

# Indiana CDBG Handbook

## Community Development Block Grants

Downtown revitalization · drinking water · sanitary sewer ·  
quality of life · community centers · comprehensive and strategic  
planning · quality of life



## ABOUT THIS HANDBOOK

The Indiana Office of Community and Rural Affairs (OCRA) developed this handbook in collaboration with the Grant Services staff as a resource for local government officials and OCRA-certified grant administrators who are implementing Community Development Block Grant (CDBG) funded projects or contemplating applying for CDBG funds. In its redesign, the handbook is now a complement to a manual to be developed. In the event of a conflict or inconsistency between the CDBG Handbook and Community Development Block Grant regulations at 24 CFR Part 570 and/or Indiana Code, the strictest of these shall prevail.

The handbook is designed to provide information about how to carry out an OCRA-funded CDBG project from conceptualization through implementation to closeout. Each section describes the process and documentation needed to accomplish eligible activities. The supporting materials include sample forms, documents, letters, and file checklists. This handbook is available on the [OCRA website](#) so that the intended audiences may easily search for terms, rules, procedures and forms, as well as prepare, save and print all of the forms needed to implement their activities.

Additional helpful information is available on the OCRA website under [CDBG Resources](#).

This document is organized into three (3) sections. The first section is designed with community leaders in mind and provides a high level overview of the CDBG program, the planning process for CDBG grants and what will be required if funds are awarded. The second section is focused on OCRA-certified grant administrators, who will be responsible for administering awards. Finally, the third section is designed with financial managers in mind. Typically, these individuals work on behalf of the community, alongside grant administrators, and hold positions, such as clerk treasurer, controller, etc.

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### **Technical Assistance**

While this handbook is intended to provide the information needed to plan and manage a CDBG project, there may be problems or questions that arise that are not specifically addressed here. Do not hesitate at any time to contact OCRA staff for additional assistance. Information on certification and a list of OCRA contacts are available on the OCRA website.

## **SECTION I**

# **INTRODUCTION TO OCRA'S CDBG PROGRAM**

## **INTRODUCTION**

### **BRIEF HISTORY OF CDBG**

The Community Development Block Grant (CDBG) Program is authorized under Title I of the Housing and Community Development (HCD) Act of 1974, as amended. CDBG grew out of the consolidation of eight categorical programs under which communities competed nationally for funds. Those programs were:

- Open Space;
- Urban Renewal;
- Neighborhood Development Program grants;
- Historic Preservation grants;
- Model Cities supplemental grants;
- Public Facilities loans;
- Neighborhood Facilities grants; and
- Water and Sewer grants

Initially, recipients of CDBG were local governments, which are known as entitlements. Entitlements may be metropolitan cities or urban counties and each receives annual CDBG funding via an established formula. In 1982, states were permitted to administer CDBG for small cities. The U.S. Department of Housing and Urban Development (HUD) is responsible for monitoring the states to ensure compliance with CDBG program requirements.

The primary objective of the HCD Act of 1974 is the development of viable communities. These viable communities are achieved by providing principally persons of low- and moderate-income:

- Decent housing;
- A suitable living environment; and
- Expanded economic opportunities.

To achieve these goals, the CDBG statutory and regulatory requirements establish eligible activities and national objectives that each activity must meet. As recipients of CDBG funds, states are charged with ensuring that these requirements are met. Under the State CDBG program, states are provided “maximum feasible deference,” meaning states can adopt more restrictive requirements provided they do not contradict or are inconsistent with the HCD Act statute.

### **THE CONSOLIDATED PLAN**

The Consolidated Plan is prepared by the state in accordance with 24 CFR Part 91, and describes needs, resources, priorities and proposed activities to be undertaken with respect to HUD’s Office of Community Planning and Development (CPD) formula programs, including CDBG. Consolidated Plans are 3 – 5 years in length. Each year, states submit an annual Action Plan for HUD approval.

CDBG offers states a high level of flexibility in choosing program activities. States are free to select those activities that best meet the needs of their communities, in accordance with the national objectives and requirements of the CDBG Program.

<b>CDBG Eligible Activities</b>	<b>CDBG National Objectives</b>
<ul style="list-style-type: none"> <li>• Acquisition of real property</li> <li>• Disposition of real property</li> <li>• Clearance &amp; demolition of real property</li> <li>• Rehabilitation of publicly- or privately-owned commercial or industrial buildings</li> <li>• Code enforcement</li> <li>• Historic preservation</li> <li>• Renovation of closed buildings</li> <li>• Privately-owned utilities</li> <li>• Public facilities</li> <li>• Public Services</li> <li>• Economic Development – microenterprise assistance</li> <li>• Commercial rehabilitation</li> <li>• Special economic development activities</li> <li>• Assistance to nonprofit development organizations for: community revitalization, community economic development, and energy conservation</li> <li>• Other types of activities included in the statute</li> </ul>	<ul style="list-style-type: none"> <li>• Provide benefits to Low- and Moderate-Income persons</li> <li>• Aid in the prevention or elimination of slums or blight</li> <li>• Provide funding for projects that have a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community</li> </ul>
<b>Planning &amp; Administration</b>	
<ul style="list-style-type: none"> <li>• Comprehensive Plans</li> <li>• Community Development Plan (including the Consolidated Plan)</li> <li>• Functional Plans (for housing; land use and urban environmental design; economic development; energy use and conservation; floodplain and wetlands management; transportation; utilities; historic preservation; etc.)</li> <li>• Policy planning, management &amp; capacity building activities</li> </ul>	

\*Examples listed above are some of the potential activities, objectives and planning & administration at the national level and may not reflect programs offered by OCRA

The Consolidated Plan includes the Method of Distribution, which describes how the state will allocate its CDBG funds to Units of General Local Government (UGLG). States have many options for allocation and may use a combination of approaches, such as designation of mini-entitlements; competitive with specific criteria; and/or a regional “fair share” approach.

