CDBG Public Facilities

PROGRAM POLICIES AND PROCEDURES MANUAL

Community Reinvestment
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Contents

PART 1 – Introduction

Columbus Consolidated Government receives Community Development Block Grant (CDBG) funds from the U.S. Department of Housing and Urban Development (HUD) to undertake community improvements, in furtherance of the objectives of the Housing and Community Development Act of 1974, as amended.

This competitive program aims to develop viable urban communities by providing decent housing and a suitable living environment, and by expanding economic opportunities, principally for low income persons.

As a CDBG subrecipient, there is a series of responsibilities of which organizations must be mindful. Throughout the year, there are reporting requirements which must be carried out in order to maintain compliance with the U.S. Department of Housing and Urban Development, the funding agency of CDBG, and with the Community Reinvestment Department, which administers the grant.

This Program Policies and Procedures Manual for the Community Development Block Program is intended for use by Columbus Consolidated Government subrecipients. The manual covers major operational aspects and procedures necessary for the implementation, and operation of individual CDBG funded projects. This manual is intended to be a resource to equip you to be successful and efficient in carrying out your CDBG-funded projects.

The Community Reinvestment Department provides technical assistance to funded agencies and organizations in such areas as housing and homeless program planning/implementation/management and grants application/management.

For more information on available technical assistance and/or request for on-site visits, contact Community Reinvestment, 420 10 Street, Columbus, GA 31909 Telephone: 706-225-4613; FAX 706-225-4513; or

via Email: mitchell.kimberly@columbusga.org.

PART 2 – Key Terminology and Common Acronyms

Key Terminology and Common Acronyms

● **Annual Action Plan**:The Consolidated Plan is carried out through Annual Action Plans, which provide a concise summary of the actions, activities, and the specific federal and non-federal resources that will be used each year to address the priority needs and specific goals identified by the Consolidated Plan. The current plan is hosted on the CCG Community Reinvestment website.

● **BABA:** The Build America Buy America Act of 2021 establishes a "Buy America" preference for certain covered materials used in CDBG projects. Covered materials under this Act include iron, steel, manufactured products and construction materials (e.g., metals other than iron, steel, plastic materials such as PVC pipe, glass, lumber, or drywall). The policy is effective for projects using iron and steel for all funds obligated on or after November 15, 2022. The policy will be effective for specifically listed construction materials as of the date HUD obligates new FFA from FY24 appropriations. The policy will be effective for all other construction materials and manufactured products as of the date HUD obligates new FFA from FY25 appropriations.

● **CAPER**: Consolidated Annual Performance and Evaluation Report. Grantees report on accomplishments and progress toward Consolidated Plan goals in the CAPER.

● **CDBG**: Community Development Block Grant Program, a federally funded, competitive grant program designed to help small cities and towns meet a broad range of community development needs.

● **CDBG Subcommittee**: The Town body that oversees evaluation of CDBG applications, recommends CDBG budgets, and monitors.

● **CFR**: Code of Federal Regulations, is the codification of the general and permanent regulations published in the Federal Register by the executive departments and agencies of the federal government of the United States. The CFR is divided into 50 titles that represent broad areas subject to federal regulation.

● **Consolidated Plan**: The Consolidated Plan is designed to help states and local jurisdictions to assess their affordable housing and community development needs and market conditions, and to make data-driven, place-based investment decisions. The consolidated planning process serves as the framework for a community-wide dialogue to identify housing and community development priorities that align and focus funding from the CPD formula block grant programs. The current plan is hosted on the Town of Arlington website.

● **CRD:** Community Reinvestment Department.

● **Grantee:** The pass-through entity that receives a CDBG grant and administers CDBG funding (The Columbus Consolidated Government is the grantee).

● **HUD**: The United States Department of Housing and Urban Development.

● **LMI**: Low- and moderate-income. A low- and moderate- (L/M) income person is defined as a member of a family having an income equal to or less than the Section 8 Housing Assistance Payments Program low-income limits established by HUD applicable to the size of the person's family. A family is defined as all persons living in the same household who are related by blood, marriage, or adoption. An individual living in a housing unit that contains no other person(s) related to him/her is considered to be a one person family for this purpose. Adult children who continue to live at home with their parent(s) are considered to be part of the family for this purpose and their income must be counted in determining the total family income. A dependent child who is living outside of the home (e.g., students living in a dormitory or other student housing) is considered for these purposes to be part of the family upon which he/she is dependent, even though he/she is living in another housing unit.

● **MBE:** Minority-owned Business Enterprise.

● **Microenterprise**: means a business having five or fewer employees, one or more of whom owns the business.

● **Presumed eligible:** Exclusively benefit a clientele who are generally presumed by HUD to be principally L/M income persons. The following groups are currently presumed by HUD to be made up principally of L/M income persons: abused children, elderly persons, battered spouses, homeless persons, adults meeting Bureau of Census' definition of severely disabled persons*, illiterate adults, persons living with AIDS, and migrant farm workers.

● **Quarterly Report:** Required documentation submitted by Subrecipients four times each program year, to detail the progress toward accomplishments as described in the Subrecipient Agreement.

● **RFP**: Request for Proposal

● **Subrecipient**: A public or private nonprofit agency, authority, or organization, or a for-profit entity authorized under §570.201(o) to provide microenterprise assistance, receiving CDBG funds from the grantee to undertake activities eligible under the CDBG program.

● **Subrecipient Agreement:** The subrecipient agreement is a contract between the Subrecipient and the Columbus Consolidated Government, which outlines the grant award, project, and terms of the grant.

● **USC**: United States Code is the codification by subject matter of the general and permanent laws of the United States.

● **WBE**: Women-owned Business Enterprise

PART 3 – CDBG Overview

CDBG NATIONAL OBJECTIVES (WHY)

The CDBG Program is authorized under Title I of the Housing and Community Development Act of 1974, as amended. The CDBG Program was created as the first Federal block grant to local governments through the consolidation of individual categorical HUD programs.

The primary objective of Title I is the development of viable urban communities by providing, principally for persons of low- and moderate-income: decent housing, a suitable living environment, and expanded economic opportunities. Low- and moderate-income is defined by HUD as total income in a household, from all occupants, which does not exceed 80% of Median Family Income for individual counties outside Metropolitan Statistical Area or for individual counties within Metropolitan Statistical Areas. The maximum income limits are adjusted periodically by HUD, [usually annually] and the results are published by HUD on the Internet at: www.huduser.org**.**

Entitlement CDBG grantees must certify to HUD that the projected uses of CDBG funds, as proposed in their Consolidated Plan and its respective Annual Action Plans, will address one of the three CDBG National Objectives:

- Benefit low- and moderate-income families; or
- Aid in the prevention or elimination of slums or blight; or
- Meet a need having a particular urgency [referred to as Urgent Need].

Any activity proposed for CDBG funding must be eligible and must address at least one of the National Objectives. If a proposed eligible activity does not address at least one of the national objectives, the activity is not eligible for CDBG funding.

Benefit to Low- and Moderate-Income Persons

Basically CDBG contains an excellent description of the subcategories of methodologies to be used by grantees to qualify an activity under the National Objective: "Benefit to Low- and Moderate-Income Persons." The description in Chapter 3 listed the four categories as Area Benefit Activities, Limited Clientele Activities, Housing Activities, and Job Creation or Retention Activities. Details are provided in Chapter 3, under each of these types of activity-qualification types under the "Benefit to Low- and Moderate-Income Persons" National Objective.

Area Benefit

This is the most common method to qualify activities under the CDBG National Objectives. The activity may benefit all residents of an area where at least 51% of the residents are low- and moderate-income persons. The service area must be primarily residential, and the activity must address the identified needs of low- and moderate-income persons. The service area may be qualified using three methods:

- United States Census Data;
- Survey data collected using a survey methodology and survey instrument approved by HUD; or

- Area Benefit Exception Criteria

An exception to the requirement is permitted for metropolitan cities and urban counties for a service area that contains less than 51% low- and moderate-income persons if the proportion of low- and moderate-income persons in the service area is within the highest quartile of all areas in the recipient's jurisdiction in terms of the degree of concentration of such persons. HUD determines the lowest proportion a grantee may use to qualify an area for this purpose.

Limited Clientele Benefit

Limited Clientele activities benefit a certain number of people, as long as at least 51% of the clientele are Low- and Moderate-Income persons. These types of activities may be subdivided into two major subcategories:

Presumed Benefit Group
This type of activity benefits a clientele that is generally presumed by HUD to principally benefit low- and moderate-income persons (abused children, battered spouses, elderly persons, severely disabled adults, homeless persons, illiterate adults, persons living with AIDS and migrant farm workers).

Persons are considered severely disabled if they:
- Use a wheelchair or another special aid for 6 months or longer;
- Are unable to perform one or more functional activities (seeing, hearing, having one's speech understood, lifting and carrying, walking up a flight of stairs and walking), needed assistance with activities of daily living (getting around inside the home, getting in or out of bed or a chair, bathing, dressing, eating and toileting) or instrumental activities or daily living (going outside the home, keeping track of money or bills, preparing meals, doing light housework and using the telephone);
- Are prevented from working at a job or doing housework;
- Have a selected condition including autism, cerebral palsy, Alzheimer's disease, senility or dementia or mental retardation; or
- Are less than 62 years of age and are covered by Medicare or receive Supplemental Security Income.

Documenting LMI
To qualify an activity using these criteria, documentation is required on family size and income to show that at least 51% of the clientele served have total household income from all occupants which do not exceed the maximum low- and moderate-income limits established by HUD.

The CCG Community Reinvestment CDBG public facilities funded projects will meet the Low To Moderate Income Clientele. For activities meeting the Low-to Moderate-Income (LMI) Clientele national objective, at least 70% of spending must benefit low to moderate income persons. In addition to meeting the 70-percent test, applicants must ensure that the activities proposed, when taken as a whole, will not benefit moderate-income persons to the exclusion of low-income persons.

This does not mean that each activity has to include both low- and moderate income beneficiaries, but it further ensures that the CDBG program will primarily benefit low-income persons. The criteria for how an activity may be considered to benefit LMI persons is through presumed benefit group or income eligibility determination.

Income Eligibility

In order for individuals and households to qualify for service as a “low to moderate” income recipient of services, they must meet the federal income limits. These limits are provided by HUD for use in CDBG programs. These limits determine income eligibility and program benefits to 30% of median yearly income, 50% of median yearly income, and 80% of median yearly income. These figures are based on the Columbus, GA HUD Metro FMR Area median yearly income. Low-income households are those that are under 80% of the area median income based on household size.

The 2022 Median Family Income for Columbus Muscogee (MSA) is $68,200. The current limits are listed in the table below. HUD income limits can also be found online at https://www.huduser.gov/portal/datasets/il.html.

FY 2023 Income Limits Summary

FY 2023 Income Limit Area	Median Family Income Click for More Detail	FY 2023 Income Limit Category	Persons in Family							
			1	2	3	4	5	6	7	8
Columbus, GA-AL HUD Metro FMR Area	$71,500	Very Low (50%) Income Limits ($) Click for More Detail	25,050	28,600	32,200	**35,750**	38,650	41,500	44,350	47,200
		Extremely Low Income Limits ($)* Click for More Detail	15,050	19,720	24,860	**30,000**	35,140	40,280	44,350*	47,200*
		Low (80%) Income Limits ($) Click for More Detail	40,050	45,800	51,500	**57,200**	61,800	66,400	70,950	75,550

Income Certification

The 24 CFR Part 5 definition of annual income is the total of all the adult household members’ gross income that is anticipated to be received during the coming 12-month period.

NOTE: INCOME QUALIFYING BEGINS WITH DETERMINING WHO IS IN THE HOUSEHOLD.

Generally, include:

- All adult members and their children living with them, and
- Temporarily absent adult members, and
- All Current and/or Future members at the time the National Benefit is met.

Documentation must clearly support all.

Special consideration is given for:

- Adult students living away from home
- Temporary household member
- Temporarily absent family members
- Permanently absent family members

Remember, file documentation must clearly support the household members used in determining eligibility. Some incomes are not included (although they must be documented):

- Earned income of minors (less than18 years of age)
- Earned income from full-time students after the first $480 (except head of household or spouse)
- Income of live-in aides

Annual Gross* Income - Sum of household income - Defined at 24 CFR Part 5.609 - Determined using "Part 5" method *Gross income is the amount earned before any taxes or deductions are taken out.
Sources of Income:

- Wages, salaries, overtime, bonuses, commissions, tips, shift differential pay, piece work payments, etc.
- Periodic payments such as SSI or Social Security
- Payments in lieu of earnings such as disability or unemployment benefits
- Net income from a business
- Payments from annuities, retirement, pensions, death benefits, etc., including a lump-sum amount for prospective monthly payments with a delayed start (except for deferred payment amounts)
- Alimony payments received, and regular contributions or gifts

Income = gross amount of all wages, salaries, overtime, commissions, tips & bonuses; net income from businesses; interest, dividends, & net income of any kind from real or personal property; periodic payments such as SSI & Social Security; payments in lieu of earnings; welfare assistance (not food stamps); periodic & determinable allowances, alimony, child support & gifts; all regular & special pay and allowances for armed forces (not hostile fire pay).

Guidance

Once you receive all of the needed verifications and documentation, it is critical to review and compare all of the information in the file for consistency (the application, all verifications, source documents, etc.). Any variances must be resolved prior to certifying the income.

Use the Income Limits at the time of certification, not at the time of application. (Suggestion: print it out each time and put it in the file.)
Income certification is good for 6 months*.

If the activity does not meet a National Objective it is ineligible and the jurisdiction must return all activity and activity delivery funds.

The application is where it all starts – ask the right questions and you will get the right information

Zero income (which is still income) must be documented, just like all income received is documented.

Third Party Documentation is required for Direct Financial Assistance.

The Income Determination must be completed PRIOR to assistance (the signing of a note, grant, participation)

PART 4 – CDBG Public Facilities

Introduction

Under the Community Reinvestment's Annual Action Plan, local recipients may utilize CDBG funds to undertake a variety of public facilities and infrastructure improvement projects. The purpose of this section is to explain the requirements and key implementation steps associated with infrastructure and public facilities activities.

CDBG can be a resource to strengthen and improve communities, to make them more livable and sustainable. In light of shrinking resources, it is necessary to be selective and to target investments to focus on a few priorities and strategies. Sustainability is development that meets the needs of the present without compromising the ability of future generations to meet their own needs. It involves economic and environmental resources and social equity.

What is a Public Facility

Neither the statute nor the regulations define the terms "public facilities" or "public improvements." These terms are broadly interpreted to include all improvements and facilities that are either publicly owned or that are traditionally provided by the government, or owned by a nonprofit, and operated so as to be open to the general public.

This would include neighborhood facilities, firehouses, public schools, and libraries. Public improvements include streets, sidewalks, curbs and gutters, parks, playgrounds, water and sewer lines, flood and drainage improvements, parking lots, utility lines, and aesthetic amenities on public property such as trees, sculptures, pools of water and fountains, and other works of art.

What is not a Public Facility

Buildings or portions thereof, used for the general conduct of government cannot be assisted with CDBG funds. The term "buildings for the general conduct of government" means city halls, county administrative buildings, State capitol or office buildings, or other facilities in which the legislative or general administrative affairs of the government are conducted. This term includes court houses but does not include jails or prisons. This does not include, however, the removal of architectural barriers under § 570.201(c) involving any such building.

Eligible Activities

CDBG funds may be used by the grantee or other public or private nonprofit entities for:

- Acquisition
- Construction
- Rehabilitation

Acquisition

Typical reasons for the acquisition of real property include:

- Property for the provision of public works, facilities, and improvements, or
- To be used for other public purposes.

Costs that may be paid for with CDBG funds under this category include the cost of surveys to identify the property to be acquired, appraisals, the preparation of legal documents, recording fees, and other costs that are necessary to effect the acquisition.

Qualifying an acquisition activity under one of the CDBG national objectives depends entirely on the use of the acquired real property following its acquisition. A preliminary determination of compliance may be based on the planned use. The final determination must be based on the actual use of the property, excluding any short-term, temporary use.

If property is acquired or improved with CDBG funds, or any interest therein, is subsequently transferred to another entity within five years of closeout, the property or interest must be sold to the entity at the current fair market value unless the property will be used for an activity that meets a CDBG national objective.

Sales proceeds would be program income based on a pro rata share if CDBG funds contributed to the activity. The purchase of real property by the grant recipient or other entities under this eligibility category is subject to the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act. Among other things, this could mean that persons displaced as a result of the acquisition must be provided with financial assistance.

All nonprofit subrecipients shall enter into a Promissory Note and Deed of Trust with the County for any facility constructed, acquired, or rehabilitated in whole or in part with CDBG funds (In certain cases, the County may also require a covenant running with the land). The Deed of Trust shall require the subrecipient to operate the facility for the original purpose for which it received CDBG funds until at least fifteen (15) years have passed. In the event of default, the awarded entity will return all CDBG funds used for the project.

The Deed of Trust and Promissory Note will impose conditions that the County determines are necessary to protect the CDBG funds. The nonprofit shall keep the property free and clear of all other charges, liens, or encumbrances impairing the security of the Deed.

The County may, upon written request, permit one superior encumbrance depending on the specific project. When a Promissory Note and Deed of Trust are necessary, the following requirements apply:

• Both documents shall be executed within thirty (30) days of acquisition or substantial completion of any construction activity; and

• The term of both documents shall be for at least fifteen (15) years from the latest date of acquisition

Construction

Costs that may be paid for with CDBG funds under this category include the cost of surveys to identify the unit to be constructed, appraisals, the preparation of legal documents, recording fees, and other costs that are necessary to affect the construction.

Qualifying a construction activity under one of the CDBG national objectives depends entirely on the use of the unit following its construction. A preliminary determination of compliance may be based on the planned use. The final determination must be based on the actual use of the unit, excluding any short-term, temporary use.

If a unit is constructed with CDBG funds, or any interest therein, is subsequently transferred to another entity within five years of closeout, the unit or interest must be sold to the entity at the current fair market value unless the unit will be used for an activity that meets a CDBG national objective.

Sales proceeds would be program income based on a pro rata share if CDBG funds contributed to the construction. The construction of a unit on real property by the grant recipient or other entities under this eligibility category is subject to the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act. Among other things, this could mean that persons displaced as a result of the construction must be provided with financial assistance.

All nonprofit subrecipients shall enter into a Promissory Note and Deed of Trust with the County for any facility constructed in whole or in part with CDBG funds (In certain cases, the County may also require a covenant running with the land). The Deed of Trust shall require the subrecipient to operate the facility for the original purpose for which it received CDBG funds until at least fifteen (15) years have passed. In the event of default, the awarded entity will return all CDBG funds used for the project.

