of physical deterioration where "the grantee has determined that **IMMEDIATE ACTION IS NECESSARY** to arrest deterioration **AND** that **PERMANENT IMPROVEMENTS WILL BE CARRIED OUT AS SOON AS IS PRACTICABLE.**"
- **ACTIVITIES CARRIED OUT BY SUBRECIPIENTS WHEN SUCH ACTIVITIES ARE NOT OTHERWISE ELIGIBLE ACTIVITIES.** An example is construction of new housing which is generally an ineligible activity. Such activities are eligible when the grantee "determines that such activities are **NECESSARY OR APPROPRIATE** to achieve its community development objectives."

The grantee's documentation regarding the determination should include the basis for the determination.

STEP 7: ESTABLISHING A RECORD KEEPING SYSTEM

The State has established uniform record keeping requirements for local governments receiving funds under the State CDBG program (24 CFR Part 570). For each of the following major compliance areas, the state has identified specific records that local CDBG grantees must maintain:

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| A. National Objectives and Eligible Activities | E. Civil Rights |
| B. Certifications | F. Labor Standards, Housing Rehab or Economic Dev. |
| C. Financial Management and Reporting | G. Acquisition and Replacement |
| D. Environment | H. Relocation |

The list of required records for A. and B. are contained in **EXHIBIT I-A**. The lists of required records for each of the other compliance areas are contained in the exhibits for each of those respective sections of this Guidebook.

HOUSING PROJECTS ONLY

At project closeout, you will be required to provide information about each applicant, whether or not they were approved to receive benefits. A file must be kept on all program applicants, whether they are eligible or ineligible. The information that needs to be tracked on each applicant includes:

Race: # of persons in household who are White, Black, Hispanic, Asian/Pacific Islander, or Indian (American Indian/Alaskan Native)

FHH: Female Head of Household

Disabled: # of persons in household who are disabled, or in the case of economic development, is the applicant disabled

For ineligible clients, a single file containing the above required information will be sufficient. Individual client files must be maintained for eligible applicants and will be accounted for in the **Project Completion Report. (See EXHIBIT IX-B).**

STEP 8: STATE CDBG MONITORING

The checklists that state staff will use for monitoring compliance with national objectives, eligibility, and start-up/certification requirements are contained in **SECTION X - State CDBG Monitoring.**