Some eligible activities that have been funded by OCRA in the past are as follows:

- Public facilities improvements, including fire stations
- Infrastructure improvements
- Historic preservation
- Acquisition
- Relocation
- Clearance activities
- Handicap accessibility projects
- Planning activities
- Grant administration

This is not meant to be an all-inclusive list. OCRA priorities will be set each year in the Consolidated Plan and/or Action Plan Update.

### **Ineligible Activities**

- Buildings for the general conduct of government (e.g. city hall)  
Note: removal of architectural barriers from government buildings is eligible under the category of public facilities and improvements
- General government expenses
- Financing for political activities or to engage in other partisan political activities
- Purchase of equipment is generally ineligible
- Purchase of personal property, including equipment, fixtures, motor vehicles, furnishings, or other personal property
- Operating and maintenance expenses (of public facilities, improvements, and services)
- Lobbying activities

CDBG-assisted facilities may not be used as collateral during any part of the grant period or Subrecipient reporting period.

### **Eligibility vs. Fundability**

It is important to note that just because a particular activity is deemed eligible by the CDBG program, does not automatically mean that it can or will be funded. More on this topic can be found in the section on Indiana's role in administering CDBG. Within the framework established by the CDBG rules, states need to make strategic choices about how they administer their programs. The consolidated plan is the primary tool that is used to accomplish this. Through the consolidated plan process, states can get an understanding of the units of general local government (UGLG) needs, which in turn provides the framework for implementation of CDBG activities.

### **National Objectives**

The primary objective of the CDBG program is to develop viable communities by helping to provide decent housing and suitable living environments, and expanding economic opportunities principally for persons of low- and moderate-income.

To achieve these goals, the CDBG regulations define eligible activities and the National Objectives that each activity must meet. As the recipient of CDBG funds, OCRA is charged with ensuring that each project funded meets one of the National Objectives listed next and that the project is an eligible activity. The three National Objectives are:

### Benefit to Low- and Moderate-Income (LMI) Persons

Public facilities activities, such as water, sewer and storm water projects, generally qualify under the National Objective of providing area wide benefits to LMI persons. The 'benefit to LMI persons' test is met by documenting that 51% or more of the persons who live in the project area may be defined as being low- and moderate-income. This can be done using either census data or by conducting an income survey. Other possible area-wide projects include: libraries, fire stations and community centers.

Applicants should refer to the booklet, ["How to conduct an Income Survey"](#) for more information on procedures.

In some instances the project may qualify under the limited clientele criteria. These are typically projects that serve a specific group of individuals in a community but not necessarily the entire community. HUD has designated eight limited clientele groups that automatically qualify as meeting the benefit of low- and moderate-income persons test. These groups are:

- Abused Children
- Battered Spouses
- Senior Citizens (62+)
- Illiterate Adults
- Severely Disabled Adults
- The Homeless
- Persons with HIV-AIDS
- Migrant Farm Workers

Examples of limited clientele projects include senior citizens centers, acquisition of a building to be converted into a shelter for the homeless, or rehabilitation of a center for training severely disabled persons to enable them to live independently.

Although housing projects are listed in the diagram above, OCRA does not fund housing projects. In the State of Indiana, housing activities are funded by the Indiana Housing and Community Development Authority (IHCDA).

### Prevention or Elimination of Slums and Blighted Conditions

Public and/or private facilities requiring improvements that aid in the prevention or elimination of slums or blighted conditions in a designated slum/blight area may qualify for OCRA funding under this National Objective. Such projects would include downtown sidewalk repairs or façade improvements to multiple downtown buildings. Improvements could also be for a single downtown building not located in a blighted area, and in such case, the project would qualify under the Spot Basis. Spot Basis projects are typically historic preservation projects.

### Urgent Need Projects

These projects address a CDBG-defined urgent situation, meaning that activities designed to meet community development needs having a particular urgency. OCRA seldom funds Urgent Need projects. In cases where Urgent Need projects have been funded they typically addressed disaster relief or recovery.

The Office of Community and Rural Affairs (OCRA) will consider requests for Urgent Need grants if all the following criteria are met:

- Existing conditions must pose a serious and immediate threat to the health and welfare of the community
- Condition must have been recent or recently became urgent within the last 18 months
- The community is unable to finance the activity on its own or is unable to obtain funding through other sources
- Remediation of the conditions are an eligible activity under the CDBG

The HUD National Objective category must be identified in the grant application prior to the award of funding. However, the National Objective is not met until the grant recipient carries out the activity and the closeout reports documenting how the National Objective was met have been accepted.

### **Primary Beneficiaries**

By HUD guidelines, 70% of the projects funded through the CDBG program must meet the National Objective of benefit to LMI persons. In Indiana, an excess of 90% of all CDBG funds granted fit into this category.

LMI persons are defined as those who have total household income equal to or less than 80 percent of the median family income for the county in which the project is located. Income parameters are defined by the Community Planning and Development (CPD) HOME program income limits.

A project is considered to be of benefit to LMI persons if at least 51 percent of the population benefiting from the project qualifies as LMI. Defining the area for an area-wide project is accomplished by answering two questions:

1. Who are the beneficiaries of the project?
2. Where do those persons live?

The defined area could be as small as a single neighborhood within a town or as large as multiple counties depending on the type of project.

The LMI population of an area can be determined in one of two ways: By using the most recent HUD Low- and Moderate-Income Summary Data (LMISD), or by conducting an income survey. Documentation of the percentage of LMI beneficiaries must be provided with the grant application. For LMI limits in your area, please review the most recent Income Limits document on OCRA's website on the [CDBG Resources](#) page.