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The County may, upon written request, permit one superior encumbrance depending on the specific project. When a Promissory Note and Deed of Trust are necessary, the following requirements apply:

• Both documents shall be executed within thirty (30) days of acquisition or substantial completion of any construction activity; and

• The term of both documents shall be for at least fifteen (15) years from the latest date of acquisition

New housing construction is generally ineligible for CDBG funding, with only very limited circumstances in which it can be funded.

Rehabilitation

Typical reasons for the Rehabilitation of real property include:

- the provision of public works, facilities, and improvements, or
- buildings owned by nonprofits used for public purposes.

Costs that may be paid for with CDBG funds under this category include the following:

Costs—Costs of labor, materials, supplies and other expenses required for the rehabilitation of property, including repair or replacement of principal fixtures and components of existing structures (e.g., the heating system).

Security devices—Installation costs of sprinkler systems, smoke detectors and dead bolt locks, and other devices for security purposes.

Insurance—The costs of initial homeowner warranty premiums and, where needed to protect the grantee's interest in properties securing a rehabilitation loan, hazard insurance premiums as well as flood insurance premiums for properties covered by the Flood Disaster Protection Act of 1973, as amended, pursuant to §570.605.

Conservation—Costs required to increase the efficient use of water (e.g., water saving faucets and shower heads) and improvements to increase the efficient use of energy in structures through such means as installation of storm windows and doors, insulation, and modification or replacement of heating and cooling equipment.

Water and sewer—Costs of connecting existing residential structures to water distribution lines or local sewer collection lines.

Barrier removal—Costs to remove material and architectural barriers that restrict the mobility and accessibility of elderly and severely disabled persons to buildings and improvements that are eligible for rehabilitation under this category.

Landscaping, sidewalks, and driveways—The costs of installation or replacement of landscape materials, sidewalks, and driveways **when incidental to other rehabilitation of the property**.

PART 5 – Environmental Reviews

Under the Community Reinvestment's Annual Action Plan, local recipients may utilize CDBG funds to undertake a variety of public facilities and infrastructure improvement projects. The purpose of this section is to explain the requirements and key implementation steps associated with infrastructure and public facilities activities.

Every project undertaken with Federal funds, and all activities related to that project, is subject to the provisions of the **National Environmental Policy Act of 1969 (NEPA)** (42 U.S.C. 4321, et seq.), as well as to the HUD environmental review regulations at 24 C.F.R. Part 58 (for HUD-funded projects) on **Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities.**

What is an Environmental Review?

The purpose of the environmental review process is to analyze the effect the proposed project will have on the people and the natural environmental components within the project area.

Units of local government who are recipients of CDBG funds must complete an environmental review of all project activities prior to obligating CDBG funds. This requirement also applies to projects funded with CDBG generated Program Income.

An Environmental Review (ER) is the process of reviewing a CDBG-PF funded project or activity and its potential environmental impacts. The rules and regulations that govern the environmental review process can be found under 24 CFR Part 58, Subparts A-H. The provisions of the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) regulations in 40 CFR Parts 1500 through 1508, and other state and Federal laws and regulations (some of which are enforced by state agencies) may also apply depending upon the type of project and the level of review required. These laws and authorities are referenced in the HUD and NEPA regulations. For additional information and assistance go to https://www.hudexchange.info/environmentalreview/

The review process is used to ensure that the proposed CDBG-PF funded project or activity does not negatively impact the surrounding environment and that the property site itself, if applicable, will not have an adverse environmental or health effect on end users.

Environmental Review Record (ERR)

Each Responsible Entity (Grantee) must prepare and maintain a written record of the environmental review undertaken for each project, including exempt activities such as administrative costs and tenant-based rental assistance. This written record or file is called the Environmental Review Record (ERR) and must be available for public review. Environmental Review Records maintained electronically must be in compliance with the requirements of Part 58.38 which states: "The responsible entity must maintain a written record of the environmental review undertaken... for each project. This document will be designated the 'Environmental Review Record' (ERR)..." Electronically maintained ERRs must remain available for public review and monitoring in accordance with Part 58.35 (i.e., an individual, organization or HUD monitor wishing to review an ERR cannot be denied access to an ERR because it is stored on an employee's computer or a private network).

The ERR shall contain all the environmental review documents, public notices, and written determinations or environmental findings required by Part 58 as evidence of review, decision making, and actions pertaining to a particular project. The documents shall:

- Describe the project and each of the related activities comprising the project, regardless of individual activity funding source;
- Evaluate the effects of the project or the activities on the human environment;
- Document compliance with applicable statutes and authorities; and
- Record the written determinations and other review findings required by Part 58.

The ERR must contain the following documents and parts as applicable:

- Level of Environment Review
- Finding – Exempt activity, CENST 58.5, CEST 58.5

- Section 106 SHPO documentation and letter of concurrence
- Tribal coordination letters
- Statutory checklist
- Early Floodplain Wetland Notice
- Final Floodplain Wetland Notice
- Environmental Assessment
- Copies of all maps, graphs and studies pertaining to the project and/or project site and ER
- Copies of all correspondence pertaining to the project and/or project site
- Combined Finding of No Significant Impact and Notice of Intent to Request Release of Funds
- Request for Release of Funds and Certification and Authority to Use Grant Funds

The ERR will vary in length and content depending upon the level of review required for the categories of proposed activities. Public comments, concerns, and appropriate resolution by the recipient with regard to public notices that have been issued by the Grantee are extremely important and must be fully documented in the ERR. Keep in mind that, on the average, an EA for a project usually takes at least 90 days to complete. Grantees must carry out and document completion of the prescribed procedures for compliance with NEPA. Depending on the complexity of the project, these procedures can be time-consuming. Jurisdictions might consider the option of hiring (through proper Published May 2022 3-29 Chapter 3: Environmental Review procurement methods) a consultant or consulting firm that specializes in environmental reviews.

Define the Project

The project description should:

- Include all contemplated actions that are a composite part of the project and aggregated activities. 24 C.F.R. § 58.32
- The RE must come together and evaluate, as a single project, all individual activities which are related either on the geographical or functional basis.
- Capture the maximum scope of the proposal, not just the activity funded by federal money.
- Not be tied directly to budget line items.

Determine Level of Review

Using the project description, the RE will validate or determine the level of Environmental Review that is required.

The five (5) levels of review include:

- 24 C.F.R. § 58.34
- Categorically Excluded not subject to 24 C.F.R. § 58.5 (CENST)
- Categorically Excluded subject to 24 C.F.R. § 58.5 (CEST)
- Environmental Assessment 24 C.F.R. § 58.36(EA)
- Environmental Impact Statement 24 C.F.R. § 58.37 (EIS)

The compliance requirements for the ERR depend on the type of review. The requirements for different levels of review are outlined below.

58.34(a) Exempt Activities

A complete list of Exempt activities can be found in regulation §58.34. The following activities require only a written determination of the exemption in the environmental review record:

1. Environmental and other studies; resource identification; plans and strategies;
2. Information and financial services;
3. Administrative and management activities;
4. Public services that have no physical impact or result in physical change;
5. Inspections and testing;
6. Purchase of insurance;
7. Purchase of tools;
8. Engineering, design or training;
9. Technical assistance or training;
10. Temporary or permanent improvements limited to protection and restoration to control or arrest effects from disasters; and,
11. Payment of principal and interest on loans made or guaranteed by HUD. City of Middletown Department of Planning, Conservation and Development

58.35 Categorical Exclusions (a) Excluded Activities

The following activities require a written determination of the exclusion with documentation in the environmental review record, a complete statutory checklist, 7 day Notice of Intent to Request Release of Funds and HUD approval:

1. Acquisition, repair, improvement, reconstruction or rehab of public facilities other than building without change in use or increase in size or capacity by more than 20 percent;
2. Projects to remove material and architectural barriers that restrict handicap access;
3. Rehabilitation of buildings: i) in case of residential if a) unit density not increased by more than 20 percent, b) does not change use from residential to non-residential, and c) cost of rehab less than 75% of total cost of replacement after rehab; ii) in case of nonresidential if a) facilities are in place will not change in size or capacity by more than 20 percent, and b) the activity does not involve a change in land use;
4. Individual action on a 1-4 family dwelling or project of 5 or more units on scattered sites if more than 2,000 feet apart or not more than 4 units on one site;
5. Acquisition, disposition of existing structure or acquisition of vacant land where use will remain unchanged

58.35 Categorical Exclusions (b) Excluded Activities

A complete list of Categorically Excluded Subject to §58.5 (CEST) activities can be found in regulation §58.35(a). The following activities require a written determination of the exclusion with documentation in the environmental review record:

1. Tenant based rental assistance;
2. Supportive services such as health care, day care, housing placement, etc.;
3. Operating costs, maintenance, utilities, furniture and equipment;
4. Economic development activities such as equipment purchase, inventory financing, interest subsidy, operating expenses not associated with construction or expansion;
5. Activities to assist homeownership of existing or “new dwelling units not assisted with Federal funds”; and,
6. Affordable housing pre-development “soft” costs.

58.36 Environmental Assessment (EA)

Required for all other activities that are not considered exempt or categorically excluded and that do not require the completion of an Environmental Impact Statement. Environmental Assessments require a written determination with documentation in the environmental review record, a complete statutory checklist, a complete environmental assessment checklist, a complete Finding of No Significant Impact (FONSI), a 15-day combined Notice of FONSI and Notice of Intent to Request Release of Funds and HUD approval.

58.37 Environmental Impact Statement Determination (EIS)

Required when activity is determined to have potential significant impact on environment. Contact HUD to determine the complete required process under the following circumstances:

1. Project provides a site or sites for, results in construction of, hospitals or nursing homes containing 2,500 or more beds;
2. Project removes, demolishes, converts, results in construction of or installation of or substantially rehabs, 2,500 or more housing units or housing sites;
3. Project would provide additional water and sewer capacity to support 2,500 or more new housing units or comparable development.

Other 58.6 Requirements

All projects funded through CDBG are subject to the laws and authorities listed at 24 CFR 58.6. Every project, regardless of complexity, must comply with the regulations. Below, the Other Requirements have been detailed along with guidelines on the simplest method of documentation showing that each item on the list has been cleared environmentally. HUD has provided guidance on the HUD Exchange that gives a detailed introduction to the regulation or authority as well as their method of clearing that regulation or authority and what is considered as proper compliance and documentation.

Flood Insurance

Section 202 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106) requires that projects receiving federal assistance and located in an area identified by the Federal Emergency Management Agency (FEMA) as being within a Special Flood Hazard Areas (SFHA) be covered by flood insurance under the National Flood Insurance Program (NFIP).

Coastal Barrier Resources

The Coastal Barrier Resources Act (CBRA) of 1982 designated relatively undeveloped coastal barriers along the Atlantic and Gulf coasts as part of Coastal Barrier Resources System (CBRS) and made these areas ineligible for most new Federal expenditures and financial assistance.

Airport Hazards

It is HUD's policy to apply standards to prevent incompatible development around civil airports and military airfields. The policy can be found at 24 CFR 51, Subpart D. Applicable airports are designated in the National Plan of Integrated Airport Systems. Steps on how to clear this regulation are provided below.

1. Determine if the project activities involve the major rehabilitation of, the new construction of, or significantly prolonging the life of, an existing building.

2. If the project DOES NOT involve any of the activities listed above, document the determination (Memo to File method is preferred) and place in the ERR. Documentation is complete.

3. If the project DOES involve any of the activities listed above, use the information provided below to determine if the project is within 15,000 feet of a military airport or 2,500 feet of a civilian airport.

4. If the project IS NOT within the proximity of an airport, document the determination and place in the ERR. Documentation is complete.

5. If the project IS within the proximity of an airport, contact the airport operator to determine if the project is located in the Runway Protection Zone (civilian) or Accident Potential Zone (military).

6. If the project IS NOT located in the RPZ/APZ, document the correspondence and concurrence in the ERR. Documentation is complete.

7. If the project IS located in the RPZ/APZ, get approval from the airport operator. Place all correspondence and concurrence in the ERR. Documentation is complete.

Statutory Checklist

In the process of completing the "Categorically Excluded Subject to" form (ENV-CEST) and the "Environmental Assessment" form one must complete the Statutory Checklist. There are a total of fourteen Statutes, Executive Orders and Regulations that must be considered and cleared in order to complete the environmental review. A detailed list can be found at 24 CFR 58.5. Below the Statutory Checklist has been detailed along with guidelines on the simplest method of documentation showing that each item on the list has been cleared environmentally. HUD has provided guidance on the HUD Exchange that gives a detailed introduction to the regulation or authority as well as their method of clearing that regulation or authority and what is considered as proper compliance and documentation.

Historic Preservation

All projects are required to complete a Section 106 review. The Alabama Historical Commission (AHC) and ADECA have entered into a Programmatic Agreement (PA) that allows for an automatic compliance of the regulation when the project activities are those listed in the PA. Steps on how to clear this regulation are provided below.

1. Compare the project activities to those listed in the Programmatic Agreement (PA).

2. If the project's activities ARE found in the PA, indicate which exemption activity applies and place a copy of the PA in the ERR. Documentation is complete.

3. If the project's activities ARE NOT found in the PA, submit a Project Review Consultation Form to SHPO electronically along with a letter of explanation. (30 Day comment period)

4. Complete any mitigation that AHC may require and document all correspondence. Once concurrence from AHC has been given place all correspondence in the ERR. Documentation is complete.

Tribal Historic Preservation

Tribal consultation must be considered with all projects. Steps on how to clear this regulation are provided below.

1. Determine if Tribal consultation is required by completing the "When to Consult with Tribes under Section 106 Checklist".

2. If it is indicated that consultation with Tribes SHOULD NOT be initiated, place the completed checklist in the ERR. Documentation is complete.

3. If it is indicated that consultation with Tribes SHOULD be initiated then use the Tribal Directory Assessment Tool (TDAT) to determine which, if any, Tribes have interests in the project area.

4. A request for consultation with the specified Tribe(s) should be sent from the Responsible Entity (RE) and await concurrence. If no response has been received after a thirty (30) day comment period (if emailed) or a thirty-five (35) day comment period (if mailed), consider the concurrence given. If a response letter is received, then comply with any reasonable mitigation requirements that may have been stipulated. In cases where a Tribe has asked for a Cultural Resource Assessment (CRA) be conducted, reference the "Responding to Cultural Resource Assessments" document for assistance in making that determination. Place all correspondence and concurrence in the ERR. Documentation is complete.

A much more detailed process for complying with Tribal consultation is available in notice CPD 12-006 from HUD.

Floodplain Management

Executive Order (EO) 11988 requires that projects avoid impacts to floodplains and to avoid direct and indirect support of floodplain development to the extent practicable. Steps on how to clear this regulation are provided below. Exceptions to this regulation found at 24 CFR 55.12(b)(2) and 55.12(c) allow for automatic compliance of this regulation. If any of those exemptions apply, cite the exemption number on the review form and documentation is complete. Additional exceptions can be found at 24 CFR 55.12(a)(1) that allow for the completion of the 5-Step Process instead of the 8-Step Process provided that the locality participates in the National Flood Insurance Program (NFIP). Review the "5-Step Process Determination Assistance" document below for assistance in making this determination.

1. Determine if an exemption applies. If an exemption DOES apply, document your determination and the review is complete. In an exemption DOES NOT apply, continue to Step 2.

2. Create a FIRMette by using a Flood Insurance Rate Map (FIRM) from the FEMA website and outline the project area. Determine if the project is located in a floodplain.

3. If the project IS NOT located in a floodplain put a copy of the map in the ERR. Documentation is complete.

4. If the project IS located in a floodplain and no exceptions apply (see above for assistance) complete the 8/5-Step Process. Place the completed 8/5-Step Process in the ERR. Documentation is complete.

Wetlands Protection

Executive Order (EO) 11990 requires that projects avoid adverse impacts to wetlands where practicable. Steps on how to clear this regulation are provided below. Exceptions to this regulation found at 24 CFR 55.12(a)(3), 55.12(a)(4), 55.12(c)(3), 55.12(c)(7), 55.12(c)(10) allow for automatic compliance of this regulation. If any of those exemptions apply, cite the exemption number on the review form and documentation is complete. Additional exceptions can be found at 24 CFR 55.12(a)(1) that allow for the completion of the 5-Step Process instead of the 8-Step Process provided that the locality participates in theNational Flood Insurance Program (NFIP). Review the "5-Step Process Determination Assistance" document for assistance in making this determination.

1. Determine if an exemption (see above) applies or if the project involves "new construction" (i.e., draining, dredging, channelizing, filling, diking, impounding and related activities).

2. If an exemption applies or if the project DOES NOT involve "new construction", document the determination and the review is complete.

3. Determine if the project is located in a wetland. If the project DOES involve "new construction", will the "new construction" or other ground disturbance impact an on-/off-site wetland?

4. If the project is not located in a wetland or there is NO impact, document the determination and the review is complete.

5. If the project IS located in a wetland and there IS an impact, complete the 8/5-Step Process and request concurrence from U.S. Army Corps of Engineers if, and only if, your project disturbs more than ¼ acre of wetland area. Complete any mitigation requirements. Place the completed 8/5-Step Process and all correspondence with the Corps in the ERR. Documentation is complete.

Coastal Zone Management

Projects that can affect the coastal zone must be carried out in a manner consistent with the state Coastal Zone Management Program (CZMP) under Section 307(c) and (d) of the Coastal Zone Management Act (CZMA) of 1972 (16 U.S.C. 1451 et seq). Steps on how to clear this regulation are provided below.

1. No Coastal Zones are in the City of Columbus. Place a copy of the Coastal Zone Management map in the ERR. Documentation is complete.

Sole Source Aquifers

The Safe Drinking Water Act of 1974 requires the protection of drinking water systems that are the sole or principle drinking water source for an area and which, if contaminated, would create a significant hazard to public health. Steps on how to clear this regulation are provided below.

1. No Sole Source Aquifers in the City of Columbus. Place a copy of the Sole Source Aquifer map in the ERR. Documentation is complete.

Endangered Species

The Endangered Species Act (ESA) of 1973, as amended, and its implementing regulations were designed to protect and recover species in danger of extinction and the ecosystems that they depend on. Steps on how to clear this regulation are provided below.

1. Determine if the project will consist of any of the following types of activities: ground disturbance, vegetation removal, an increase in impervious area, or generation of atypical noise levels (postconstruction).

2. If the project DOES NOT consist of one of the listed activities, document this determination and place it in the ERR. Documentation is complete. (Example – minor rehabilitation of an existing structure)

3. If the project DOES consist of one of the listed activities, consult the "FWS Request for Consultation" memo and complete the submittal with the U.S. Fish & Wildlife Service (FWS) as instructed. Use the sample letter below as a guide. Place all correspondence and concurrence in the ERR. Documentation is complete.

Wild and Scenic Rivers

The Wild and Scenic Rivers Act provides federal protection for the National Wild and Scenic Rivers System (NWSRS). There are three (3) types of rivers that have to be cleared. Steps on how to clear this regulation are provided below.