## STATE OF INDIANA'S ROLE IN ADMINISTERING CDBG

Under the state CDBG program, states are responsible for:

- Developing the consolidated plan;
- Designing the CDBG program within statutory and regulatory parameters;
- Setting priorities and deciding what activities to fund;
- Distributing funding according to the method of distribution;
- Establishing financial management, recordkeeping, reporting, monitoring, audit and close-out systems for their programs; and
- Ensuring compliance by state grant recipients.

In developing the consolidated plan, the State of Indiana has selected the following objectives and outcomes and states, "The goals are not in order of importance, since it is the desire of the State to allow each region and locality to determine and address the most pressing needs it faces."

Goal 1: Expand and preserve affordable housing opportunities throughout the housing continuum

Goal 2: Reduce homelessness and increase housing stability for special needs populations

Goal 3: Promote livable communities and community revitalization through addressing unmet community development needs

Goal 4: Promote activities that enhance local economic development efforts

For more information on the current priorities and allocations, visit the OCRA website.

To accomplish these goals, every year, HUD provides federal CDBG funds directly to the State, which then provides funding to small, incorporated cities and towns with populations less than 50,000, and to non-urban counties. Funds are awarded on a competitive basis based on the chosen method of distribution, which is a set of predetermined scoring parameters approved by HUD. These small communities are called 'non-entitlement' areas because they must apply for CDBG dollars through the state. In Indiana, the Small Cities and Towns CDBG program is administered by OCRA. Larger cities, such as Indianapolis, Gary and Fort Wayne, receive CDBG monies directly from HUD, and are called 'entitlement' communities.

## **ROLE OF UNITS OF GENERAL LOCAL GOVERNMENT**

Under the state CDBG program, non-entitlement localities are known as units of general local government (UGLG) and they are responsible for:

- Prioritizing the types of activities they apply for;
- Handling local citizen participation;
- Carrying out eligible activities; and

Complying with federal and state requirements.

## **PROJECT PLANNING**

### **PLANNING YOUR PROJECT**

To begin the process of implementing CDBG activities, states must understand the unit of general local government (UGLG) community needs, interests and objectives in order to make effective choices about how to administer their CDBG programs. Completing the Consolidated Plan (and annual Action Plans) helps states determine what activities to fund in the coming year.

Ideally, the community has been involved in the State's consolidated planning process and has communicated its priorities and needs related to the CDBG program. To optimize opportunity for success when submitting for CDBG funding, projects which align directly with the State of Indiana's Consolidated Plan and related method of distribution should be selected. It is possible that local priorities may not align with the State's priorities, thereby making it difficult to find ways to fund otherwise important community projects. For this reason, it is important to take advantage of opportunities to get involved and participate in the consolidated and annual action plan processes.

In order to align with the Plan, communities should understand the State's goals and develop local strategies for achieving those goals in their communities. It is recommended that communities regularly update their comprehensive plans and allow those priorities to help to guide conversations during the Consolidated and Annual Action Plan processes to assure local priorities are included in the State's plans. For the purposes of this handbook, we will focus on Community Development Block Grant (CDBG) activities. For instance, for the 2017 program year, the State proposed to allocate funding to the following activities and the table below describes the outcomes it expected to achieve through those activities. For information on the current year's priorities and goals, as well as funding levels, consult the current [Consolidated Annual Action Plan](#) on OCRA's website.

- Planning Fund
- Main Street Revitalization Program
- Wastewater/Drinking Water Improvements Program
- Blight Clearance Program
- Stormwater Improvements Program
- Workforce Development Program

The Annual Goals and Objectives related to these activities are as follows:

<b>Goal</b>	<b>Needs Addressed</b>	<b>Goal Outcomes</b>
Improve Community Water & Wastewater Systems	Creating livable and revitalized communities	35 wastewater projects, 35 drinking water projects

Support Community Revitalization	Local economic development	15 Stellar Community projects 25 Brownfield/Clearance projects 10 Downtown Revitalization Projects
Improve & Construct Public Facilities	Local economic development	35 projects
Improve Stormwater Systems	Local economic development	35 projects
Support Workforce Development	Local economic development	20 Workforce Development/Skills Training projects
Provide Planning Grants to Local Governments		200 plans

Understanding the goals of the State’s CDBG Program is just the beginning. Next, an eligible activity that meets one of HUD’s National Objectives must be chosen. Project timing should also be considered since the budgeting and funding cycle for the State may or may not align with the proposed project, depending on the level of urgency. Considering initial eligibility and National Objective compliance, as well as drafting a project timeline at this juncture will help to determine whether the project can and/or should ultimately be funded with CDBG.

### **Budgeting & Funding Cycles**

Historically, OCRA’s annual CDBG allocation from HUD is approximately \$28 million. The CDBG program year is comprised of several programs through which the State awards grants, primarily on a competitive basis, either monthly or semi-annually depending on the program.

From year to year, the allocation of funds and the number of grants awarded varies. The OCRA application instructions contain a detailed description of each fund, the eligible activities and the application and award process. Information on requirements and application cycles can be found on the OCRA website.

OCRA notifies potential Grantees through its website when CDBG application instructions are available for an upcoming application period. It is recommended to contact your [OCRA Community Liaison](#) before starting an application. Also look for information on application instructions, staff contact information, and workshops on OCRA’s website.

*For more information on the State’s CDBG Program, click [here](#).*

## **PREPARING TO APPLY**

By now an eligible activity that meets a National Objective has been identified and is ready to move forward, at either the planning or implementation phase. To determine project eligibility and National Objectives, see the instruction section of the grant application. Prior to the preparation and submission of an OCRA grant application, the grantee is strongly advised to contact their OCRA Community Liaison. In many cases, community site visits are required as part of the application process. OCRA Community Liaisons provide technical assistance in the application preparation process, help communities identify their priorities and work with other state and federal agencies to bring additional financial assistance to the project.

As part of the planning process, UGLGs should decide who will administer and carry out CDBG activities.

Options for carrying out eligible activities include the use of:

- UGLG staff;
- Sub Grantees and intermediary organizations such as planning districts or councils of government;
- Nonprofit development organizations;
- Community development financial institutions (CDFIs);
- Faith based organizations;
- Developers; and
- Contractors including contracted grant administrators.

### **Citizen Participation**

Citizen participation is a critical and required component of all Community Development Block Grant (CDBG) funded projects. The primary goal of citizen participation is to provide local residents, especially Low- and Moderate-Income (LMI) citizens of the community where CDBG funded activities will take place, an opportunity to participate in an advisory role in the planning, implementation and assessment of the programs and projects. Citizen participation also reduces the potential for complaints and legal challenges against the grantee. CDBG-funded projects are required to have a minimum of two public hearings, held at two different phases of the project.

Grantees must provide reasonable opportunities for citizen participation through public hearings and access to information about local community development projects. Grantees are expected to take appropriate action to encourage the participation of all citizens, including minorities and non-English speaking residents, as well as persons with disabilities.

### **Selecting a Grant Administrator**

Grantees who receive a CDBG grant from OCRA must utilize a grant administrator certified by OCRA. The grant administrator is the person in charge of CDBG compliance on the project unless the Grantee opts to designate an employee who is an OCRA-certified grant administrator. The Grant Administrator

must be procured in accordance with federal and state guidelines if their service fees are to be paid from grant funds. If local funds will be used to pay for grant administration services, the Grantee should utilize local procurement policies. See the CDBG Resources page on OCRA's website for a current list of certified grant administrators. Further instructions can be found within the Procurement chapter.

### **Use of Subrecipients**

A Subrecipient is defined as a not-for-profit organization or agency that indirectly receives the benefit of CDBG funds but is not eligible to apply for those funds on its own. As a reminder, only incorporated towns, non-entitlement cities and non-urban counties are eligible to apply to OCRA for CDBG funds. Examples of Subrecipient organizations include fire departments, senior citizen organizations, libraries and daycare centers. These and similar organizations would not be able to apply for CDBG dollars from OCRA but they certainly could receive the benefit of the funds if their local government is willing to submit the application for funding.

It is extremely important that Grantees understand the contingent liability they have when they apply for CDBG funds on behalf of a Subrecipient. In every case, the Grantee is ultimately responsible should the project not meet the stated national objective outlined in the grant application and formalized in the grant agreement. Should the project not meet the stated goal of the selected national objective the grantee may be asked to pay back the federal funds. Furthermore, until such time as funds are reimbursed to OCRA the grantee would be ineligible to apply for other CDBG grants.

During the application phase of a project, a Subrecipient is required to submit documentation from the Internal Revenue Service (IRS), the Indiana Secretary of State's Office (IT-35E) and the Indiana Department of Revenue that verifies that the Subrecipient is a bona fide not-for-profit organization in good standing with the State of Indiana.

### **Contracts**

All work and services to be accomplished for the completion of a CDBG-funded project must be covered by a legally enforceable, fully executed contract, regardless of the source of funds to be used for payment of the contract amount.

Once a vendor has been selected, it is time to develop and execute a contract. A contract is a formal agreement between two or more parties which clearly states the responsibilities of each party, agreed upon compensation for services and payment terms, and conditions and procedures under which the contract may be terminated by either party. When a contract has been fully executed, it is enforceable by law.

Before any contract may be fully executed, it is the grantee's responsibility to ensure that the contract complies with applicable federal and state laws, provides complete and full provision of the project scope, and avoids any real or implied conflict of interest concerns. Detailed guidance on how to develop contracts can be found in the Procurement section.

### **Conflicts of Interest**

An important component of selecting partners to carry out CDBG eligible activities will be to address any real or perceived conflicts of interest along the way.

The OCRA policy regarding conflicts of interest mirrors that of federal CDBG regulations. These requirements apply to the procurement of supplies, equipment, construction services and professional services, and the acquisition and disposition of real property. Federal guidelines stipulate that no person who performs any CDBG function or who has any CDBG responsibility, who is in a decision making position or who has inside information, may obtain a financial interest or benefit from an activity funded in whole or in part with CDBG funds.

This requirement applies to any person who is an employee, agent, consultant, officer, elected or appointed official of the state, the UGLG, any designated public agency, or Subrecipient that is receiving CDBG funds.

OCRA has determined that a conflict of interest exists when the same individual or firm is hired to provide both grant administration and engineering services on an OCRA funded project. Furthermore, OCRA has determined that a conflict of interest exists for a consulting firm that provides 'technical assistance', such as a planning grant report, to also furnish grant administration for that same project.

### **Complaints and Grievances**

Occasionally, Grantees receive complaints regarding their projects and activities. Therefore, it is a requirement that Grantees develop a procedure for responding to complaints and grievances.

Grantees must provide citizens with the name, address and phone number of a contact person who can receive and respond to complaints. Complaints related to the scope and work of the project should be addressed by the Grantee.

Where practical, the Grantee should respond to any complaints within 15 working days of its receipt. Each complaint and the resolution of the complaint should be well documented in the Grantee's files.

Because complaints and grievances are best handled at the local level, OCRA will forward any complaints it receives about a project to the Grantee. OCRA will notify the person filing the complaint that it has been forwarded to the Grantee, and will direct the complainant to follow up directly with the Grantee.