- Wild & Scenic: Use the Wild & Scenic River map below to determine if the project is located within ¼ mile of a Wild & Scenic River. Place the documentation in the ERR.

1. If the project IS NOT located within ¼ mile of a Wild & Scenic River, mark the project area on the map and put a copy in the ERR.

2. If the project IS located within ¼ mile of a Wild & Scenic River, mark the project area on the map and contact the U.S. Fish & Wildlife Services to get concurrence on the project. Place all correspondence and concurrences in the ERR.

AND

- Study Rivers: Use the Study River map below to determine if the project is located within ¼ mile of any Study Rivers. (Currently there is only one Study River, the Escatawpa River in Washington and Mobile Counties) Place the documentation in the ERR.

1. If the project IS NOT located within ¼ mile of a Study River, mark the project area on the map and put a copy in the ERR.

2. If the project location IS within a ¼ mile radius of a Study River, mark the project area on the map and then contact the U.S. Fish & Wildlife Services to get concurrence on the project. Place all correspondence and concurrences in the ERR.

AND

• Nationwide Rivers Inventory (NRI): Use the NRI Proximity Map to determine if the project is located within ¼ mile of a river on the NRI list. Place the documentation in the ERR.

1. If the project IS NOT located within ¼ mile of an NRI River, then mark the project area on the map and put a copy in the ERR.

2. If the project location IS within a ¼ mile radius of a NRI River, mark the project area on the map and contact the U.S. Fish & Wildlife Services to get concurrence on the project. Place all correspondence and concurrences in the ERR.

Documentation is only completed when all three (3) types of rivers have been cleared and the appropriate documentation is in the ERR. Use the provided GoogleEarth files (kmz) below if a better scale is needed.

Air Quality

The Clean Air Act was implemented to remedy the damaging effects that bad air quality can have on human health and the environment. Steps on how to clear this regulation are provided below.

1. Determine if the project is located in a nonattainment area. Check the EPA Green Book on Nonattainment Areas for Criteria Pollutants for those locations.

2. If the project area IS NOT in a nonattainment area, document the determination and place it in the ERR. Documentation is complete. (Air Quality Documentation - Example)

3. If the project area IS in a nonattainment area, determine if project will generate more than the de Minimis level of emissions. (Contact ADECA if for assistance in making the determination)

a. If the project WILL NOT generate more than the de Minimis level of emissions, document the determination and place it in the ERR. Documentation is complete.

b. If the project WILL generate more than the de Minimis level of emissions, contact the State Implementation Plan (SIP) agency (Alabama Department of Environmental Management [ADEM]). Place all correspondence and concurrence in the ERR. Documentation is complete.

Farmlands Protection

The purpose of the Farmland Protection Policy Act (7 U.S.C. 4201 et seq, implementing regulations 7 CFR Part 658, of the Agriculture and Food Act of 1981, as amended) is to minimize the effect of Federal programs on the unnecessary and irreversible conversion of farmland to nonagricultural uses. Steps on how to clear this regulation are provided below.

1. Determine if the project will result in the conversion (farmland to non-agricultural use) of prime, unique or state/locally important farmland.

2. If the project DOES NOT result in land conversion, document the determination and place it in the ERR. Documentation is complete.

3. If the project DOES result in land conversion, complete Form AD-1006 and submit it to the proper USDA office found on the website. Place all correspondence and concurrence in the ERR. Documentation is complete.

Noise Abatement and Control

HUD's noise standards may be found in 24 CFR Part 51, Subpart B and apply to "noise sensitive activities", including projects that generate noise (other than during construction). Steps on how to clear this regulation are provided below.

1. Determine if the project involves new construction for residential use, rehabilitation of an existing residential property, a research demonstration project which does not result in new construction or reconstruction, interstate, land sales registration, or any timely emergency assistance under disaster assistance provisions or appropriations which are provided to save lives, protect property, protect public health and safety, remove debris and wreckage, or assistance that has the effect of restoring facilities substantially as they existed prior to the disaster?

2. If the project DOES NOT involve any of the above activities, document the determination and place it in the ERR. Documentation is complete.

3. If the project DOES involve any of the above activities, mark the project area on a map and determine if the project is located within 1,000 feet of a major roadway, 3,000 feet of a railroad, 15 miles of a military or FAA-regulated airport.

4. If the project IS NOT located within the vicinities given above, document the determination with a proximity map, mark the project area on the map and place it in the ERR. Documentation is complete.

5. If the project IS located within the vicinities give above, contact the Environmental Officer for assistance as well as refer to the HUD website to complete a noise assessment. Place all documents used to conduct the noise assessment along with the determination in the ERR. Documentation is complete

Explosive and Flammable Facilities

HUD requires that projects located near hazardous facilities which store, handle or process hazardous substances of a flammable or explosive nature include measures to reduce if not eliminate potential risk of

injury in the event of an explosion to occupants or end-users of the project. Steps on how to clear this regulation are provided below. You must complete the documentation for both items below.

Aboveground Stationary Storage Tanks (AST)

1. Determine if the project activities include development, construction or rehabilitation that will increase residential densities, or conversion.

2. If the project DOES NOT include the activities above, document the determination and place it in the ERR. Documentation is complete.

3. If the project DOES include the activities above provide:

a. evidence that there are no current or planned aboveground storage containers with a 100+ gallon capacity within 1 mile of the project location or

b. that the Acceptable Separation Distance (ASD) is sufficient for the containers found or

c. that existing or planned barriers would serve as sufficient mitigation, including correspondence with a licensed Engineer.

Place all documentation used to make the determination in the ERR. Compliance is complete.

Hazardous Facilities

1. Determine if the project includes a hazardous facility (one that mainly stores, handles or processes flammable or combustible chemicals such as bulk fuel storage facilities or refineries).

2. If the project DOES NOT involve a hazardous facility, document the determination and place it in the ERR. Documentation is complete.

3. If the project DOES involve a hazardous facility show that:

a. the Acceptable Separation Distance (ASD) is sufficient with respect to residences and other facilities where people may congregate or be present or

b. that existing or planned barriers would serve as sufficient mitigation, including correspondence with a licensed Engineer.

Place all documentation used to make the determination in the ERR. Compliance is complete.

Site Contamination

Guidance on HUD's policy concerning Site Contamination can be found at 24 CFR Part 50.3(i) and 24 CFR 58.5(i)(2). A basic summation of the policy is that project sites that are funded by HUD must be free from hazardous materials, contamination, toxic chemicals and gases, and radioactive substances. Steps on how to clear this regulation are provided below.

1. Use the Site Contamination Checklist to assist you in conducting your required "due diligence". At a minimum, the following steps should be taken: a. Conduct a Field Inspection

b. Investigate project area for Historic uses c.	Conduct a Records search (Use the How-to Guide to determine if the project is located within a 3,000 feet radius of a site listed on the Superfund (CERCLIS), Brownfields (ACRES) databases. Multifamily housing with five (5) or more dwelling units and sites to be used as gathering places (community/senior centers, etc.) should have a Phase I Environmental Site Assessment conducted to search for possible contaminates.

Environmental Justice

Environmental justice means ensuring that the environment and human health are protected fairly for all people regardless of race, color, national origin, or income. Since CDBG only funds projects that assist those residents in low to moderate income areas, it could be said that all projects fall under this provision and therefore are exempt from this regulation.

Public Notice and Comments

CEST, EA, and EIS reviews require the RE to inform the public of intent to submit a Request of Release of Funds (RROF, form 7015.15).

As part of the ER process, the public has the right to comment on the planned projects. If applicable, once the Environmental Review is complete, you will move into the Public Notice/Comment period. CEST (if not converted to Exempt), EA and EIS reviews require the RE to inform the public of intent to submit a Request of Release of Funds (RROF) (form 7015.15). This form consists of three parts: 1) a project description; 2) environmental certification; 3) and recipient of program funds (when not the RE).

This form is to be used by the Responsible Entity and Recipients when requesting the release of funds, and requesting the authority to use such funds, for HUD programs identified by statutes that provide for the assumption of the environmental review responsibility by units of general local government and States.

The type of notice will determine the required comment period length. It is important for CDBG-DR/MIT programs to account for ER timeframes within their project implementation timelines.

Type of Notice	Level of Review	Length of Comment Period	Posting Requirements
Notice of Intent to Request for Release of Funds and Certification (NOI-RROF/C)	CEST, EA, EIS	7 days when published or 10 days when mailing and posting	Publish in a newspaper that covers the “Municipality” in question, OR Post public notices in areas that are public and highly traveled. Additionally, they may also publish the notice in the Municipality website.

Notice of Finding of No Significant Impact (FONSI)	EA Only	15 days when published or 18 days when mailing and posting	Publish in a newspaper that covers the "Municipality" in question, OR Post public notices in areas that are public and fairly highly traveled. Additionally, they may also publish the notice in the Municipality website.
Concurrent or combined notices (FONSI/RROF/C)	EA Only	15 days when published or 18 days when mailing and posting	Publish in a newspaper that covers the "Municipality" in question, OR Post public notices in areas that are public and fairly highly traveled. Additionally, they may also publish the notice in the Municipality website.

PART 6 – Written Agreements

Once an activity has been determined eligible and added to the Annual Action Plan, the city publishes the draft Annual Action Plan in the local newspaper for public comment and holds a public hearing, in accordance with the city's Citizen Participation Plan.

The proposed plan must also be approved by City Council and HUD. City Council approval typically occurs in early May, in conjunction with the annual budget ordinance. Once the Annual Action Plan has been approved by City Council and submitted to HUD, the city will issue formal award letters to all subrecipients informing them of their award and the anticipated effective date.

Along with award letters, CRD staff shall prepare written agreements for each funded activity to disseminate all applicable federal, state, and local requirements to subrecipients and city departments implementing awarded activities.

The CDBG regulations [24 CFR 570.503] require that grantees have written Agreements for each subrecipient before disbursing any CDBG funds. The written Agreement must remain in effect during any period that the subrecipient has control over any CDBG funds, including Program Income.

Columbus Consolidated Government prepares Subrecipient Agreements for all CDBG funds awarded to Subrecipient Organizations. The Subrecipient Agreements shall be amended, as needed from time-to-time, to reflect any changes in funding, schedule dates, or HUD or local requirements. The Subrecipient Agreements may be amended, if authorized by the governing bodies of the City and by the Subrecipient Organization.

The Subrecipient Agreements may require the expenditure of non-CDBG funds, if such funds were pledged to the CDBG-assisted activity by the Subrecipient. All new CDBG Subrecipient Agreements beginning with FY 2007 CDBG funds shall require that any funds required to complete the eligible CDBG activity, in addition to the CDBG funds awarded through each respective Subrecipient Agreement, must be expended by the Subrecipient. The Subrecipient shall provide to Community Reinvestment copies of invoices, checks, and accounting system reports to document the non-CDBG expenditures.

In addition, the written agreement is a valuable management tool for verifying compliance and monitoring performance. The agreement explains what the subrecipient or contractor agrees to do in exchange for receiving grant funds, including any documentation requirements to demonstrate regulatory compliance.
It shall be the responsibility of the CRD Project coordinator and their supervisor to ensure that the necessary and proper documentation is established and referenced in the agreement. The city must comply with all its obligations under its agreement with HUD to assure that all agreements contain the required provisions necessary to comply with the program regulations.

PART 7 – CDBG Procurement

Introduction

Community Reinvestment procurement policies are consistent with state, local, and tribal laws and regulations and the standards of §200.317-§200.327 for the acquisition of property and services using a federal subaward. Columbus is required to maintain oversight over each procurement contract to ensure that the work is performed in accordance with the terms, conditions, and specifications of each contract.

Procurement Standards for the Expenditure of HUD Entitlement Funds

SELECTING CONTRACTORS

Competition

Community Reinvestment procurement transactions for the acquisition of property or services through a federal award must be conducted in a manner that provides full and open competition in accordance with 2 CFR 200.319 and 2 CFR 200.320.

The Community Reinvestment Department is responsible for ensuring objective contractor performance and eliminating unfair competitive advantage. Procurements may not impose state, local or tribal geographical preferences in the evaluation of bids and proposals, except for architectural and engineering services where geographic location can be a selection criterion if it leaves an appropriate number of qualified firms to compete for the contract.

The Community Reinvestment Department must work to eliminate other examples of restrictive competition, including:

- Placing unreasonable requirements on firms for them to qualify to do business
- Requiring unnecessary experience and excessive bonding
- Permitting noncompetitive pricing practices between firms or between affiliated companies
- Allowing noncompetitive contracts to consultants that are on retainer contracts
- Allowing organizational conflicts of interest
- Specifying only brand name products instead of allowing an equal product to be offered by just describing the required performance for the procurement
- Allowing any arbitrary action in the process

Contractors that develop or draft specifications, requirements, statements of work, invitations for bids, or requests for proposals must be excluded from competing for such procurements.

Procurement Methods

Community Reinvestment procurement methods must follow federal procedures as described §2 CFR 200.320. However, in those instances where local procurement requirements are more restrictive than federal requirements, local procedures will govern. Local procurement procedures can be found in the City's Purchasing Manual.

A. Informal Procurement Methods

a. Micro-purchases under $5,000 may be awarded without soliciting competitive price quotes or rate quotes. To ensure that micro-purchase costs are reasonable, Community Reinvestment staff should base their analysis on research, experience, and purchase history. Purchase cards may be used for micro-purchases.

b. When the value of a procurement ranges from $5,001 -$24,999, competitive sealed quotations are required as regulated through the City's Purchasing Manual.

B. Formal Procurement Methods

Formal procurement methods are required for the procurement of property or services exceeding $25,000. Formal procurement methods must follow documented procedures and must also be publicly advertised (except when the procurement is non-competitive).

a. Sealed bids

Procurement through the sealed bidding process is designed to select the most responsible bidder that can meet all requirements at the lowest price. A feasible sealed bid must have the following elements:

- Complete, adequate, and realistic specifications or purchase descriptions.

- At least two or more responsible bidders who are willing and able to compete effectively for business.
- A fixed, firm price on which a successful bidder can be selected on the basis of that price.

Additional requirements for sealed bids include:

- Bids must be solicited from an adequate number of qualified sources.
- Bid invitations must include must define all items and services in the specifications, as well as other pertinent information, so that the bidder may respond properly.
- The City must provide sufficient response time prior to the date set for the opening of bids.
- All bids must be opened publicly at the same time and place as stated in the bid invitation.
- A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder.
- Factors such as discounts, transportation costs and life cycle costs must be considered when determining which bid payment is lowest, particularly when these items are specified in bidding documents. However, payment discounts should only be used to determine the low bid when experience demonstrates that these discounts are usually taken advantage of.
- Any or all bids may be rejected if there is a sound, documented reason.

b. Proposals

Proposals are a procurement method which award either fixed price or cost-reimbursement contracts. Proposals must meet the following requirements:

- Requests for Proposals (RFPs) must be publicized.
- Responses to publicized RFPs must be considered to the maximum extent possible.
- RFPs must state how the proposals will be evaluated and the importance of these factors.
- The City must have a written method for the evaluation and selection of proposals.
- Contracts must be offered to the responsible offerer that is most advantageous to the City, with price and other factors considered.
- For architectural and engineering professional services only, the City may select proposals based on the offerer's qualifications instead of the price, as long as the City negotiates fair and reasonable compensation.

c. Non-competitive Procurement

Non-competitive procurement can only be awarded if one or more of the following circumstances apply:

- The acquisition of property or services costing $5,000 or less.

- The item is available only from a single source.
- A public emergency demand that the procurement must be delayed by competitive solicitation.
- HUD authorizes a non-competitive procurement process in response to a request from the City.
- After solicitation of a number of sources, competition is determined to be inadequate.

Selecting Responsible Contractors

The Community Reinvestment Department must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement. Department staff must consider the following Items when determining levels of responsibility: contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

Section 3

The Community Reinvestment Department must take all necessary affirmative steps to ensure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible, and in the following ways:

- Where available, qualified small and minority businesses and women's businesses must be on the solicitation lists.
- Whenever possible, total requirements should be broken into smaller tasks or quantities to permit maximum participation by small, minority and women's businesses.
- Whenever possible, the Community Reinvestment Department must establish delivery schedules that encourage participation by small, minority, and women's businesses.
- The prime contractor is required to follow the above stipulations for its subcontractors.

FISCAL REVIEW AND OVERSIGHT

The Community Reinvestment Department must maintain oversight of all procurement transactions to ensure that contractors comply with the terms, conditions and specifications of their contracts or purchase orders.

To ensure cost reasonableness, the City of Columbus must perform a cost or price analysis in connection with every procurement over $25,000. This analysis can include obtaining independent estimates before receiving bids or proposals. To establish a fair and reasonable profit, consideration must be given to:

o The complexity of the work to be performed

o The risk borne by the contractor

o The contractor's investment

- The amount of subcontracting
- The quality of its record of past performance
- The industry profit rates in the surrounding geographical area for similar work

The Community Reinvestment Department and its staff should avoid, to the greatest degree possible, the acquisition of unnecessary or duplicative items. The Department may reduce costs by breaking up larger procurements into smaller, more economical purchases. The Department may also consider leasing items when this option is more affordable than purchase. Local governments are encouraged to enter into state and local intergovernmental agreements to procure common or shared goods and services.

Where possible, the department must also use federal excess and surplus property in lieu of new equipment and property. The Community Reinvestment Department will only use a time and materials contract if no other contract is suitable and if the contract includes a ceiling price that the contractor uses at his or her own risk. To this end, the Department must exert a high degree of oversight to make sure that the contractor is using efficient methods and effective cost controls.

RECORD KEEPING

The Department must maintain internal records on each procurement transaction. In addition to documentation showing compliance with the procurement processes listed above, the procurement record is required by statute to include the following items:

- A rationale for the method of procurement
- The type of contract selected
- A list of contractors, and whether they were selected or rejected
- The basis for the contract price

CONFLICT OF INTEREST

For the procurement of goods and services, no employee, officer, or agent of the Columbus Consolidated Government shall participate 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, as defined in 2 CFR 200.318.

Such a conflict would arise if the employee, officer or agent; any member of his/her immediate family; his/her partner; or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

No officer, employee, or agent of the Columbus Consolidated Government shall solicit or accept gratuities, favors or anything of monetary value from contractors or firms, potential contractors or firms, or parties to sub-agreements, except where the financial interest is not substantial, or the gift is an unsolicited item of nominal intrinsic value.

For all other cases, no employee, agent, consultant, officer, or elected or appointed official of the city, or any designated public agencies, or subrecipients which are receiving HUD entitlement funds, or are in a position to participate in a decision-making process or gain inside information, may, during their tenure or for one year afterward:

- obtain a financial interest or benefit from the entitlement grant activities, or

- have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or

- have a financial interest in the proceeds of the CDBG-activity, either for themselves or those they have business or immediate family ties.