## COMPLETING THE APPLICATION

In addition to having identified eligible and fundable projects that have been prioritized through a participatory process, communities considering applying for these funds, which already have open grants, must also adhere to the following in order to meet eligibility requirements:

- Cities and towns: may have no more than two (2) open CDBG grants at time of application
- Counties: may have no more than three (3) open CDBG grants at time of application

Eligible applicants must supply a valid DUNS and federal tax identification number, as well as their CAGE code. Additionally, applicants must not have overdue reports, closeouts or unresolved findings and open grants must be under construction.

### Proving Readiness to Proceed

At the time of submission of a CDBG application, the chief elected official and the project engineer or architect must certify that the project is ready to proceed.

The five required sections for 'readiness to proceed' are Financial, Environmental Review, Engineering, Permits and Site Control (FEEPS).

1. **Financial:** Once the project has been well defined, the project costs need to be determined. Most CDBG programs require a local match commitment. This match may come from several sources including: cash on hand, cash from a Subrecipient, borrowed funds, grants and/or loans from other state or federal agencies, or any combination thereof. As part of the application, the grantee must identify the sources of the matching funds and provide specific verification that they have been committed or obtained.
2. **Engineering:** Prior to the submission of the grant application, the preliminary engineering or architectural plans must be completed. These plans must provide enough detail to determine the project's final scope and estimated costs.
3. **Environmental Review:** Once the Preliminary engineering or architectural plans are completed, the Grantee will need to complete an Environmental Review on the proposed project. For more information see Environmental Review chapter in Section II of this manual.
4. **Permits:** Based upon the completion of the preliminary engineering or architectural plans, the Grantee will need to identify and list all applicable project permits.
5. **Site Control:** The preliminary engineering or architectural plans must identify any property or easements that will be needed to complete the project. At a minimum, the Grantee should have a signed option on all required property or signed easement agreements for all property prior to the submission of the grant application. Please note, due to Environmental Review requirements, Grantees may not sign a purchase agreement at this point. Failure to adhere to this may result in disqualification of the project altogether.

The completion of the FEEPS tasks listed under the project development phase normally takes at least six months to complete. In some instances, project development can take more than a year.

## **WHAT HAPPENS AFTER APPLICATION?**

### **Notice of Approval or Denial**

Typically, OCRA takes up to 90 days to review and score all project applications. Following each competitive application round, OCRA makes an award announcement. Those applicants not funded will be invited to meet with OCRA staff and work towards improving their application for submission in a future funding round.

### **FEEPS for Implementation Projects**

Within two weeks of making the award announcement, Grant Services sends out an electronic (email) request to the identified grant administrator to request Financial, Environmental Review, Engineering, Permits, and Site Control (FEEPS) information by a specified due date. The purpose is to substantiate that the grantee has all the necessary documentation certified in the application. In particular, Grant Services must be provided with copies of the Environmental Review clearance letters and documentation of property or easement acquisition, if applicable.

After the FEEPS documentation has been reviewed and approved, an official award letter is sent to the Grantee. This award letter contains important information such as when the grant agreement will arrive, how to become a Bidder with the State of Indiana (a required step to receive a grant from the State of Indiana) and a timeline for the grant project.

### **Execute the Grant Agreement**

The Binding legal document between the State of Indiana and the grantee is the Grant Agreement. The Grant agreement contains a project description, timeline of activities, sources and uses of funds, conditions governing the use of CDBG funds and the special conditions for release of funds. The grantee will receive an electronic notification that the grant agreement is available for signature and must be electronically signed by the Grantee's chief elected official. The grant agreement specifies four important dates in the progression of completing the CDBG project:

- The Environmental Release Date
- The Bidding Deadline Date
- The Release of Funds Date
- The Project Completion Date

The Grant Agreement is sent out from the State's electronic contracting system via email and requires a digital signature. After it is signed it will also need to be uploaded into the system using a username and password that is established through the aforementioned bidder registration process or by Grant Services. This information, along with instructions for navigating the signature process, can be found in the email with the grant agreement.

### **Procure Professional Services**

While the Grant Agreement is undergoing the signatory and approval process by the State, the grantee may begin the process to procure professional service providers. No formal agreement may be made until receipt of environmental clearance. In the event local funds are paying for the professional services, federal procurement procedures are not required. Nonetheless, all necessary professional

services will require the development of an approved contract. Contracts for services paid with grant funds must be signed after the date of environmental clearance from Grant Services.

### **Set up Financial Systems**

The Letter of Grant Award notifies the grantee of the amount and type of funds awarded and the activities that the Grantee will undertake with the funds. The grantee must not obligate or incur project costs prior to receiving environmental clearance and/or release of funds for engineering or architectural services.

### **Appoint Civil Rights Officer & Submit Ordinances**

Once the grantee has received the State approved grant agreement, the Civil Rights/Section 3 Officer Notification (Form 3) must be forwarded to Grant Services. A current Fair Housing Ordinance and Drug Free Workplace ordinance must be submitted to OCRA with the grant application.

### **Obtain Environmental Release**

Grantees have 60 days from the date of grant award to obtain their Environmental Release. The Grantee will publish a legal advertisement entitled Finding of No Significant Impact/Request for Release of Funds (FONSI/RROF) to notify the public of its intent to move forward with the project.

### **Submit & Record Acquisition and Relocation**

As part of the FEEPS process the Grantee will need to submit all applicable acquisition/relocation documentation to the OCRA Acquisition Specialist. Prior to the Release of Funds, all applicable acquisition documents must be recorded at the County Recorder's Office in the county where the project is taking place.

### **Appoint Labor Standards Officer**

The Labor Standards requirements of a CDBG project are extensive. They include the bidding and contracting requirements, pre-bid and pre-construction conferences, and construction oversight requirements. The LSO notification must be submitted within 30 days of grant award.

### **Establish & Maintain Grant Reporting System**

OCRA requires grantees to report on grant progress through the life of the project and, in some cases, following the closeout of the project. It is very important to note that should any of the reports listed below not be submitted to OCRA/Grant Services by the stated due dates, the reports will be considered past due and all future grant requests by the Grantee will be denied until the reports are submitted and approved.

### **Complete Project Closeout**

Once the project has been completed, the grantee submits the Grantee Performance Report to OCRA to begin the grant closeout procedure. The submission of this form will trigger a grant monitoring by OCRA.

## **SECTION II**

# **ADMINISTERING AN OCRA GRANT**

## **PROJECT ADMINISTRATION**

### **PRE-AWARD**

#### **Income Survey**

This Handbook works in conjunction with the [Income Survey Booklet](#) which outlines guidelines (methodologies) for conducting Income Surveys to ascertain whether or not a Community Development Block Grant (CDBG)-funded activity designed to benefit an area generally qualifies as primarily benefiting Low- and Moderate- Income (LMI) persons. Section 105(c)(2)(A)(i) of the Housing and Community Development (HCD) Act of 1974 (as amended) stipulates that an activity designed to address the needs of LMI persons of an area shall be considered to principally benefit LMI persons if “...not less than 51 percent of the residents of such area are persons of low- and moderate-income.” HUD’s regulatory requirements for conducting a survey to determine the percentage of LMI persons in the service area of a CDBG-funded activity are located at 24 CFR 570.483(b)(1)(i) for the State program.

HUD provides the LMI Summary Data (LMISD) for Grantees to use in determining compliance with the CDBG National Objective of providing benefit to LMI persons on an area basis. The LMISD must be used “to the fullest extent feasible” unless a Grantee believes that the data are not current or do not provide enough information regarding income levels in the entire service area. In which case, a letter of explanation from the CFO must be included with the application detailing why an Income Survey was the better method for obtaining LMI data, citing an economically valid reason.

The procedures described in this handbook are basic survey methodologies that will yield acceptable levels of accuracy. It is recommended that CDBG Grantees use these methodologies or other comparable methods to ascertain that at least 51 percent of the residents of the service area of a CDBG-funded activity are LMI persons. The characteristics of the service area will influence which methodology to use. For many areas, a face-to-face survey is going to be the best option. For this reason, some sections of this Handbook will focus more on face-to-face surveys than other methodologies. State CDBG regulations at 24 CFR 570.483(b)(1)(a) require that the survey be methodologically sound.

#### **Citizen Participation**

Citizen participation is a critical and required component of all CDBG funded projects. It is important that citizens are able to participate in the funding and decision-making processes of local CDBG projects. The primary goal of citizen participation is to provide local residents – especially LMI citizens of the community where CDBG funded activities will take place – an opportunity to participate in an advisory role in the planning, implementation and assessment of the programs and projects. Citizen participation also reduces the potential for complaints and legal challenges against the Grantee. CDBG funded projects are required to have a minimum of two public hearings, held at two different phases of the project.

Highlighted Requirements for Citizen Participation (detailed information is available in the [Citizen Participation Section](#) of this Handbook):

The Unit of General Local Government (UGLG) applying for Community Development Block Grant funds must publish a legal notice in a locality newspaper and posted on the locality newspaper’s website at least ten (10) days prior to each Public Hearing that contains:

- Description of the project;
- Description of available CDBG funding, program income funding, and parameters for assistance;
- Amount of CDBG funding being requested, and its intended use;
- Amount of CDBG funding that will benefit low- and moderate-income persons;
- Amount and source of local funds to be expended on the project;
- Summary of other important program requirements and available technical assistance;
- Notification of any displacement that will result from the proposed project or Notification of No Displacement;
- Information for persons with disabilities or non-English speaking persons on how to request an accommodation; and
- Identification and contact information of a person who can provide more information about the project.

The public hearing must occur on or after the 11th day after the legal notice is first published in a locality newspaper and on their website.

Example: If the notice is published on 2/10 then the public hearing can occur on or after 2/21.

Grantees must provide reasonable opportunities for citizen participation through public hearings and access to information about local community development projects. Grantees are expected to take appropriate action to encourage the participation of all citizens, including minorities and non-English speaking residents, as well as persons with disabilities.

### **Subrecipient Agreements (if applicable)**

If the grant application is approved, immediately following grant award, the Grantee and Subrecipient must finalize the Subrecipient Agreement and forward that document to Grant Services for the CDBG Director's approval. After the approval and signature, a fully executed copy will be returned to the Grantee for their records.

For CDBG-funded projects which involve the purchase, construction or renovation of a building, the Lien and Restrictive Covenant must be submitted with the Subrecipient Agreement. That form requires that all signatures be notarized prior to submission to Grant Services.

After approval and the notarized signature of the CDBG Program Director, the fully executed Subrecipient Agreement with the Lien and Restrictive Covenant will be returned to the Grantee for recording with the County Recorder. Proof that the document was recorded must be provided at release of funds. A copy of the first page of the document showing the Recorder's stamp is sufficient for that purpose.

The Lien and Restrictive Covenant is not required for projects which do not involve the purchase, construction or renovation of a building.

When the project is complete and the Grantee has reached administrative closeout, the Subrecipient becomes responsible for submitting Reporting Form 2: Subrecipient Semi-Annual Reports from Chapter 10 Reporting and Recordkeeping, for a period of five years after the date of administrative closeout. This is to ensure that the facility maintains the national objective and serves the beneficiaries for which

the grant was awarded. See Closeout and Monitoring Chapter for additional information regarding the Subrecipient's responsibilities.

### **Readiness to Proceed**

At the time of submission of a CDBG application, the chief elected official and the project engineer or architect must certify that the project is ready to proceed. This certification states that the UGLG has completed the FEEPS requirements outlined below.