HUD may grant limited exceptions to these restrictions, as outlined in 24 CFR 570.611(d).

These procedures are intended to serve as guidelines for the procurement of supplies, equipment, construction services and professional services for the Columbus Consolidated Government Entitlement Programs. The regulations related to conflict of interest and nepotism may be found 2 CFR 200.318, 2 CFR 200.319 and 24 CFR 570.611.

Any alleged violations of these standards of conduct shall be referred to the attorney for the Columbus Consolidated Government. Where violations appear to have occurred, the offending employee, officer or agent shall be subject to disciplinary action, including but not limited to dismissal or transfer; where violations or infractions appear to be substantial in nature, the matter may be referred to the appropriate officials for criminal investigation and possible prosecution.

DISPUTES

The Columbus Consolidated Government is responsible for settling all contractual and administrative issues arising from procurement, such as source evaluation, protests, disputes, and claims.

RESTRICTIONS

The Columbus Community Reinvestment Department may not make any award (subgrant or contract) to any organization which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs.

Procurement Bid Language

Bids must contain the following language:

1. Equal Opportunity Clause (§41 CFR 60-1.4 (b))

Except as otherwise provided, each administering agency shall require the inclusion of the following language as a condition of any grant, contract, loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of the equal opportunity clause:

“The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

a) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

b) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

c) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

d) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

e) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

f) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

g) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

h) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.”

2. Davis Bacon

Contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

3. Evaluation Factors

Procurement solicitations must clearly state how bids and proposals will be evaluated and any other factors that will be considered.

4. Procurement Descriptions

All procurement solicitations must include a clear and accurate description of the material, product, or service to be procured. The description should provide qualitative in nature, describing the technical requirements, and when necessary, should describe the minimum essential characteristics or standards to which the material, product or service must conform. The description should avoid detailed product specifications. If specific materials are required, the product description can provide a “brand name or equivalent” description to define the performance of the products. The description should not unduly restrict competition.

5. US Manufacturing Preferences

The bid should provide a preference for the purchase, acquisition and use of goods, products, or materials produced in the United States.

6. Value Engineering Clauses

The department will use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions.

7. Bonding Requirements

The following minimum requirements must be met:

o A bid guarantee, such as a bid bond, certified check, or other negotiable instrument, from each bidder equivalent to 5% of the bid price.

o A performance bond on the part of the contractor for 100% of the contract price.

- o A payment bond on the part of the contract for 100% of the contract price.

8. Byrd Anti-Lobbying Amendment

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

9. Termination for Cause

All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

PART 8 – Conflicts of Interest

All employees, officers and agents of the Columbus Consolidated Government, as well as their immediate family members and partners, shall avoid, neutralize or mitigate actual or potential conflicts of interest to prevent an unfair competitive advantage or the existence of conflicting roles that might impair the performance of contracts utilizing HUD entitlement funds, or impact the integrity of the procurement process.

For procurement of goods and services, no employee, officer, or agent of the Columbus Consolidated Government shall participate 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, as defined in 2 CFR 200.318.

Such a conflict would arise if the employee, officer or agent; any member of his/her immediate family; his/her partner; or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

No officer, employee, or agent of the Columbus Consolidated Government shall solicit or accept gratuities, favors or anything of monetary value from contractors or firms, potential contractors or firms, or parties to sub-agreements, except where the financial interest is not substantial, or the gift is an unsolicited item of nominal intrinsic value.

Contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements.

For all other cases, no employee, agent, consultant, officer, or elected or appointed official of the city, or any designated public agencies, or subrecipients which are receiving HUD entitlement funds, or are in a position to participate in a decision-making process or gain inside information, may, during their tenure or for one year afterward:

- obtain a financial interest or benefit from the entitlement grant activities, or
- have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or
- have a financial interest in the proceeds of the CDBG-activity, either for themselves or those they have business or immediate family ties.

HUD may grant limited exceptions to these restrictions, as outlined in 24 CFR 570.611(d).

These procedures are intended to serve as guidelines for the procurement of supplies, equipment, construction services and professional services for the Columbus Consolidated Government Entitlement Programs. The regulations related to conflict of interest and nepotism may be found 2 CFR 200.318, 2 CFR 200.319 and 24 CFR 570.611.

Any alleged violations of these standards of conduct shall be referred to the attorney for the Columbus Consolidated Government. Where violations appear to have occurred, the offending employee, officer or agent shall be subject to disciplinary action, including but not limited to dismissal or transfer; where violations or infractions appear to be substantial in nature, the matter may be referred to the appropriate officials for criminal investigation and possible prosecution.

PART 9– Davis Bacon

The Community Reinvestment Department has established the following objectives in order to administer and enforce Davis Bacon requirements:

• Apply prevailing wage requirements properly - Make certain that prevailing wage and reporting standards are applied where required. Ensure that any exemptions, exceptions or limitations are identified.

• Support labor standards compliance - Provide training, technical support and oversight to program participants, including contractors and subcontractors, to ensure that program participants understand their obligations under Federal labor standards.

• Monitor contractor compliance - Conduct reviews of certified payroll submissions and other information to ensure that employers comply with labor standards requirements including the payment of prevailing wages to laborers and mechanics.

• Investigate probable violations and complaints – Thoroughly explore any evidence of violations, especially allegations of underpayment. Ensure full resolution of substantiated violations.

• Pursue debarment and other available sanctions against repeat labor standards violators - Implement a no-tolerance policy toward employers and any other program participants who repeatedly violate prevailing wage requirements and/or fail to properly carry-out their labor standards responsibilities.

The purpose of this policy is to set forth clear guidance and procedures for complying with the Davis-Bacon Act and any other Federal statutes providing for the determination of prevailing wage rates and fringe benefits to corresponding Community Reinvestment Department CDBG programs, projects and activities. The Davis-Bacon Act requires the payment of prevailing wage rates to all laborers and mechanics on Federal government construction contracts in excess of $2,000. The Davis-Bacon and Related Acts (DBRA) determine applicability of Davis-Bacon to Federally-assisted construction contracts. The Housing and Community Development Act of 1974 (HCD), 42 U.S.C. § 5301 et seq., Section 110 of the Act, determines the DBRA applicability to CDBG funded activities.

In order to achieve compliance with HUD federal requirements, this policy applies to all construction contracts greater than $2,000 under the CDBG program, unless otherwise specified in this Policy. Section 110 of the HCD states that "[a] laborers and mechanics employed by contractors and subcontractors in the performance of construction work financed in whole or in part with assistance received under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a--276a-5). The Act further provides that Section 5310 (Section 110 of the Act) "[s]hall apply to the rehabilitation of residential property only if such property contains not less than eight (8) units. The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950, as amended1, and section 3145 of title 40." 42 U.S.C. § 5310.

Davis-Bacon Wage Determination

Davis-Bacon wages are "based on the wages the Secretary of Labor determines to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work" in a local area. 40 U.S.C. § 3142. These wage determinations are set by the U.S. DOL and are published online at https://beta.sam.gov/help/wage-determinations.

All covered contracts must include Davis-Bacon labor standards clauses and the applicable wage determinations depending on the type of construction as outlined in this section.

Categories of Work

The DOL establishes Davis-Bacon wage decisions for four (4) broad categories of construction work:

Residential

Residential construction is defined as those projects involving the construction, alteration or repair of single-family houses or apartment buildings of no more than four (4) stories in height. The definition includes all incidental items such as site work, parking areas, utilities, streets and sidewalks, unless there is an established area practice to the contrary. See Davis-Bacon Act WD # PR20200003 Residential,21 published on January 03, 2020.

Building

Building construction includes apartment buildings exceeding four (4) stories, and all other sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment or supplies, including incidental items such as grading, paving and utilities. Examples include high-rise apartment buildings, nursing homes and convalescent facilities, community centers, fire stations, commercial buildings, and dormitories. U.S. Department of Housing and Urban Development. February 2012. Federal Labor Standards Requirements in Housing and Urban Development Programs. HUD Handbook 1344.1 Rev2 Chapter 3, 3-2, 2/2012.22 See Davis-Bacon Act WD # PR20200001Building,23 published on January 03, 2020.

Highway

Highway construction includes the initial construction, alteration or repair of roads, streets, highways, alleys, parking areas, sidewalks and other similar projects not incidental* to residential, building or heavy construction. For example, the repair of streets and parking areas in a residential area that is performed independent of any other construction work is subject to highway wage rates. However, streets, parking areas and sidewalks installed during the new construction of residential apartments would be considered incidental to the residential construction work and would be performed pursuant to the residential wage decision applicable to the project. See Davis-Bacon Act WD # PR20200002 Highway,24 published on January 03, 2020.

Heavy

Heavy construction projects are those that are not properly classified as "residential", "building", or "highway". Some examples include antenna towers, canals, drainage and irrigation projects, sanitary and storm sewers, water mains and supply lines (not incidental to other construction), and storage tanks. See Davis-Bacon Act WD # PR20200002 Heavy,25 published on January 03, 2020.

Contractors are responsible for verifying the latest wage rates applicable for the project.

General Wage Decisions and Project Wage Decisions

General Wage Decisions

Most Davis-Bacon wage decisions are "General Wage Decisions", also referred to as "area decisions". General wage decisionsare usually published annually by the DOL and may be modified or superseded throughout the year. The DOL updates wage decisions and publishes them on Fridays. The official web site for publications of general wage decisions, modifications and supersedeas28 wage decisions is: https://beta.sam.gov/.

HUD Labor Relations staff and Labor Compliance Administrators (LCAs) may utilize general wage decisions without advance notice or approval from DOL. Most Davis Bacon wage decisions are available as published general wage decisions.

Project wage decisions

If an appropriate wage decision (by location, character of work, and/or specific trade required) is not published in the general wage decisions, a "project" wage decision shall be ordered from DOL by the Community Reinvestment Department.

Project wage decisions are applicable only to the construction work specified on the request to DOL and listed on the front page of the wage decision. Project wage decisions are valid for 180 days from the date of original issuance by DOL.

The issuance and expiration dates will be indicated on the front page of the wage decision. Like general wage decisions, project wage decisions may be modified. Note: A project wage decision may be applicable even though a general wage determination is published which covers the geographic location and character of work involved.29 HUD Handbook 1344.1 Rev2 Chapter 3 3-4 (B) 2/2012.30 Project wage decision must be ordered on a case-by-case basis from DOL. To request a Project wage decision, the Community Reinvestment Department will submit a completed DBRA Standard Form (SF)-30831, Request for Determination and Response to Request, to the DOL National Office, and will adhere to the approximately thirty (30) days for receipt of the project wage decision from the DOL.

Wage Decision Lock in Date

General and project wage decisions, whichever are applicable, become effective or "lock-in" for a particular contract or project at a specific point, in most cases, not later than the date construction starts. Once a wage decision is "locked-in" for a specific contract or project, subsequent modifications or supersedeas wage decisions are not effective for that contract/project. However, prior to the "lock-in" date, modifications and supersedeas wage decisions shall be considered for effectiveness. Project wage decisions shall be monitored to ensure that the "lock-in" date occurs before the project wage decision expires. The "lock-in" date is also referred to as the "effective date".

General and project wage decisions shall be effective (locked-in) on the date the contract is awarded, or the date construction starts, whichever may occur first, except as follows:

• Contracts entered into pursuant to competitive bidding – General wage decisions shall be locked-in on the date bids are opened provided that the contract is awarded within ninety (90) days after bid opening. If the contract is awarded more than ninety (90) days after bid opening, a general wage decision must be updated as of the date of award unless an extension is obtained. A project wage decision shall be locked-in at contract award. Modifications to a general or project wage decision published at www.beta.sam.gov or received by HUD prior to the lock-in date shall be effective with respect to the contract/project.

• Exception for competitive bid procedures ONLY – A modification to a general or project wage decision published/received less than ten (10) days before bid opening may be disregarded if it is found that there is not a reasonable amount of time to notify prospective bidders of the modification before bid opening. A record of such finding must be made to the contract/project file.

Determining the minimum wage rate calculation

The minimum rate consists of the basic hourly rate for wages plus any fringe benefits paid. This does not include any mandated payments made for federal and state taxes, social security, etc. The Basic Hourly Rate (BHR) is set by the actual classification of work – roofer, laborer, electrician, plumber etc. Workers can work under multiple classifications in one day in which the contractor must split the day into two (2) separate work classifications and pay according to the individual wage determinations for each classification.

Fringe Benefits are the payments made to a trustee or third (3rd) party fund, plan or program as a bona fide benefit to the employee. These can include benefits such as life insurance, health insurance, pension, vacation, holiday, sick leave, or other.

Davis-Bacon allows the fringe benefit to be a component of the prevailing wage determination, as long as the wages plus the fringe benefit are equal to or greater than the Davis-Bacon Wage Determination Rate. Ensuring this will allow a contractor to be compliant with Executive Order 2018-033.

Contractors have the option to pay the BHR and the Fringe Benefit rate in cash or they can pay the BHR directly to the employee and contribute payments to a Fringe Benefit plan. Workers must submit an "Authorization for Deductions" form indicating they are aware of that the deductions are being made for payroll deductions permissible without application to or approval of the Secretary of Labor.

Submission of Certified Payrolls

It is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. § 3.3, 5.5(a). The Copeland Act requires contractors and subcontractors performing work on federally financed or assisted construction contracts to furnish weekly a statement with respect to the wages paid each employee during the preceding week. 40 U.S.C. § 3145. DOL Regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

The Community Reinvestment Department will establish a system for the collection of certified payroll information as described. The following list of information will be requested in a certified payroll submission for each employee working on a Davis Bacon applicable CDBG funded project:

• Contractor or Subcontractor Information.

o Name of company & address. o Payroll Number.

o Week Ending date.

o Project and Location.

o Project or Contract Number.

• Name and Individual Identifying Number of each worker on each weekly payroll submitted.

• Number of Withholding Exemptions if needed.

• Work Classification(s) description of work actually performed by each laborer or mechanic (consult classification and minimum wage schedule set forth in contract specifications if needed).

o If additional classifications are deemed necessary, the Community Reinvestment Department shall provide guidance.

o If an individual may be shown as having worked in more than one classification, provide an accurate breakdown of hours worked in each classification as maintained and shown on the submitted payroll by use of separate entries.

• Hours worked should list the day and date and straight time and overtime hours worked as applicable.

o On all contracts subject to the Contract Work Hours Standard Act, enter hours worked in excess of 40 hours a week as "overtime"

o Reflect the total amount of hours worked.

• The Rate of Pay (Including Fringe Benefits paid in cash): The straight time for each worker, listing the actual hourly rate paid for straight time worked, plus cash paid in lieu of fringe benefits paid. When recording the straight time hourly rate, any cash paid in lieu of fringe benefits may be shown separately from the basic hourly rate.

• When overtime is worked, the overtime hourly rate paid plus any cash in lieu of fringe benefits paid should be shown for each worker. Payment of not less than time and one-half the basic or regular rate paid is required for overtime under CWHSSA if the prime contract exceeds $100,000.

• In addition to paying no less than the predetermined rate for the classification which an individual works, the contractor must pay amounts predetermined as fringe benefits in the wage decision made part of the contract to approved fringe benefit plans, funds or programs or shall pay as cash in lieu of fringe benefits.

• Gross Amount Earned for “This Project” should be listed which was earned on this project. If part of a worker's weekly wage was earned on projects other than the project described on the payroll being submitted, it should be reflected in a separate area named “All Projects”.

• All Deductions should be shown for gross amounts earned for “All Projects”. All deductions must be in accordance with the provisions of the Copeland Act Regulations, 29 C.F.R. Part 3. If an individual worked on other jobs in addition to the project, it should be shown in actual deductions from their weekly gross wage, and it should be indicated that deductions were based on their gross wages.

• Net Wages Paid for the week should be listed.

• All totals should be calculated correctly.

• The compliance statement bearing an original signature needs to be completed as it is subject to the penalties provided by 18 U.S.C. § 1001, namely, a fine, possible imprisonment of not more than five (5) years, or both. Accordingly, the party signing this statement should have knowledge of the facts represented as true.

• Contractors should list all required fringe benefits. If paying all fringe benefits to approved plans, funds, or programs in amounts not less than were determined in the applicable wage decision of the Secretary of Labor, the basic cash hourly rate and overtime rate paid to each worker on the face of the payroll and check affirm as well as on the payroll form to indicate the payment should be shown. 34 Act No. 4-2017, known as the “Labor Transformation and Flexibility Act”, defines overtime as hours worked in excess of eight (8) per calendar day as well as the hours worked in excess of forty (40) during the workweek, hours worked during the period in which a business shall be closed to the public by law, the hours worked during the rest day, or as defined in a collective bargaining agreement.

• Contractors who pay no fringe benefits – If not paying all fringe benefits to approved plans, funds, or programs in amounts of at least those that were determined in the applicable wage decision of the Secretary of Labor, should pay any remaining fringe benefit amount to each laborer and mechanic and insert in the "straight time" of the "Rate of Pay" column of the payroll an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the applicable wage decision. In as much as it is not necessary to pay time and a half on cash paid in lieu of fringe benefits, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half time premium on basic or regular rate, plus the required cash in lieu of fringe benefits at the straight time rate.

• Any Exceptions your project should be listed.

• Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage determination requires is obliged to pay the deficiency directly to the covered worker as cash in lieu of fringe benefits.

• All computation of overtime rates should also be reflected including for those contractors who do not pay a f

Exceptions to Coverage

If any portion of a contract has Davis-Bacon applicability, all the work performed under the contract is subject to Davis-Bacon. Davis-Bacon shall not apply to construction of a less than designated number of eight (8) housing units, as established in certain authorizing statutes. Some examples are included sections of the HCD, the

Housing Act of 1937, and the Cranston-Gonzalez National Affordable Housing Act of 1990, 42 U.S.C. § 12701 et seq.

There are no exceptions to Davis-Bacon requirements for volunteer labor unless an exception is specifically provided for in the act under which the funds are derived from.

Sick Leave/Vacation Time

Davis-Bacon does not require the contractors or subcontractors to give their employees time off for holidays, vacations, or sick leave (either with or without pay) unless otherwise indicated on the Wage determination set forth by the DOL. Any time off conceded to the employee (holiday, vacation or sick leave), even when paid, is not to be calculated as part of the total hours worked for the overtime purposes, as it is not considered time worked.

Unless set forth on the WD from the DOL, the DBA and CWHSSA do not require employers to give their employees time off for holidays, vacations, or sick leave - either with or without pay. If the contractor allows an employee time off for a holiday, a vacation, or because they are sick, the time off, even though the employee is paid for the time, is not hours worked and need not be included in the total hours worked for overtime purposes.

The gross wages are set forth on the certified payroll, as are deductions, but only the actual number of DBA hours worked are entered on the Certified Payroll Form. Often specific states may require pay for holidays, vacations, or sick leave and a contractor must comply with state requirements in addition to DBA requirements.