The five required sections for 'readiness to proceed' are Financial, Environmental Review, Engineering, Permits and Site Control (FEEPS).

1. **Financial:** Once the project has been well defined, the project costs need to be determined. Most CDBG programs require a local match commitment. This match may come from several sources including: cash on hand, cash from a Subrecipient, borrowed funds, grants and/or loans from other state or federal agencies or any combination thereof. As part of the application, the Grantee must identify the sources of the matching funds and provide specific verification that they have been committed or obtained. The Readiness to Proceed document on OCRA's website under CDBG Resources provides information regarding documentation necessary to verify local match.
2. **Engineering:** Prior to the submission of the grant application, the preliminary engineering or architectural plans must be completed. These plans must provide enough detail to determine the project's final scope and estimated costs. In addition, the preliminary engineering or architectural design must be completed to a level that provides the required documentation needed to complete the project's CDBG Environmental Review.
3. **Environmental Review:** Once the preliminary engineering or architectural plans are completed, the Grantee will need to complete an Environmental Review on the proposed project. Please see the Environmental Review Chapter for more detail.
4. **Permits:** Based upon the completion of the preliminary engineering or architectural plans, the Grantee will need to identify and list all applicable project permits. This list will need to be attached to the grant application.
5. **Site Control:** The preliminary engineering or architectural plans should identify any property or easements that will be needed to complete the project. At a minimum, the Grantee should have a signed option on all required property or signed easement agreements for all property prior to the submission of the grant application. Please see the Acquisition and Relocation Chapter for more detail.

The completion of the FEEPS tasks listed under the project development phase normally takes at least six months to complete. In some instances, project development can take more than a year.

## **GRANT AWARD**

### **Notice of Approval or Denial**

Typically, OCRA takes up to 90 days to review and score all project applications. Following each competitive application round, OCRA makes an award announcement. Those applicants not funded will be invited to meet with OCRA to receive feedback and suggestions to strengthen their application for submission in a future funding round.

### **FEEPS for Implementation Projects**

Within two weeks of making the award announcement, Grant Services sends out an electronic (email) request to the identified grant administrator to request Financial, Environmental Review, Engineering, Permits and Site Control (FEEPS) information by a specified due date. The purpose is to substantiate that the grantee has all the necessary documentation certified to in the application. In particular, Grant Services must be provided with copies of the Environmental Review Clearance letters and documentation of property or easement acquisition, if applicable.

After the FEEPS documentation has been reviewed and approved an official award letter is sent to the Grantee. This award letter contains important information such as when the grant agreement will arrive, how to become a Bidder with the State of Indiana (a required step to receive a grant from the State of Indiana) and a timeline for the grant project. The award letter may also instruct the bidder to submit a W-9 and direct deposit form if this information is not already on file.

### **Execute the Grant Agreement**

The binding legal document between the State of Indiana and the Grantee is the Grant Agreement. The Grant Agreement contains a project description, timeline of activities, sources and uses of funds, conditions governing the use of CDBG funds and the special conditions for release of funds. The Grant Agreement specifies four important dates in the progression of completing the CDBG project:

- The Environmental Release Date
- The Bidding Deadline Date
- The Release of Funds Date
- The Project Completion Date

The Grant Agreement is sent out from the State's electronic contracting system via email and requires a digital signature. After it is signed it will also need to be uploaded into the system using a username and password that is established through aforementioned bidder registration process or by Grant Services. This information, along with instructions for navigating the signature process, can be found in the email with the grant agreement.

## **[Professional Services](#)**

While the Grant Agreement is undergoing the signatory and approval process by the state, the Grantee may begin the process to procure professional service providers. No formal agreement may be made until receipt of the environmental clearance. In the event local funds are paying for the professional services, federal procurement procedures are not required. Nonetheless, all necessary professional services will require the development of an approved contract. Contracts for services paid with grant funds must be signed after the date of environmental clearance from Grant Services.

### **Finances**

The Letter of Grant Award notifies the Grantee of the amount and type of funds awarded and the activities that the Grantee will undertake with the funds. However, the Grantee must not obligate or incur project costs prior to satisfying contract conditions for construction or environmental clearance for engineering or architectural services and receiving a Notice of Release of Funds from OCRA.

### **Civil Rights**

Once the grantee has received the state approved Grant Agreement, the Notice of Civil Rights Officer must be forwarded to Grant Services. A current Fair Housing Ordinance and Drug Free Workplace Ordinance must be submitted to OCRA with the grant application.

Upon appointment of a Civil Rights/Section 3 officer, the Grantee must complete a Civil Rights Form 1: Civil Rights Officer Notification and submit it as part of the FEEPS process.

### **Environmental Release**

Grantees have 60 days from the date of the grant award to obtain their Environmental Release. The Grantee will publish a legal advertisement entitled "Finding of No Significant Impact/Request for Release of Funds" (FONSI/RROF) to notify the public of its intent to move forward with the project.

### **Acquisition and Relocation**

Grantees will need to submit all applicable acquisition/relocation documentation to the OCRA Acquisition Specialist. Prior to the Release of Funds all applicable acquisition documents must be recorded at the County Recorder's Office in the county where the project is taking place. See the Acquisition and Relocation Chapter for more acquisition details.

### **Labor Standards**

The Labor Standards requirements of a CDBG project are extensive. They include the bidding and contracting requirements, compliance with labor standards requirements, pre-bid and pre-construction conferences, and construction oversight requirements. Please see the Labor Standards Chapter for a more complete explanation.

### **Reporting**

OCRA requires Grantees to report on grant progress through the life of the project and in some cases following the closeout of the project. It is very important to note that any reports not submitted to

OCRA/Grant Services by the stated due dates, the reports will be considered past due and all future grant requests by the Grantee will be denied until the reports are submitted and approved.