Davis-Bacon Non-Compliance

In cases where the Community Reinvestment Department finds instances of repeated non-compliance, the following list of repercussions for this non-compliance, contemplated in the Davis-Bacon Act, may be implemented or flagged for follow-up with local and/or federal entities:

• Payment to contractor will not be made until errors are corrected.

• Contract can be terminated for non-compliance.

• Debarment from all Government contracts for a period up to three (3) years.

• Debarment includes the contractor or subcontractor and any firm, corporation, partnership or association in which the contractor or subcontractor has a substantial interest.

• HUD sanctions denying participation in HUD programs or debarment from future HUD programs.

• May be subject to civil or criminal prosecution, False Claims Act of 1863 (FCA), as amended, 31 U.S.C. § 3729 et seq.

PART 10 – Reimbursement (Draw) Requests

Submitting Reimbursements (Invoices)

The purpose of this section is to provide a guideline on the process necessary to complete a Requisition for Reimbursement (referred to as a Reimbursement Request) for City of Columbus Community reinvestment Community Development Block Grant (CDBG) funding. Until the publication of this guide, all Reimbursement Requests have been following a fairly similar structure, but standardization of the Reimbursement Request is needed to assist the Community Reinvestment Department staff in reviewing and processing of submitted reimbursement requests.

This guide is directed towards Subrecipients that received an allocation of CDBG and/or HOME funding to assist in identifying and explaining the required documentation for reimbursement requests, and provide clarification on the steps taken by CRD Staff to complete a reimbursement for eligible project costs.

While each project type may require different documentation, this guide will detail the basic document required for all project types as well as state the Reimbursement Request Packet structure that is required for all reimbursement requests. Additional documents based on the project type will be noted later in this guide.

It should be noted that different expenses can be compiled within one Reimbursement Request Packet as long as the expenses are connected to the same project.

All reimbursement requests must contain the following attachments in order to create the Reimbursement Request Packet (herein referred to as the Packet):

1. Cover letter
2. Invoice
3. Invoice Summary List
4. Supporting Documentation

Packets missing any of the above attachments will be considered incomplete and will not be reviewed until missing documents are submitted.

Reimbursement Request Packet Make-up and Structures

Cover Letter

The cover letter is to assist CRD staff in tracking each reimbursement and providing a brief summary of the expenses within the Packet. This cover letter is especially important as it provides the Auditor's Office an abstract to the request. While the Auditor's Office is intertwined in processing of the Packets, the Auditor's Office staff members are not actively involved with CDBG/HOME funded projects. The cover letter allows them to gain an understanding of what project and information they are reviewing.

Due to the importance of this document, a cover letter is required to be submitted with each Packet. Failure to include a cover letter will result in a rejection of your Packet for further action. The cover letter does not need to be extensive, but must contain the following:

1. Printed on agency letter head
2. Addressed to Robert Scott, Community Development Director, at the following address:

City of Columbus
Community Reinvestment Department
420 10th Street
Columbus, GA 31901

3. State the name of the project
4. State the amount being requested by this reimbursement
5. State the reimbursement request's number
    a. First, second, third, etc. and final
6. Provide a very brief description on what is being reimbursed
7. Signed by authorized representative

The cover letter should be the first page of the Packet.

Agency Invoice

The agency invoice is to assist CRD staff in cataloging each reimbursement and being probably, the most important function of all, an invoice leaves a distinctive paper trail of business activity. It shows who is responsible for providing services or delivering goods, payment details, and terms of contract performance.

Each agency invoice must contain the following:

Budget

Each budget should have its own line with the following adjacent information:

Expenditures

Grant Balances.

Project Match (if any)

Contact information

including address

Invoice number

Make sure that all invoices are assigned to a unique code.

The invoice should be the second page of your reimbursement request.

The Supporting Documentation Summary List is a page listing all the supporting documentation within the Packet. The Invoice Summary List will assist the review process as Community Reinvestment staff can quickly verify all the required documents are within the Packet. The page will also assist in verifying the amounts noted on each supporting document total the request amount. This list will also assist the Community Reinvestment Department in submitting questions or concerns on specific supporting documents by being able to state which document is under review.

The Supporting Documentation Summary List should be the third page of your packet.

<u>Supporting Documentation</u>

The supporting documentation portion of the Reimbursement Request Packet will make up majority of the Packet's composition. This portion of the Packet will contain the evidence to support eligible costs being reimbursed. At its basic level, supporting documents must show a project cost/service has been incurred and paid. If there is no documentation of a cost and payment, then there is no proof the expenditure occurred. The funding can only be reimbursed for costs for which acceptable proof has been provided. In rare circumstances, wire transfers may be employed to acquire property. These situations require prior approval from the Community Reinvestment Department.

All supporting documentation should meet the following criteria:

1. Single sided
2. Labeled correctly to match the Supporting Documentation Summary List
3. If photocopied, required information is not cut off or blurry

Follow all guidance suggested in Part 5 of this document.

The Supporting Documentation should be the remaining pages of your packet.

<u>Project Leverage /Match</u>

For supporting documents containing both reimbursable costs and match, the Subrecipient must write on the supporting document what amount is being reimbursed and what is being evidenced as match. For example, if a payroll stub for $1,265.00 will have half of the cost reimbursed by CDBG funding and the other half of it is match, the Subrecipient should write "$632.50 is CDBG funding --- $632.50 is match."

<u>Redacting Sensitive Information</u>

Reimbursement Request Packets are not exempt from Freedom of Information Act (FOIA) requests. While CD Division staff will attempt to redact all sensitive information prior to the Reimbursement Request Packets being processed and prior to being submitted to the Auditor's Office, some information should be redacted by the Subrecipient.

The following information should be redacted from supporting documents:

First five (5) digits of employee/contractor's Social Security Number
First twelve (12) digits of a Credit Card
Bank routing/account numbers on checks
Employee's home address
Minor's name
Minor's address
Employee's birthdate

Employee's personal cell phone number
Medical tests/diagnoses

Potential Length of Time to Fully Reimbursement Requests

Due to the steps noted in the process above, reimbursements may take thirty (30) days to be fulfilled. The Community Reinvestment Department intends to process Reimbursements Requests for eligible project costs as quickly as possible; however, missing or erroneous documents in the Packet, Community Re staff capacity, conflicting meeting or training schedules, and glitches/errors in any of the above noted systems may cause delays in fulfilling requests.

It should be noted that if a Packet is found to be missing documents and/or contains errors, the processing time is frozen from the date of the notice of deficiencies is submitted to the Subrecipient until the deficiencies have been fully corrected and acknowledged by the CD Division. CD Division staff will make every effort to keep the Subrecipient updated on the status of the reimbursement requests.

Rejection of Reimbursement Request Packets

If the CD Division staff or the Auditor's Office determines there are substantial deficiencies in the Packet, the full Packet may be rejected back to the Subrecipient. Substantial deficiencies included, but not limited to, request amount on the Reimbursement Request Form does not match the cover letter and/or Invoice Summary List, inaccurate amounts within the Reimbursement Request Form, numerous errors on the Invoice Summary List, and missing required documentation.

Unless otherwise stated by CD Division staff, a physical copy of the revised or missing documentation must be submitted. There may be incidences when documents may be submitted via email; however, this type of submission is at the discretion of the CD Division.

Submission Timing

The Subrecipient Agreement will note the frequency in which a Reimbursement Request must be submitted to the CD Division. With exception to construction or non-housing related rehabilitation, requests more than likely should be submitted monthly. Monthly submissions reduce the Packet size, which allows faster review and therefore a shorter processing time. This also provides for a more consistent Subrecipient cash flow.

Barring delays in receiving funding from HUD, Reimbursement Requests containing an invoice and payment documents that are over three (3) months old from the date the request was submitted are highly discouraged and subject to rejection.

Final Reimbursement Request

Final Reimbursement Requests must adhere to the requirements stated above with the addition of the following:

Within the cover letter, the Subrecipient must state this is the final request

The final Packet must also contain a Final Project Report. Outside of instances in which the Community Reinvestment Department has informed the Subrecipient additional reporting may be needed for a project after the final Reimbursement Request, this will be the last Report to be submitted for the project.

The final Reimbursement Request will not be processed until a complete and accurate Final Report is submitted.

PART 11 – CDBG Implementation (Financial)

Uniform Administrative Requirements

The CDBG regulations [24 CFR 570] require that non-federal entity adhere to the Uniform Administrative Requirements, Cost principles, and Audit Requirements found at 2 CFR Part 200 with emphasis on the following:

- Subpart D – Federal Award Requirements – Standards for Financial and Program Management [200.300-309]
- Procurement Standards [200.317-326]
- Performance & Financial Reporting [200.327-329]
- Subrecipient Monitoring and Management [200.330-332]
- Subpart E – Cost Principles [200.400-419]
- Subpart F – Audit Requirements [200.500-512]

2.7 Financial Management Systems/Processes [2 CFR Part 200.300-309]

When subrecipient agencies first begin providing services under the CDBG program and start drawing down funds, few of them have financial systems in place that meet all pertinent Federal requirements. For many subrecipients, putting together a financial system that both serves the organization's needs and meets Federal requirements may have been a matter of trial and error. This kind of "ad hoc" approach is dangerous, however, because the organization may not find out about the inadequacies of the system until it is too late, such as when the organization runs into a major problem with an overspent budget or a serious audit finding.

This section provides a summary of the required elements of financial systems for managing Federal funds. Before plunging into the details of the Federal requirements, a subrecipient should ask itself the following eight sets of questions to find out if there are particular areas where help may be needed.

1) Internal controls: Does the agency have a written set of policies and procedures that define staff qualifications and duties, lines of authority, separation of functions, and access to assets and sensitive documents? Does the agency have written accounting procedures for approving and recording transactions? Are financial records periodically compared to actual assets and liabilities to check for completeness and accuracy?

2) Accounting records:	Does the agency maintain an adequate financial accounting system, the basic elements of which should include: (a) a chart of accounts; (b) a general ledger; (c) cash receipts journal; (d) cash disbursements journal; (e) a payroll journal; (f) payable and receivable ledgers; and (g) job cost journals (if involved in construction)? Does the agency's accounting system provide reliable, complete and up-to-date information about sources and uses of all funds? Are "trial balances" performed on a regular basis (at least quarterly)?
3) Allowable costs:	Does the agency have a clearly defined set of standards and procedures for determining the reasonableness, allowability, and allocability of costs incurred that is consistent with the basic Federal rules (OMB Circulars A-87 or A-122)? Does the agency know which specific types of expenditures are prohibited under the CDBG program? Does the agency have an approved indirect cost allocation plan?
4) Source documentation:	Does the agency maintain up-to-date files of original source documentation (receipts, invoices, canceled checks, etc.) for all of the financial transactions, including those involving obligations incurred and the use of program income?
5) Budget controls:	Does the agency maintain an up-to-date (approved) budget for all funded activities, and perform a comparison of that budget with actual expenditures for each budget category? Does the agency regularly compare progress toward the achievement of goals with the rate of expenditure of program funds?
6) Cash management:	Does the agency have a regular procedure for accurately projecting the cash needs of the organization, and for minimizing the time between the receipt of funds from the grantee and their actual disbursement? Can the agency ensure that all program income is used for permitted activities, and that such program income is used before further drawdowns are made from the grantee for the same activity?
7) Financial reporting:	Is the agency able to provide accurate, current, and complete disclosure of the financial results of each Federally-sponsored project or program in accordance with the reporting requirements of the grantee and HUD?
8) Audits:	When was the last Independent Public Accountant (IPA) audit and what were the results? Do the agency and the grantee have copies of the management letter?

If the agency's answer is "yes" to all of these questions, then the agency has established acceptable control over its financial affairs. If the agency was not able to give an affirmative answer to all the questions above, this section of the Manual will help the agency understand the minimum Federal requirements for financial management, and to identify where systems need strengthening. Once these areas have been identified, the agency [with technical assistance from the grantee] can work with the agency's financial staff, the agency's auditor and/or the grantee to develop the systems and expertise needed to gain control of the agency's financial affairs and meet the Federal requirements.

2.7.1 Overview of Financial Management

The requirements for financial management systems and reporting are found in 2 CFR Part 300-309 for non-Federal entities. The purpose of these requirements is to ensure that a non-Federal entity receiving Federal funds has a financial management system sufficient to:

- Provide effective control over and accountability for all funds, property, and other assets;
- Identify the source and application of funds for Federally-sponsored activities, including verification of the "reasonableness, allowability, and allocability" of costs, and verification that the funds have not been used in violation of any of the restrictions or prohibitions that apply to this Federal assistance;
- Permit the accurate, complete and timely disclosure of financial results, in accordance with the reporting requirements of the grantee or HUD; and,
- Minimize the time elapsing between the transfer of funds from the U.S.- Treasury and disbursement by the subrecipient.

The Federal regulations provide specific requirements in connection with the eight areas identified in this chapter, namely, internal controls, accounting records, allowable costs, source documentation, budget controls, and cash management, financial reporting, and audits. The first seven of these areas are discussed below. Auditing standards are described separately.

2.7.2 Internal Controls

The soundness of any organization's financial management structure is determined by its system of internal controls. "Internal controls" consist of a combination of procedures, specified job responsibilities, qualified personnel, and records, which together create accountability in an organization's financial system and safeguard its cash, property, and other assets. Through its system of internal controls, an agency's management can ensure that:

- Resources are used for authorized purposes and in a manner consistent with applicable laws, regulations, and policies;
- These resources are protected against waste, mismanagement or loss; and
- Reliable information on the source, amount and use of resources are secured, maintained up-to-date, and disclosed in appropriate records and reports.

Some of the basic elements that a subrecipient should also consider in developing its system of internal control include:

- An organizational chart setting forth the actual lines of responsibility of individuals involved in approving or recording financial transactions.
- Written definition *of* the duties of key employees.

- ❑ A formal system of authorization and supervision sufficient to provide accounting control over assets, liabilities, receipts, and expenditures.

This should include:

- ❑ Maintenance of a policy manual specifying approval authority for financial transactions and guidelines for controlling expenditures; and,
- ❑ Written procedures for the recording of transactions, as well as an accounting manual and a chart of accounts (see Accounting Records, below).

The system of authorizations should provide a way for management to ensure supervisory approval of transactions, and documentation of these transactions for accounting purposes. A system of authorizations can be general -- as in a procedures manual which explains how accounting functions are to be performed -- or very specific, as in identifying who has the authority to sign a contract on behalf of the organization or to sell a piece of equipment.

- ❑ Adequate separation of duties so no one individual has authority over an entire financial transaction. Separation of duties specifically involves the separation of three types of functional responsibilities: (a) authorization to execute a transaction, (b) recording of the transaction, and (c) custody of the assets involved in the transaction. No one person should have control of more than one of these functional responsibilities.

- ❑ Hiring policies to ensure that staff qualifications are commensurate with job responsibilities.

- ❑ Control over access to assets, blank forms, and confidential documents. Physical access to records, blank forms, cash, and other assets should be limited to authorized personnel only. For example, access to accounting records should be limited to only those individuals having recordkeeping or supervisory responsibility for them.

- ❑ Periodic comparisons of financial records to actual assets and liabilities (reconciliation*),* with corrective action taken in response to any discrepancies. As with separation of duties, this is a crucial exercise to uncover and correct inadvertent recordkeeping errors in a timely manner. It is also essential for identifying potential weaknesses in an organization's system for safeguarding resources, as well as possible instances of fraud or misuse of assets.

2.7.3 Accounting Records [2 CFR Part 200.302 (b) (7)]

Non-Federal entities required to have accounting records that adequately identify the source and application of CDBG funds provided to them. To meet this requirement, a subrecipient's accounting system should include at least the following elements:

A chart* of *accounts

This is a list of names and the numbering system for the individual accounts that contains the basic information about particular classifications of financial transactions for the organization. Accounts are created and, in turn, used to summarize the financial transaction data, according to some common characteristics. A typical chart of accounts might have, for example, separate account categories for describing assets (cash in a checking account, accounts receivable, pre-paid insurance, etc.); liabilities (loans, accounts payable, obligated funds, etc.); revenue (drawdowns from CDBG awards, cash contributions, proceeds from sales, other program income, etc.); and expenses (rent, wages, heat, telephone, etc.).

A cash receipts journal

This journal documents (in chronological order) when funds were received, in what amounts, and from what sources.

A cash disbursements journal

This journal documents the expenditures of the organization in chronological order (e.g., when the expense was incurred, how much was spent, to whom it was paid, and for what purpose).

A payroll journal

This journal documents the organization's expenses on salaries and benefits, and distinguishes different categories for regulatory purposes.

A general ledger

After a transaction is entered in a journal, that information also should be transferred to the proper accounts contained in the general ledger. The general ledger summarizes in chronological order the activity and financial status of all the accounts of an organization. The process of transferring transaction information from a journal to a ledger is known as "posting". The entries in the journal and ledger should be cross-indexed to permit the tracing of any recorded transaction (i.e., an "audit trail").

Periodically, a "trial balance" is performed, to test the mathematical accuracy of the ledger, and to prepare a statement of the financial position of an organization as of a particular date.

2.7.4 Sources and Uses of Funds

For the CDBG program, these accounting records must contain reliable and up-to-date information about the sources and uses of funds, including:

- Federal grant awards (or sub-grant allocations) received by the organization;
- Current authorizations and obligations of CDBG funds;
- Unobligated balances (funds remaining available for distribution);
- Assets and liabilities;
- Program income; and,
- Actual outlays or expenditures, with further breakdowns by:
  - the grant program from which the funds are derived;
  - the "eligible activity" classifications specified in 24 CFR Part 570.201 - 570.206 (housing rehabilitation, economic development, public facilities, public services, etc.) or similar classifications which clearly indicate use of program funds for eligible activities.

2.7.5 Maintenance of Records

The internal control requirements provide for the separation of duties and the secure storage of accounting records in limited access areas. In maintaining these accounting records, a subrecipient should also ensure that:

- Journal entries are properly approved and explained/supported;
- Posting and trial balances are performed on a regular basis; and,
- Fidelity bond coverage is obtained for responsible officials of the organization.

Columbus Consolidated government may require the non-federal entity to purchase additional fidelity bond coverage in cases where it feels the normal policy coverage is not sufficient to protect the interest of the government.

2.7.6 Allowable Costs

The standards for determining the reasonableness, allowability, and allocability of costs incurred as part of CDBG-financed activities are found in OMB Circular A-87 for governmental subrecipients, and in OMB A-122 for non-profit subrecipients.

According to basic guidelines contained within these OMB circulars, a cost *is allowable* under the CDBG program if:

(1) The expenditure is necessary, reasonable and directly related to the grant.

This standard applies equally to such items as salaries and administrative services contracts, as well as to real property and equipment purchases or leases, travel, and other administrative expenditures. In determining the reasonableness of a given cost, consideration shall be given to:

a) whether the cost is of a type generally recognized as ordinary and necessary for the operation of the organization or the performance of the award;

b) the restraints or requirements imposed by such factors as generally accepted sound business practices, arm’s length bargaining, Federal and state laws and regulations, and terms and conditions of the award;

c) whether the individuals concerned acted with prudence in the circumstances, considering their responsibilities to the organization, its members, employees and clients, the public at large, and the Government; and

d) significant deviations from the established practices of the organization which may unjustifiably increase the award costs.

(2) The expenditure has been authorized by the grantee (Columbus Consolidated Government) which provides the CDBG funds to the subrecipient), generally through approval of the budget for the activity.

For example, grantees generally are limited by HUD to spending no more than 15 percent of any year's CDBG award on public services expenses. Therefore, in their agreement with a subrecipient, the grantee will stipulate how much the particular subrecipient will be allowed to expend on such activities in order to keep the grantee's overall public services expenditures within the 15 percent ceiling. Any expenditures by the subrecipient on such activities exceeding the approved amount may be disallowed by the grantee based upon the provisions of the Subrecipient Agreement.

(3) The expenditure is not prohibited under Federal, state or local laws or regulations.

For example, OMB Circular A-87, Schedule D and OMB Circular A-122, explicitly prohibit expenditure of Federal funds for entertainment, contributions and donations, fines and penalties, and bad debts.

In addition, the regulations specific to the CDBG program (at 24 CFR 570.207) prohibit the use of program funds for:

- Buildings used for the general conduct of government;
- General government expenses; and,
- Political activities.

This section of the program regulations also specifies that the following activities may not be assisted with CDBG funds unless authorized as a special economic development activity (24 CFR 570.203), or when carried out by certain categories of subrecipients under the provisions of 24 CFR 570.204, or when the other special conditions noted below after each category are met:

- Purchase of construction equipment (unless purchased for use as part of a solid waste disposal facility, which is eligible under 24 CFR 570.201(c));

- Personal property, furnishings, fixtures, or motor vehicles (unless these items constitute part or all of a public services activity under 24 CFR 570.201(e), are eligible as firefighting equipment under 24 CFR 570.201(c), or are necessary in the administration of activities assisted with CDBG funds);

- Operating and maintenance expenses (except for expenses associated with public service activities, interim assistance, or office space for program staff employed in carrying out the CDBG activities);

- New housing construction (unless performed in accordance with the last resort housing provisions of 24 CFR Part 42, or housing assisted under Section 17 of the Housing Act of 1937 or carried out by a 24 CFR 570.204 subrecipient); and

- Income payments (This prohibition does not include payments made under 24 CFR 570.201(n) to facilitate and expand homeownership by low-and moderate-income persons).

(4) The expenditure is consistently treated*,* in the sense that the subrecipient applies generally accepted accounting standards in computing the cost, and utilizes the same procedures in calculating costs as for its non-Federally assisted activities.

(5) The cost must be allocable to the CDBG program. A cost is allocable to a particular cost objective (e.g., grant, program or activity) in proportion to the relative benefits received by that objective. This means that:

- If an office is utilized by two programs during the same hours, the costs of the office should be allocated between the two programs on an equitable basis.

- The same expense cannot be claimed-against more than one grant (e.g., double-billing is prohibited).

In addition:

- A cost originally allocable to a particular Federal grant program cannot be shifted to another Federal grant program in order to overcome funding deficiencies, to avoid restrictions imposed by the grant or by law, or for any other reasons;

- In accordance with the guidance found in OMB Circulars A-87 and A-122, the composition of direct and indirect costs must be clear. Direct costs must be identified specifically with a particular activity. Indirect costs are those incurred for common objectives which benefit more than one activity (e.g., salaries of executive officers, accounting and auditing, other costs of general administration). The subrecipient's indirect costs must be supported by an indirect cost proposal/cost allocation plan prepared in accordance with U.S. Department of Health and Human Services Circular OASMB-5 (for non-profit subrecipients) or OASC-10 (for governmental subrecipients).

(6) The cost is net of all applicable credits*.* Any credits such as purchase discounts or price adjustments must be deducted from total costs charged. The subrecipient is not allowed to make a profit from any costs charged to CDBG funds.

2.7.8 Budget Controls

Subrecipients must have procedures in place to monitor obligations and expenditures against their approved budgets) for CDBG-funded activities. Depending on the language of the Subrecipient Agreement, the grantee may be under no obligation to reimburse a subrecipient for expenditures which exceed approved budget line items or the overall budget for CDBG-assisted activities. Therefore, the subrecipient needs to have an on-going system to compare actual receipts, encumbrances, and expenditures with the CDBG budget in order to ascertain in a timely fashion whether it will be necessary to initiate a formal budget revision. In addition, since the budget reflects the subrecipient's best estimate of the resources necessary to accomplish the CDBG project scope of services, any pattern of line item overruns should prompt a careful re-assessment of whether the available resources will still be sufficient to achieve the agreed-upon objectives.

In order to compare and control expenditures against approved budgets, a subrecipient must:

- maintain in its accounting records the amounts budgeted for eligible activities;

- include unexpended/unobligated balances for budgeted categories, as well as obligations and expenditures; and periodically compare actual obligations and expenditures to date against planned obligations and expenditures, and against projected accomplishments for such outlays.

These comparisons should be made on an ongoing basis, and not after a majority of funds have been committed. In addition, it is critical that subrecipients maintain a close watch over the progress achieved for the amount of funds expended. It does little good to stay within the budget line if the actual accomplishments lag far behind in terms of the units of service delivered.

2.7.10 Financial Reporting

Financial reports prepared by a non-Federal entity must be accurate, timely, current, and represent a complete disclosure of the financial activity and status in each Federal grant program under which assistance is received (2 CFR Part 200.327-328).

Although the format and frequency of the financial reports required of subrecipients may differ from locality to locality, a subrecipient must have the capacity to provide at least the following information for each CDBG activity:

- Amount budgeted;
- Advances/reimbursements received to date;
- Program income and other miscellaneous receipts in the current period and to date;
- Actual expenditures/disbursements in the current period and cumulatively to date, for both program income and regular CDBG grant funds;
- Current encumbrances/obligations in addition to disbursements;
- Unpaid requests for payment previously submitted at time of latest drawdown.

2.7.11 Other Miscellaneous Requirements for Subrecipient Financial Management Systems

- Loan servicing: A subrecipient must have a system for properly servicing all CDBG-funded loans, where applicable, including:

  - Loan agreements with clear repayment terms and default definitions, descriptions of how defaults can be cured, what actions will be taken if default is not cured, and what is pledged as security for each loan; and,

  - Collection procedures that provide for recognition of all current amounts due and when past payments were received, notification when payments are overdue, a procedure for taking further action to collect overdue amounts, and criteria for writing off bad debts.

- Cash depositories: Regular banking procedures may be followed without any separate bank account or special bank eligibility requirements. However, given the increasing frequency of bank failures and the difficulties that can be experienced in accessing funds once banks have been seized by regulators (even if the deposits are insured), subrecipients are advised to obtain information on bank ratings before depositing CDBG funds with a financial institution. In addition, subrecipients are encouraged to use minority-owned financial institutions in conjunction with their CDBG activities, whenever possible.

- Real property: The subrecipient must:

  - Keep track of CDBG-acquired real property to ensure that program income from sales or rental of such property or assets is properly recorded and reported [24 CFR570.503(b)(3)];

  - When applicable, have procedures for ensuring ongoing compliance with the National Objectives requirements associated with real property acquired or improved with CDBG funds in excess of $25,000 [24 CFR 570.503(b)(7)].

2.8 PROGRAM INCOME (24 CFR 570.503(a), (b) (3) and (8), AND 24 CFR 570.504)

- The term "program income" means any gross income received by the subrecipient that was directly generated from the use of CDBG funds (24 CFR 570.500(a)). This includes, but is not limited to:

  - Proceeds from the sale or long-term lease of real property purchased or improved with CDBG funds;
  - Proceeds from the disposition of equipment purchased with CDBG funds;
  - Gross income from the use or rental of property acquired by the grantee or subrecipient with CDBG funds, less the costs incidental to the generation of such income;
  - Gross income from the use or rental of property owned by the grantee or subrecipient that was constructed or improved with CDBG funds, less the costs incidental to the generation of such income;
  - Payments of principal and interest on loans made using CDBG funds;
  - Proceeds from the sale of loans made with CDBG funds;
  - Proceeds from the state of obligations secured by loans made with CDBG funds;
  - Interest earned on funds held in a revolving fund account of a subrecipient, established with the approval of the Columbus Consolidated Government;
  - Interest earned on program income, pending the disposition of such program income; and,
  - Funds collected through special assessments made against properties owned and occupied by households not of low-and moderate-income, where such assessments are used to recover part or all of the CDBG portion of a public improvement.

Program income does not include (except for revolving loan funds and lump-sum drawdown accounts), the interest earned on cash advances from the grantee. Subrecipients must return such program income, to the Columbus Consolidated Government’s Community Reinvestment Department for remittance to HUD.

When program income is generated by an activity that is only partially assisted with CDBG funds, the income must be prorated to reflect the percentage of CDBG funds used.

- The written agreement between the subrecipient and the Community Reinvestment Department will specify whether any program income received by the subrecipient is to be returned to the Community Reinvestment Department or retained by the subrecipient.

- If the program income is to be retained by the subrecipient, the written agreement will also specify the CDBG-eligible activities the subrecipient may undertake with the program income.

- The receipt and expenditure of program income must be recorded by the subrecipient as part of its records of financial transactions.

- When a subrecipient retains program income, such income must be used before drawing down additional grant funds from the grantee, except in the case of a revolving fund. In the case of program income in a revolving fund, the subrecipient must use the program income for the activity for which the revolving fund was established, before drawing down additional grant funds for the activity.

- At the expiration of the subrecipient agreement, any program income on hand or subsequently received by the subrecipient must be returned to the City's Community Reinvestment Department.

2.14 AUDITS

Even if subrecipient agencies have their own internal sources of funds, an independent review of their financial and program results let the subrecipient and the grantee know whether the agency is making adequate progress toward its goals and objectives, and that the agency is spending funds properly. The United States General Accounting Office (GAO) has stated that a subrecipient of the CDBG Entitlement program, shares a joint responsibility with the grantee to ensure that Federal program resources are' applied "efficiently, economically and effectively to achieve the purposes for which the resources were furnished." The financial and performance audits discussed in this section are designed to assure that grantees and subrecipient agencies meet this mutual responsibility, and are accountable to the public. In particular:

1. *Financial audits* are designed to provide an independent opinion on whether an agency's financial statements present in a fair manner actual operating results in accordance with accepted standards, and whether agencies have complied with specific financial requirements in terms of systems and procedures.

2. *Performance audits* provide an independent point of view on the extent to which an agency has faithfully, efficiently and effectively carried out its operations, and achieved the intended results or benefits of its programs.

In general, a formal Independent Public Accountant (IPA) audit sits at the third rung of a four-rung examination ladder. The first rung corresponds to the agency's own internal bookkeeping systems and procedures used to compile operating results for a given period of time, and which can be used to compare you're the agency's financial and program results for that period as a whole against its goals and objectives. The second rung corresponds to an outside accountant's compilation and review of the agency's operating data for a given period. However, at this level, the review is still informal and may not result in the accountant's formal opinion as to the reliability and accuracy of the results.

The third level of examination-discussed in this section-corresponds to the formal IPA audit that must be performed anytime a subrecipient expends $750,000 or more in Federal funds in a year. Its primary goal is to determine whether an agency has adequate systems in place to assure that:

- goals and objectives are met,
- resources are safeguarded,
- laws and regulations are followed, and
- reliable data are obtained, maintained and accurately disclosed.

This level of review should always result in a formal opinion of the accuracy and reliability of the data presented as expressed in a management letter.

The fourth level of audit corresponds to detailed evaluations by the GAO or HUD's Office of the Inspector General (OIG) that are designed to improve the productivity of Federal agencies and programs by identifying and correcting poor management practices among these agencies and their grantees and subrecipients. These types of audits are not discussed in detail here but, if you are interested, your grantee or local HUD office should be able to provide you with information on GAO and OIG procedures and standards.

This discussion summarizes Federal requirements for IPA audits of subrecipients subject to the provisions of the Single Audit Act. It discusses general audit requirements, internal control and compliance reviews, audit reports, auditor selection and procurement, audit costs, and audit review and resolution procedures. The intent is not only to summarize the procedures necessary to comply with Federal requirements, but also to show that an IPA audit gives you an excellent opportunity to measure the strengths and weaknesses of your program so that you can improve your performance.

2.14.1 General Audit Requirements

A non-federal entity that expend $750,000 or more in total Federal financial assistance in a year are responsible for obtaining an independent audit in accordance with 2 CFR Part 200, Subpart F – Audit Requirements except when they elect to have a program specific audit conducted. A program audit is an audit of one federal program (such as CDBG). A program-specific audit is allowed when the grantee or subrecipient expends federal awards under only one federal program. A single audit is an audit that includes both an entity's financial statements and its federal awards (from all applicable federal programs)..

The computation of the total of such assistance includes all Federal funds expended the entire entity, and not just the department or division receiving the CDBG funding. The Federal assistance may be received directly from a Federal agency, or passed through state or local government or through non-profit organizations.

If a non-federal entity expends less than $750,000 per year in Federal financial assistance, it is exempt from Federal Single Audit requirements. However, the grantee or subrecipient must still have records available for review by HUD or the grantee, and there also separate state laws prescribing additional audit requirements may apply.

2.14.2 Audits - Internal Control and Compliance Review

The Single Audit Act requires that the independent auditor determine and report on whether the organization or government entity has internal control systems to provide reasonable assurance that it is managing its Federal assistance programs in compliance with applicable laws and regulations. The auditor will perform tests of these controls to evaluate the effectiveness of the design and operation of the policies and procedures in preventing or detecting material noncompliance. In compliance testing, the auditor will also examine a sample of transactions to determine whether:

- the amounts reported by the subrecipient as expenditures were for allowable services, and the records show that those who received benefits or services were eligible to receive them;

- applicable matching requirements, levels of effort, and earmarking limitations such as ceilings on administrative costs or funding for public services, as well as allocations for activities to principally benefit low- and moderate-income individuals) were met;

- the subrecipient's financial reports and claims for advances and reimbursements contain information that is supported by the books and records from which the basic financial statements have been prepared; and,

- the expenses claimed by the subrecipient are in accordance with the applicable cost principles and administrative requirements.

2.14.3 Audit Reports

Following the completion of the audit, an audit report must be prepared. The audit report must contain at least the following:

- the subrecipient's financial statements and a schedule of Federal assistance (showing total expenditures under each Federal grant program), as well as the auditor's report on these two components;

    - an evaluation of the subrecipient's internal control systems, identifying the significant internal accounting controls and those controls designed to provide reasonable assurance that Federal programs are being managed in compliance with applicable laws and regulations; and,

    - a report on compliance containing: an opinion as to whether each major Federal program was being administered in compliance with applicable laws and regulations; a statement of positive assurance for those items tested; negative assurance for those items not tested; a summary of all instances of non-compliance; and, identification of total amounts questioned.

The subrecipient audit report is due to the grantee in accordance with the terms of the Subrecipient Agreement. A subrecipient should maintain copies of audit reports on file for a minimum of three years from the date of their issuance. Similarly, the subrecipient should ensure that its auditor maintains copies of the audit work papers .for a minimum of three years from the date of the report issuance. If there remain unresolved audit issues at the end of this three-year period, the subrecipient should notify the auditor in writing to extend the retention period.

2.14.4 Auditor Selection/Procurement [2 CFR Part 200.509]

In arranging for audit services funded with CDBG grant resources, subrecipients must follow the procurement standards found in 24 CFR 85.36 [for governmental entities] or 24 CFR 84.40-48 [for non-profit organizations], as applicable.

For governmental subrecipients, the standards provide that while such entities are encouraged to enter into intergovernmental agreements for audits (and other services), an analysis should be made to determine whether it would be more economical to purchase the services from private firms. Where the use of intergovernmental agreements are required by state statute, however, such statutes take precedence.

The individuals) or firm selected must be qualified and sufficiently independent of those representatives of the subrecipient who authorize the expenditure of federal funds so as to produce unbiased opinions, judgments, or conclusions. In evaluating prospective auditors, a subrecipient should consider the candidates' technical ability, past experience with audits of this type, and the qualifications of the specific staff to be assigned. Cost considerations should only be a selection factor when the other criteria have been met.

2.14.5 Audit Costs [2 CFR Part 200.245]

The costs of audits made in accordance with the applicable regulations are allowable charges to Federal assistance programs. These charges can be treated as either a direct cost or an allocated indirect cost. For allocated indirect costs, generally the percentage of costs charged to Federal assistance programs for a single organization-wide audit should not exceed the percentage that the subrecipient's Federal funds represent of total funds expended by the entity during the applicable year. The percentage may be exceeded, however, if appropriate documentation demonstrates higher actual costs.

2.14.6 Audit Review and Resolution

As noted earlier in this section, the reports from any independent audits must be forwarded by the subrecipient to the grantee (in its role as the entity providing the funds), who will review all such reports to determine whether they meet all relevant standards and are acceptable.

A subrecipient must establish a system to ensure a timely and appropriate resolution to audit findings and recommendations. This system must address both independent audits performed relative to the Single Audit Act, and audits completed on the subrecipient's operations by the HUD Office of the Inspector General (OIG), the U.S. Government Accounting Office (GAO), or other governmental bodies.

A subrecipient's first step in the resolution of an audit is the preparation of "Management's Response" to the findings and recommendations contained in the audit report. In its response, the subrecipient should provide:

- For findings/recommendations with which the subrecipient agrees:
  - Information on the actions it has taken (or plans to take) to correct the specified non-compliance or financial system deficiencies; and,
- For findings/recommendations with which the subrecipient does not agree:

- The basis (including relevant documentation) for the subrecipient's belief that an audit finding or recommendation is inaccurate or inappropriate.

Typically, the Management Response is due within thirty (30) days from the subrecipient's receipt of an audit report. If in its Management Response the subrecipient has disagreed with any of the audit findings or recommendations, the entities issuing and reviewing the audit report will re-examine the points in question to determine whether any revisions to the report's findings/recommendations are warranted.

For those audit findings and recommendations with which the subrecipient agrees, and for any disputed findings or recommendations in which the subrecipient's challenge is not upheld, the next step in the resolution process is the implementation of procedures to prevent the deficient conditions from re-occurring. In general, corrective action to correct findings or to implement recommendations must be completed within one year of the issuance of the audit report'. The grantee may perform a site visit or require documentation that the corrective action procedures have been implemented, or may require the subrecipient's independent auditor to report whether the subrecipient has implemented the prior year's corrective action and/or recommendations.

A "repeat finding" (a deficiency or area of non-compliance which appears in more than one successive audit for a subrecipient) will be viewed very seriously by a grantee, and can often result in special conditions being attached to the subrecipient's CDBG funding, or other sanctions.

Occasionally, the findings from an audit will result in "questioned costs". A subrecipient's costs associated with its CDBG funding may be questioned for the following reasons:

- There is inadequate documentation to support the expenditure or the amount of cost charged to the grant;
- The expenditure does not appear to be related to the grant project;
- The cost was incurred outside the effective period of the subrecipient agreement, or was a program expense incurred by the subrecipient before environmental review clearance was achieved;
- The expense is unallowable under the program regulations and applicable cost principles; and
- The cost required the prior approval of the grantee, and no prior approval was obtained.

To resolve a questioned cost**,** the subrecipient must:

- Provide the missing documentation to support the expenditure and amount;
- Offer detailed explanation of how the cost relates to the grant program; and/or
- Seek retroactive approval (which the grantee may or may not give) for an expense which required prior approval.

If a subrecipient is not able to resolve a questioned cost to the satisfaction of the auditor and/or grantee, the expense will be disallowed. A disallowed expense for which Federal funds were originally used must be reimbursed from non-CDBG/non-Federal funds. On occasion, such reimbursements can be repaid on a payment schedule negotiated with the grantee or the other relevant officials (e.g., HUD Office of Inspector General representatives).

2.17 PAYMENTS/REIMBURSEMENTS

All payments/reimbursements shall be made on a project-by-project basis. All requests for payment must be supported with proper documentation and shall be approved by the Director, Community Reinvestment Department, on the basis of a duly certified and approved estimate of work performed or invoice for materials purchased, labor, and equipment used. Payment to contractors shall be made only after the (engineer/architect, etc.) has certified in writing, that the contractor has satisfied all the contract requirements, including all applicable local, state and Federal regulations. It should be noted that it takes a minimum of 10 working days from the time a request for payment is received, to make the payment, provided that applicable local, State and Federal requirements are met.

Payments from CDBG funds will be prepared by Community Reinvestment Department staff and submitted to the Columbus Consolidated Government Financial Services Department for approval and payment, as follows:

Payment Processing Steps

1. Agencies requesting payments submit payment requests to the Community Reinvestment Department for review and approval, prior to submission to the Columbus Consolidated Government Finance Department

2. Payment request is received and date stamped, and directed to appropriate Community Reinvestment Department staff for review and initial processing.

3. Staff review the payment request for eligibility, sufficiency of documentation, and for budget availability.

4. If payment request is suitable for payment, staff prepare the document for payment, and transmit applicable portions to the City's Finance Department for processing/issuance of payment.

5. The Community Reinvestment Department draws CDBG funds from the its Letter of Credit at the United States Treasury, using the HUD Integrated Disbursement and Information System [IDIS], or any successor computerized system at HUD.

6. Community Reinvestment Department Finance Manager reconcile expenses with revenue drawn from IDIS on a monthly, quarterly, and annual basis.

2.18 "THREE DAY RULE"

The "Three Day Rule" means that CDBG funds "drawn down" and received must be expended within three working days of receipt. For example, if CDBG funds are electronically transferred from the U.S. Treasury to the Columbus Consolidated Government checking account on Friday, CDBG expense checks must be written by

Columbus Consolidated Government for the full amount of the deposit by the close of business on the following Wednesday. The "Three Day Rule" is not applicable to reimbursements. For instance, since the City and its subrecipients pay the contractor, or pay for materials with their own non-Federal funds, and are later reimbursed by the CDBG program, the "Three Day Rule" does not apply. The City uses the reimbursement method; therefore, the "Three-Day Rule" does not apply to its CDBG transactions.

PART 12 – Monitoring of Program Performance

Purpose and Overview

The Community Reinvestment Department conducts monitoring of program performance to review performance and evaluate compliance of subrecipients funded with Community Development Block Grant (CDBG) funding.

Monitoring of program performance positions the Community Reinvestment Department to make informed judgments about subrecipients' program effectiveness, efficiency, and their ability to prevent fraud, waste and abuse of public funds.

Monitoring also allows the city to provide technical assistance to help subrecipients comply with applicable laws and regulations, improve technical skills, increase capacity and stay updated on regulations relevant to CDBG.

Additionally, monitoring helps to identify deficiencies, and highlight accomplishments and best practices that can be duplicated.

Note: the word 'contract' throughout this section refers to both formal Subrecipient Agreements with external agencies as well as internal Letters of Agreement with city departments who have been awarded HUD funding.

Subrecipient Monitoring

Subrecipient monitoring is the acquisition, review, and reporting of information about the subrecipients' compliance with their contract terms and conditions, both administrative and programmatic. To maximize limited resources and minimize disruption to the subrecipient, monitoring should integrate administrative and programmatic review to the greatest extent possible.

CRD Project Coordinators

The CRD Project Coordinators are primarily responsible for enforcing the performance of contract terms and conditions. The CRD Project Coordinators are the primary points of contact through which all contracting information should flow between the city and the provider. All actions related to the contract should be initiated by or coordinated with the CRD Project Coordinator.

Monitoring Levels

Subrecipients will be monitored according to risk level (High, Medium, or Low), assessed by the CRD Project Coordinator.

Monitoring Frequency

All high-risk subrecipients will be monitored on-site at least once each year and additional if warranted. Providers in the medium and low risk levels will be selected randomly so that each will be monitored onsite at least once over a three-year period.

Preparation for Monitoring

Adequate preparation for monitoring improves the quality of the work product and expedite completion of monitoring tasks. This section explains the value and function of risk assessment procedures; describes the development of an annual monitoring work schedule and plan; and outlines the preparations expected before monitoring implementation.

Risk Assessment

An element of risk is always present when the city contracts with another entity to provide services. Risk assessment is the systematic method for determining the intensity of monitoring appropriate for each subrecipient.

All contracts awarded, including multi-year contracts, should receive a risk assessment before the effective date of the contract, if possible. CRD Project Coordinators are responsible for conducting risk assessments.

During a single fiscal year, the same risk assessment criteria should be applied to each contract awarded during the year. Contracts that start and finish in two different fiscal years should be assessed initially according to the weights in the year of their starting data and again in the subsequent fiscal year using risk and weighting factors applicable to that year.

Annual Monitoring Schedule

The Community Reinvestment Department will develop an annual monitoring schedule based upon the risk-level assessment scores assigned to each subrecipient.

High-risk monitoring should be accomplished closer to the beginning of the program year where possible, though subrecipients can be scheduled at any time during the year. If a subrecipient has been awarded multiple contracts for the year, the provider should be scheduled according to the highest-risk level assigned for any of its awarded agreements.

The CRD Project Coordinator may conduct unscheduled site visits to the provider if there is reason to believe problems exist or such a visit is warranted.

On-site reviews should occur at least once every three years, or more frequently in the case of high-risk subrecipients. Limited desk reviews should occur at least annually for each grant.

Monitoring Checklist and Preliminary Reviews

The CRD Project Coordinator is responsible for planning monitoring activities with each provider before examining records or visiting provider sites. Prior to any visit, the CRD Project Coordinator will:

• Prepare written notification to the subrecipient in advance of the scheduled on-site monitoring visit; and
• Prepare the monitoring checklist prior to the scheduled date of monitoring.

To ensure that the CRD Project Coordinator examines the correct items for the activity area in question, as well as to promote thoroughness and consistency in monitoring, the relevant CPD monitoring checklists for CDBG will be used to the greatest extent possible.

However, the monitoring checklists may be enhanced or limited as additional information becomes available so that it reflects a scope of review commiserate with the provider's risk assessment level.

The monitoring will have administrative and programmatic components. Administrative monitoring includes a review of basic financial and managerial documents. Programmatic monitoring includes data collection system verification and provider compliance with contractual programmatic terms.

The CRD Project Coordinator should make note of any previous findings or recommendations; the subrecipient should have made progress in or corrected prior deficiencies. The CRD Project Coordinator may find it prudent to review audits and attestations from earlier years to obtain information about continuing problems or unresolved findings.

Audits required under 2 CFR 200.501 (Audit Requirements) include a report on the provider's internal control system. The CRD Project Coordinator may rely on the audit report as verification that the books and records of the provider were maintained in accordance with generally accepted accounting principles and that the provider's system of internal controls is adequate to support reliance on the existing business records.

Risk Assessment and Sampling Procedures

Consistent and uniform risk assessment allows the city to apply monitoring resources to the areas of greatest need. By efficiently and effectively allocating its monitoring resources, the city helps ensure that funds are spent in accordance with applicable rules and regulations and the city's goals and objectives are achieved. It also helps protect subrecipients from bias and favoritism in the selection of providers monitored.

Similarly, effective and defensible sampling procedures ensure that CRD Project Coordinators gain accurate information about a subrecipient's performance. Effective sampling enables both the subrecipient and the city to determine where substantive problems may exist without the time-consuming task of individually reviewing each transaction performed by a provider.

Risk Assessment Tool

The CRD Project Coordinator will use a risk assessment tool to rank each of its subrecipients according to the level of risk. The risk assessment tool has pre-established weighted factors that apply equally to all contracts or providers.

Where a subrecipient has multiple contracts, that subrecipient should be monitored according to the highest level of risk that any one of the contracts score. For example, if a subrecipient has five contracts, one of which is high level risk, two are medium level risk and two are low level risk, the subrecipient should be considered a high-level risk, and all contracts with the provider should be monitored.

The risk assessment tool includes the following risk factors:

1. Dollar Value of the Contract. The higher the contract amount, the higher the risk the city assumes.
2. Type of Program Oversight. Weights are assigned based on the type of oversight given the provider, such as whether a board of directors provides oversight to the provider.
3. The Type of Contract. The basis of payment to the provider: Percentage of completion, reimbursement, or advance payment.
4. Number of Clients Served. The more clients served, the higher the risk.
5. New Subrecipient or Change in Key Executives. A higher risk occurs where the subrecipient has no contracting history with the city or where a subrecipient has made changes in its key executives (e.g., executive director, financial manager or clinical manager) within the past year.
6. Subrecipient Performance Goals. Subrecipients will be scored based on how well they met their goals as stated in their contract.
7. Prior Provider Performance and Corrective Actions. Subrecipients who have previously had serious financial, administrative or program deficits or have had difficulty being responsive to department requirements should be considered to present a higher risk than those who have not.
8. Last Monitoring Visit. The intensity and period since the last monitoring visit should be a heavily weighted factor in the risk assessment. Subrecipients with no monitoring history may be expected to rank high followed by those who have not received a monitoring visit in a year or more.

The riskiest variable receives the greatest weight. This ranking or weighting of the risk factors assumes that certain factors are more important than others in establishing the level of monitoring for each subrecipient. However, the weights will be the same for all contracts being considered in the same timeframe.

The subrecipient will be assigned to a low, medium, or high-risk monitoring level, according to its scores on the risk assessment tool.

Sampling

CRD Project Coordinators will not always need or be able to review 100% of the provider's administrative and programmatic records for the contract period. In such cases, the CRD Project Coordinator may draw a sample of records to arrive at a conclusion regarding the provider's compliance with the terms of the contract. A sample will typically represent 10% of the total files available for review. However, a higher or lower percentage may be used in the event of extraordinarily small or large client caseloads.

Monitoring Methods and Process

The Community Reinvestment Department uses two primary methods of monitoring: limited desk reviews and formal on-site monitoring reviews.

Limited Desk Reviews

CRD Project Coordinators conduct informal quarterly desk reviews of each agency's progress in meeting performance and expenditure goals. This review helps inform areas of risk for further review and generally comprise programmatic and financial reviews which include, but are not limited to:

- The cumulative beneficiary accomplishments compared to annual program goals;
- Proportional distribution of services across racial and ethnic populations evidencing adequate outreach;
- Review of distribution of beneficiaries across income groups (extremely-low, very-low, low, and moderate income);
- Any information provided through narratives or other methods that may inform the grantee of Subrecipient activities, challenges, successes or other pertinent information.
- Cumulative expenditure rate to budget;
- Eligibility of line item expenditures to budget, and
- Adequacy and clarity of supporting documentation for line-item expenditures.

Formal On-Site Reviews

Formal on-site reviews are conducted for all high-risk subrecipients and a sample of medium and low risk subrecipients. This type of review includes both administrative and programmatic compliance. To ensure that the CRD Project Coordinator examines the correct items for the activity area in question, as well as to promote thoroughness and consistency in monitoring, the relevant CPD monitoring checklists for CDBG is used. Note that in circumstances in which a Federal, State, or Local State of Emergency has been declared, a virtual visit may substitute for an on-site visit.

Formal on-site reviews will typically include the following components:

1. Activity Records. For administrative purposes, the CRD Project Coordinator reviews records to verify that clients have been served according to the payments that the department has made for services. For program purposes, the CRD Project Coordinator seeks verification that the services have been delivered, are appropriate to the client's needs, and meet the terms of the contract.
2. Personnel Records, Payroll Records, and Organization Charts. In administrative monitoring, the CRD Project Coordinator reviews the subrecipient's policies and procedures for compliance with contract terms. For program monitoring, the CRD Project Coordinator reviews these to be assured that the provider has an adequate number of appropriately trained staff to provide contracted services.
3. Invoices and Supporting Documentation. For administrative monitoring, the CRD Project coordinator reviews these to verify that expenditures have been made in compliance with the approved budget. For program monitoring, the monitor verifies that the contractual terms for services have been met.
4. Interview. In some cases, interviews with program directors, managers, members of the board of directors, financial managers, etc., may provide valuable information on the viability of the program and the organization.
5. Observation. In some cases, observations of activities of the provider and clients may provide a valuable resource of how the provider delivers client services and meets the schedule of services in the contract.

Entrance Conference

The CRD Project Coordinator should conduct an entrance conference with the subrecipient's staff, including the director, financial officer, and if possible, board members. The subrecipient should be informed of the purpose and schedule of the site monitoring visit.

The entrance conference may include:

- A review of activities, developments, and concerns that have arisen since any previous monitoring
- A discussion of any special provisions of the current contract, changes in staff, clientele, federal, state, or city laws and rules.
- A tour of the facility
- A review of the questions on the applicable HUD Monitoring Exhibits
- A request of the records necessary for review. The CRD Project Coordinator should have full access to provider records regarding the contract.

Exit Interview

After the visit, the CRD Project Coordinator should conduct an exit interview with the subrecipient's primary point of contact to report on the general results of the monitoring. The CRD Project Coordinator can use this meeting to ask questions or request explanations of preliminary findings. The HUD Program Specialist should discuss the provider's strengths and weaknesses and develop preliminary results or conclusions based on available information.
The exit interview allows the provider an opportunity to explain or provide documentation to clear up minor or easily correctable errors.

Reporting and Corrective Actions

The CRD Project Coordinator should transmit the results of the monitoring findings and recommendations, and any other relevant information by preparing and submitting a written report to the subrecipient.

The CRD Project Coordinator will distinguish between minor concerns and formal findings. For example, if a few errors are founding recording information from one document to another, and none of the errors resulted in service degradation or can be interpreted as fraudulent financial transactions, then, these errors can be interpreted as minor concerns and without need for a formal corrective action plan or penalties.

On the other hand, if major errors are found, such as payments made by the department for services not delivered or clients not receiving services from provider staff, the CRD Project Coordinator should require the development of a corrective action plan. Such errors could cause financial penalties or, possibly, a finding of breach of the contract by the provider. The CRD Project Coordinator should initiate corrective action against the provider.

Reporting

The CRD Project Coordinator should compile documents generated during the monitoring process:

- Work papers
- Completed monitoring tools
- Copies of financial statements and any relevant reports or policy documents

The CRD Project Coordinator should prepare a memo to the subrecipient agency that includes administrative and programmatic findings regarding the subrecipient's performance of contract provisions and a closing summary with recommendations for corrective action. The report may also contain suggestions that do not require formal corrective actions. The CRD Project Coordinator should distribute copies of the memo to appropriate subrecipient contacts.

Corrective Action

If substantial problems are identified during the interview, the CRD Project Coordinator should report the problems to his or her supervisor and determine a recommendation for either more extensive monitoring or a corrective action plan. The CRD Project Coordinator is responsible for notifying the provider to develop a corrective action plan.

The corrective action plan, stating how and when the deficiencies will be corrected, should be prepared by the provider and approved by the CRD Project Coordinator. The provider should address each deficiency identified, including steps and time frames anticipated for each corrective action.

The CRD Project Coordinator should notify the provider of approval or disapproval of the corrective action plan. Reasons for disapproval should be listed.

When the CRD Project Coordinator and subrecipient cannot resolve differences about the corrective actions to be taken, an appeal may be made to the HUD Compliance Manager or Department of Housing and Community Development Director.

Intervention for more serious or persistent problems involve any combination of the following measures:

- Placing restrictions on the subrecipient's payment requests; or
- Disallowance of subrecipient expenses; or
- Requiring repayment of CDBG funds expended in an ineligible manner; or
- Imposing probationary status whereby the subrecipient is limited in its ability to conduct certain business without prior review and written approval of the City.

A formal process for addressing subrecipients will be followed for those who fail to resolve or address findings. Each situation will be looked at on a case by case basis. City may impose sanctions which may involve any combination of the following measures:

- Temporarily suspending the subrecipient; or
- Not renewing or funding the subrecipient in subsequent program year(s); or
- Termination of the subrecipient's activity for the current program year; or
- Initiation of legal action (see breach of contract process below)

Any sanctions or other penalizing action to be taken must be approved by the Director of the Community Reinvestment Department.

Subrecipients will have the opportunity to due process if in disagreement with the city's actions. Subrecipient will submit in writing to the Director of Community Reinvestment Department within 10 days from notification of actions. The Director of Community Reinvestment Department will review and respond within 10 days of Subrecipient's letter.

Breach of Contract

Breach of contract is a legal term of art that describes a condition that results from a failure of a party to abide by the material terms or conditions of a contract such that one party loses the value of its bargain with the other party. A breach may be indicated by one or more findings contained in the monitoring report and any other material reports that a provider is not complying with the terms and conditions of the contract. The contract signer, appropriate legal staff, department director, and program staff should be consulted in any instances in which the CRD Project Coordinator has reason to believe that a breach of contract has occurred.

Because the city has the authority, in some instances, to waive a breach of contract, the HUD Program Specialist, legal staff, and department director should agree on the action to be taken prior to informing the provider of a breach or suspected breach of the contract.

Legal counsel is responsible for notifying the subrecipient of a breach. The CRD Project Coordinator is responsible for ensuring the department that the problems are corrected if the breach is to be waived or remedied by corrective action.

Where a decision is made to waive the breach by the department director in consultation with legal counsel, the CRD Project Coordinator should provide an explanation and justification of the waiver of breach to the contract file.
A complete on-site monitoring packet should be placed in the corresponding monitoring file. The on-site monitoring packet includes, but is not limited to:

- Intent to Monitor Letter;
- Entrance Conference Sign-in Sheet;
- Monitoring Checklist;
- Supporting documentation;
- E-mail correspondence between subrecipient and CRD Project Coordinator to resolve any findings; and
- Monitoring Results Letter

PART 13 – Affirmative Outreach

Subrecipients must make known that use of the facilities, assistance, and services are available to all on a nondiscriminatory basis. If it is unlikely that the procedures that the recipient or subrecipient intends to use to make known the availability of the facilities, assistance, and services will to reach persons of any particular race, color, religion, sex, age, national origin, familial status, or disability who may qualify for those facilities and services, the recipient or subrecipient must establish additional procedures that ensure that those persons are made aware of the facilities, assistance, and services. The recipient and its subrecipients must take appropriate steps to ensure effective communication with persons with disabilities including, but not limited to, adopting procedures that will make available to interested persons information concerning the location of assistance, services, and facilities that are accessible to persons with disabilities. Consistent with Title VI and Executive Order 13166, recipients and subrecipients are also required to take reasonable steps to ensure meaningful access to programs and activities for limited English proficiency (LEP) persons.

PART 14 – Equal Employment Opportunity

The regulations pursuant to Title I of the Housing and Community Development Act of 1974, as amended, require CDBG recipients to assure, through certification to the U.S. Department of Housing and Urban Development, that all activities will be conducted in accordance with Section 109 of the Act (the non-discriminatory clause), Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11246, and Section 3 of the Housing and Urban Development Act of 1968. More responsibilities have been placed on the local governments to carry out housing and community development decisions, including the formulation of an adequate response to the needs of minorities, women, the elderly and other low-income persons.

PART 15 – Residential Antidisplacement and Relocation Assistance Plan

This Residential Anti-displacement and Relocation Assistance Plan (RARAP) is prepared by the Columbus Consolidated Government in accordance with the Housing and Community Development Act of 1974, as amended; and HUD regulations at 24 CFR 42.325 and is applicable to our CDBG, UDAG and/or HOME-assisted projects.

Minimize Displacement

Consistent with the goals and objectives of activities assisted under the Act, the Columbus Consolidated Government will take the following steps to minimize the direct and indirect displacement of persons from their homes:

- Evaluate housing codes and rehabilitation standards and code enforcement in reinvestment areas to prevent undue financial burden on established owners and tenants.
- Stage rehabilitation of apartment units to allow tenants to remain in the building/complex during and after the rehabilitation, working with empty units first.
- Arrange for facilities to house persons who must be relocated temporarily during rehabilitation.
- Adopt policies to identify and mitigate displacement resulting from intensive public investment in neighborhoods.
- Adopt policies which provide reasonable protections for tenants faced with conversion to a condominium or cooperative.
- Adopt tax assessment policies, such as deferred tax payment plans, to reduce impact of increasing property tax assessments on lower income owner-occupants or tenants in revitalizing areas.
- Establish counseling centers to provide homeowners and tenants with information on assistance available to help them remain in their neighborhood in the face of revitalization pressures.
- Where feasible, give priority to rehabilitation of housing, as opposed to demolition, to avoid displacement.
- If feasible, demolish or convert only dwelling units that are not occupied or vacant occupiable dwelling units (especially those units which are “lower-income dwelling units” (as defined in 24 CFR 42.305)) or structures that have not been used for residential purposes.
- Target only those properties deemed essential to the need or success of the project.

Relocation Assistance to Displaced Persons

The Columbus Consolidated Government will provide relocation assistance for lower-income tenants who, in connection with an activity assisted under the CDBG and/or HOME Programs, move permanently or move personal property from real property as a direct result of the demolition of any dwelling unit or the conversion of a lower-income dwelling unit in accordance with the requirements of 24 CFR 42.350. A displaced person who is not a lower-income tenant, will be provided relocation assistance in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and implementing regulations at 49 CFR Part 24.

One-for-One Replacement of Lower-Income Dwelling Units

The Columbus Consolidated Government will replace all occupied and vacant occupiable lower-income dwelling units demolished or converted to a use other than lower-income housing in connection with a project assisted with funds provided under the CDBG and/or HOME Programs in accordance with 24 CFR 42.375. Before entering into a contract committing the Columbus Consolidated Government to provide funds for a project that will directly result in demolition or conversion of lower-income dwelling units, CCG will make these project plans public by placing at least two notices in the Columbus Ledger-Enquirer and will submit to the HUD Field Office the following information in writing:

1. A description of the proposed assisted project;

2. The address, number of bedrooms, and location on a map of lower-income dwelling units that will be demolished or converted to a use other than as lower- income dwelling units as a result of an assisted project;

3. A time schedule for the commencement and completion of the demolition or conversion;

4. To the extent known, the address, number of lower-income dwelling units by size (number of bedrooms) and location on a map of the replacement lower-income housing that has been or will be provided.

5. The source of funding and a time schedule for the provision of the replacement dwelling units;

6. The basis for concluding that each replacement dwelling unit is designated to remain a lower-income dwelling unit for at least 10 years from the date of initial occupancy; and

7. Information demonstrating that any proposed replacement of lower-income dwelling units with smaller dwelling units (e.g., a 2-bedroom unit with two 1-bedroom units), or any proposed replacement of efficiency or single-room occupancy (SRO) units with units of a different size, is appropriate and consistent with the housing needs and priorities identified in the HUD-approved Consolidated Plan and 24 CFR 42.375(b).

To the extent that the specific location of the replacement dwelling units and other data in items 4 through 7 are not available at the time of the general submission, the Columbus Consolidated Government will identify the general location of such dwelling units on a map and complete the disclosure and submission requirements as soon as the specific data is available.

Replacement not Required Based on Unit Availability

Under 24 CFR 42.375(d), the Columbus Consolidated Government may submit a request to HUD for a determination that the one-for-one replacement requirement does not apply based on objective data that there is an adequate supply of vacant lower-income dwelling units in standard condition available on a non-discriminatory basis within the area.

Contacts

The Community Reinvestment and Real Estate Department (Phone: 706-225-4613) is responsible for tracking the replacement of lower income dwelling units and ensuring that they are provided within the required period.

Subrecipients are responsible for providing relocation payments and other relocation assistance to any lower-income person displaced by the demolition of any dwelling unit or the conversion of lower-income dwelling units to another use.

PART 16 – URA and Section 104d

The Uniform Act, passed by Congress in 1970, is a Federal law that establishes minimum standards for Federally funded programs and projects that require the acquisition of real property (real estate) or that displace persons from their homes, businesses, or farms. in accordance with the Housing and Community Development Act of 1974, as amended; and HUD regulations at 24 CFR 42.325 and is applicable to our CDBG projects. The URA applies to all federally assisted activities that involve the acquisition of real property, easements, or the displacement of persons, including displacement caused by rehabilitation, and demolition activities. If CDBG assistance is used in any part of a project, the URA governs the acquisition of real property and any resulting displacement, even if local funds were used to pay the acquisition costs.

Displacement Overview & Definitions

Private persons, corporations or businesses that acquire property or displace persons for a CDBG-assisted project are subject to the URA. Under the URA, all persons displaced as a direct result of acquisition, rehabilitation, or demolition, for a CDBG-assisted project, are entitled to relocation payments and other assistance under the URA. All acquisitions made in order to support a CDBG activity are subject to the URA. Acquisition that takes place on or after the date of submission of a CDBG application to fund an activity on that property is subject to URA, unless the grantee shows that the acquisition was unrelated to the proposed CDBG activity. Acquisition that takes place before the date of submission of the application will be subjected to the URA if CDBG determines that the intent of the acquisition was to support a subsequent CDBG activity. The URA provisions apply to all types of long-term acquisition of property, including when acquiring full fee title, fee title subject to retention of a life estate or a life use, long-term leases (including leases with options for extensions) of 50 years or more, and to permanent and temporary easements necessary for the project.

Displacement results when people or a non-residential entity moves permanently as a direct result of the acquisition, demolition, or rehabilitation of property for CDBG-funded projects.
In order to understand applicable relocation requirements, it is necessary to understand some key terminology.

Who Is Displaced under the URA and CDBG?

The URA, the CDBG regulations and Section 104(d) each address specific circumstances that would qualify someone as a "displaced person. "Under the URA, the term "displaced person" means:

- A person who moves permanently from the real property after the property owner (or person in control of the site) issues a vacate notice to the person. An owner who refuses to renew an expiring lease in order to evade the responsibility to provide relocation assistance will also trigger URA coverage for the tenant.
- The effective move date of the displaced person is based on whether the grantee:
    - Has site control at the time the grantee applies for CDBG funds for the project that is later approved, then the household is considered displaced on the submission date of the application; or
    - Does not have site control when the application for CDBG funds, the effective date will be the date the grantee obtains site control.
- A person who moves permanently from the real property after the initiation of negotiations, unless the person is a tenant who was issued a written notice of the expected displacement prior to occupying the property (otherwise known as a "Move-In Notice")
- A person who moves permanently and was not issued a Notice of Non-displacement after the application for CDBG funds is approved.

Even if there was no intent to displace the person, if a Notice of Non-displacement was not provided, HUD has taken the position that the person's move was a permanent, involuntary move for the project since the person was not given timely information essential to making an informed judgment about moving from the project.

Under CDBG, the regulations define a "displaced person" as someone who moves after a specific event occurs:

- This event establishes a presumption that a project may begin (e.g., date of submission of an application). It is presumed that displacement before this date did not occur "for the project" and is not covered by the URA, unless rebutted by convincing evidence to the contrary.
- It is also presumed that a permanent, involuntary move on or after that date is a displacement "for the project," unless the grantee or state determines otherwise.

The Community Reinvestment Department must concur in a determination to deny a person relocation benefits on this basis:

- When an owner either evicts a tenant or fails to renew a lease in order to sell a property as "vacant" to a grantee for a HUD-funded project, HUD will generally presume that the tenant was displaced "for the project." (Evictions for serious or repeated violations of the lease are permissible, but the owner must follow state tenant-landlord laws governing eviction.)
- In cases where the tenant was not notified of their eligibility for URA benefits, the grantee is responsible for finding the displaced tenant and providing appropriate relocation assistance, unless the grantee can demonstrate that the move was not attributable to the project.
- CDBG regulations also define a "displaced person" as:
    - A tenant who moves permanently after the CDBG-funded acquisition or rehabilitation, and the

increased rent is not affordable (they are “economically displaced”).

The CDBG program regulations cover “economic displacement,” while the URA is silent on this issue. If rents are increased after a CDBG project is completed, and the new rent exceeds 30% of the tenant’s gross monthly income, they would be “economically displaced.”

The URA also protects the following “displaced persons.”

- A tenant-occupant of a dwelling who receives a Notice of Non-displacement but is required to move to another unit in the building/complex may be considered displaced, if the tenant moves from the building/complex permanently and either:
    - The tenant was not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move within the project; or
    - Other conditions of the move within the project were not reasonable.
- A tenant who moves permanently after the building has a change from residential use to a public use as a direct result of a CDBG-assisted project (for example, the building now leases units to serve persons who were homeless or require supportive housing). Under the CDBG program, leases of 15 years or more are considered acquisitions for the purposes of the URA.
- A nonresidential tenant who receives a Notice of Non-displacement, but moves permanently from the building/complex, if the terms and conditions under which the tenant may remain are not reasonable.

It is expected that the grantee or property owner will negotiate these terms and conditions. A tenant who believes the offer is unreasonable may relocate and file an appeal seeking assistance as a “displaced person.”

When Section 104(d) is triggered:

The term “displaced person” means any lower-income household that moves from real property permanently as a direct result of the conversion of an occupied or vacant occupiable low- and moderate-income dwelling unit or the demolition of any dwelling unit, in connection with a CDBG Funded activity. 24 CFR 570.606(b)(2)(i)

Persons Not Considered Displaced

A person does not qualify as a “displaced person” (and is not entitled to relocation assistance at URA levels), if:

- The person has no legal right to occupy the property under state or local law, specifically not meeting the requirements of adverse possession; or
- The person has been evicted for serious or repeated violation of the terms and conditions of the lease or occupancy agreement or other good cause, the grantee determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance; or
- The person moves into the property after the date of the award for CDBG funds and, before moving in, was provided a “Move-In Notice,” which consist of a written notice of the project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated or suffer a rent increase) and the fact that he or she would not qualify for assistance as a “displaced person” as a result of the project.

People are also not considered displaced if:

- The person occupied the property for the purpose of obtaining relocation benefits.

- The person retains the right of use and occupancy of the property for life following its acquisition (life estates).
- The person is determined not to be displaced as a direct result of the project. Grantees may not make this determination on their own. Contact CDBG for determination assistance.
- The person is an owner-occupant of the property who moves as a result of a voluntary acquisition. ((NOTE: Tenants living in properties that are acquired via a voluntary acquisition are covered by the URA regardless of their willingness to move.)
- The person leaves due to code enforcement unless the code enforcement results in rehabilitation or demolition for an assisted project. There should be sufficient separation of time and activities, otherwise an owner-occupant or tenant who is required to move permanently as a direct result of this rehabilitation or demolition may be eligible for relocation assistance.
- The person, after receiving a notice of eligibility, is notified in writing that he or she will not be displaced.
    - Such a notice cannot be delivered unless the person has not moved, and the agency agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of eligibility.
- The person is an owner-occupant who voluntarily applies for rehabilitation assistance on his or her property. When the rehabilitation work requires the property to be vacant for a period of time, this assistance is considered optional.
- The person is not lawfully present in the United States unless denial of benefits would result in "exceptional and extremely unusual hardship" to a lawfully present spouse, child, or parent. This prohibition covers all forms of relocation assistance under the URA including both replacement housing payments (RHP) and moving assistance.

The current URA regulations include a definition of the phrase "exceptional and extremely unusual hardship," which focuses on significant and demonstrable impacts on health, safety, or family cohesion. This phrase is intended to allow judgment on the part of the grantee and does not lend itself to an absolute standard applicable in all situations. When considering whether such an exemption is appropriate, a displacing agency may examine only the impact on an alien's spouse, parent, or child who is a citizen or lawful resident alien.

An "alien not lawfully present in the United States" is defined as an alien present in the United States who has not been admitted or paroled into the United States pursuant to the Immigration and Nationality Act (8 United States C.1101 et seq) and whose stay in the United States has not been authorized by the United States Attorney General. It includes someone who is in the United States after the expiration of the period of stay authorized by the United States Attorney General or who otherwise violates the terms and conditions of admission, parole, or authorization to stay in the United States.

When a household contains some members, who are present lawfully, but others are present unlawfully, there are two different computation methods, one for moving expenses and one for replacement housing payments (RHP). For moving expenses, the payment is to be based on the proportion of lawful occupants to the total number of occupants. For example, if four out of five members of a family to be displaced are lawfully present, the proportion of lawful occupants is 80 percent, and that percentage is to be applied against the moving expenses payment that otherwise would have been received.

For the RHP, the unlawful occupants are not counted as a part of the family and its size is reduced accordingly. Thus, a family of five, one of whom is a person not lawfully present in the U.S., would be counted as a family of four. The comparable for the family would reflect the makeup of the remaining four persons and the Replacement Housing Payment (RHP) would be computed accordingly.

Initiation of Negotiations (ION)

The date of the Initiation of Negotiations ("ION") serves as a milestone in determining a person's eligibility for relocation assistance, including moving costs and a replacement housing payment. CDBG regulations establish a program-specific definition of ION as the trigger for issuance of the Notice of Eligibility for Relocation Assistance or Notice of Non-displacement.

For CDBG programs, the term "initiation of negotiations" is defined as the following:

- If the displacement results from privately undertaken rehabilitation, demolition or acquisition, the execution of the grant or loan agreement between the grantee and the person owning or controlling the real property.
- If the displacement results from grantee demolition or rehabilitation and there is no related grantee acquisition, the notice to the person that he or she will be displaced by the project (or the person's actual move, if there is no such notice).
- When there is voluntary acquisition of real property by a grantee, the term "initiation of negotiations" means the actions described above, except that the ION does not become effective, for purposes of establishing eligibility for relocation assistance, until there is a written purchase agreement between the grantee and the owner.
- Whenever real property is acquired by a grantee that has eminent domain/condemnation powers under the statutes of New Hampshire and the acquisition is an involuntary transaction, the initiation of negotiations means the delivery of the Notice of Offer of just compensation by the grantee to the owner to purchase the real property for the project. 24 CFR 570.606

After the ION, any person who seeks to rent a unit in the project must be issued a Move-in Notice before executing a lease; otherwise, the project will incur liability for relocation costs if the persons are found to be eligible as displaced persons. 49CFR 24.2(a)(15)

Project

The definition of what is a "project" differs for URA and for Section 104(d):

- The term project is defined under URA as an activity or series of activities funded with federal financial assistance received or anticipated in any phase. In addition, URA states that program rules will further define what is considered a project. Handbook 1378, Chapter 1, Paragraph 1-4 DD
- Under Section 104(d), a project is an activity or series of activities undertaken with HUD financial assistance received or anticipated in any phase. Section 104(d) benefits are triggered if the activity is a CDBG or HOME funded activity and the HUD assisted activity is part of a single undertaking. 49 CFR 49.2(a)(22)

In order to determine whether a series of activities are a project, look at:

- Timeframe: Do activities take place within a reasonable timeframe of each other?
- Objective: Is the single activity essential to the overall undertaking? If one piece is unfinished, will the objective be incomplete?
- Location: Do the activities take place on the same site?

- Ownership: Are the activities carried out by, or on behalf of, a single entity?

PART 17 – Project File Management

Accurate recordkeeping is crucial to the successful management of CDBG-funded activities. Insufficient documentation is likely to lead to monitoring findings, and these findings will be more difficult to resolve if records are missing, inadequate or inaccurate.

Grantees must maintain files and records that relate to the overall administration of the CDBG program. These records will include the following where applicable:

- Award Letter
- Application
- Executed Written Agreements & Amendments;
- Eligibility and national objective determinations for each activity;
- Environmental Review-Executed
- Notice to Proceed
- Procurement Policy and Documentation
- Bid Tabulation & Award
- Bids Received (3 minimum)
- Pre-Bid Sign In Sheet
- Bid Advertisement
- Cost Analysis & Specifications
- Contractor Documents
- Change Orders (If applicable)
- Payment Bond (General Contractor)
- Executed Contract (General Contractor-Subcontractor)
- Executed Contract (Subrecipient-General Contractor
- Property management files;
- HUD monitoring correspondence;
- Fair Housing and Equal Opportunity records;
- EPLS Verification (www.sams.gov) (General Contractor & Subcontractor)
- Contact Sheets & List of Subs (General Contractor, Subcontractor)
- CDBG Certifications
- Labor Standards
- Certified Payrolls (General Contractor/ Subcontractors)
- Davis-Bacon Interviews (All workers on Project)
- Wage Decision
- Section 3 Reports (Monthly)