## RELEASE OF FUNDS

Once the tasks identified under the grant award phase are completed, the Grantee enters into the project administration phase.

The project administration phase has two primary milestones: Release of Funds and Project Completion. The Release of Funds milestone must be met within eight months following the Letter of Grant Award. The Grantee must reach the project completion milestone and draw down all CDBG funds by the Completion Date stated in the CDBG Grant Agreement.

The project administration phase includes the following tasks:

1. **Release of Funds:** Once all required documents have been obtained and approved by Grant Services the Release of Funds Notification will be issued. This is the most significant step in the granting process. It requires the review of all grant documentation to date. See the Reporting and Recordkeeping Chapter for a Release of Funds Checklist.
2. **Procurement:** The procurement process is the first step in implementation of a CDBG grant. All professional services, including grant administration and Architect and Engineer (A/E) that are to be paid by CDBG funds must be procured in accordance with CDBG regulations. Projects that include construction activities must follow stringent procurement and labor standards regulations.
  - **Civil Rights:** The State CDBG program requires the Grantee to solicit at least two State certified Minority and/or Women's Business Enterprises (MBE/WBE) during the procurement of any contractor to be paid from federal funds. See the Civil Rights Chapter for more detailed instructions.
3. **Contract Development:** After the Grantee has received the official Release of Funds Notification, construction contracts may be awarded .
4. **Labor Standards:** If the project includes construction, the Grantee will be required to conduct a pre-construction meeting. At this meeting all applicable federal regulations are discussed and various labor standards documents should be collected from the contractor(s). Ongoing labor standards requirements continue throughout the construction process.
5. **Financial Management:** Throughout project implementation, an accounting of all financial activities is required. Accurate records pertaining to the receipt and disbursement of all funds for the project must be maintained. All federal funds must be accounted for, and it must be clearly documented that no more than \$5,000 in federal funds is held in the Grantee's account for a period longer than five business days. In addition to all the required financial documentation, Semi-Annual Grantee Performance Reports must be submitted to OCRA on a timely basis (See the Reporting and Recordkeeping Chapter).

## **PROJECT COMPLETION**

By the completion date specified in the approved Grant Agreement, all activities must be completed and all federal grant funds must be expended. The Grantee should now be ready to financially close the project.

## **FEDERAL REQUIREMENTS**

### **CITIZEN PARTICIPATION**

#### **Citizen Participation Plan**

The Housing and Community Development Act of 1974 (HCDA) emphasizes efforts to involve citizens, especially LMI citizens, in all aspects of the CDBG Program. As required by the HCDA, the State of Indiana has adopted a written Citizen Participation Plan, available in the State's [Consolidated Plan](#) on the Indiana Office of Community and Rural Affairs website.

In the application, Grantees certify that they will comply with the requirements to provide for and encourage citizen participation in the planning, implementation and assessment of their CDBG project.

#### **Required Public Hearings**

Grantees are required to conduct at least two public hearings at two distinct phases of their project to elicit citizen input on housing and community development needs and on the specific project under development. The requirements on when to conduct the public hearings vary by program. Please refer to the application packets for program specifics. For grants already awarded, an additional public hearing may be required if formal modifications to the project are made. See the Contract Development and Modifications Chapter for details.

In the public hearing, the Grantee must inform the public about the CDBG activities being proposed. The Grantee must ensure the public hearing is held in a handicap-accessible location and/or provide accommodation for persons with disabilities so that they can participate. The time and date of the public hearing must be convenient for potential beneficiaries.

Multi-jurisdictional projects have additional citizen participation requirements. Public hearings must be advertised in all newspapers of general circulation within the project beneficiary areas. In addition, public hearings are to be held in each jurisdiction. This may be accomplished by holding a hearing in a central location of each county if it is a multi-county project area. Notice of all hearings can be placed in one advertisement, noting different locations and times for each hearing. Grantees should request guidance from their community liaison on multi-jurisdictional projects to ensure citizen participation requirements are met and all necessary notices are posted and hearings are conducted accordingly.

The citizen participation requirements mandate that the Grantee must identify how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate. Please refer to the Civil Rights chapter for requirements regarding Limited English Proficiency (LEP) requirements.

Applicants should be aware of local newspaper deadlines for submitting advertisements. Some smaller newspapers are published weekly, and will require that the advertisement is placed well in advance of the public hearing. Other methods of advertising the public hearing are also encouraged.

#### **Legal Notice**

The public hearing must take place on the 11th day after the notice is first published, thus giving a full 10 days of notice. Note the day the notice is published in the local paper counts toward the 10 days.

The Grantee should check the publication source on the date the ad is set to run to be sure of its inclusion.

Pursuant to IC 5-3-1, the Unit of General Local Government (UGLG) applying for CDBG funds must publish a legal notice in a locality newspaper and posted on the locality newspaper's website that contains the following:

- Description of the project;
- Description of available CDBG funding, program income funding, and parameters for assistance;
- Amount of CDBG funding being requested, and its intended use;
- Amount of CDBG funding that will benefit low- and moderate-income persons;
- Amount and source of local funds to be expended on the project;
- Summary of other important program requirements and available technical assistance;
- Notification of any displacement that will result from the proposed project or Notification of No Displacement;
- Information for persons with disabilities and limited English proficiency (LEP) on how to request an accommodation; and
- Identification and contact information of a person who can provide more information about the project.

#### Public Hearing Content

The Public Hearing is an opportunity to educate and inform local residents about the project, and to provide a forum for citizen input. The following information should be made available at public hearings:

- Goals and objectives of the CDBG program,
- Total amount of CDBG funds available,
- Community development and housing needs of the applicant,
- Proposed activities for the project and the amount to be requested,
- Proposed amount of funds to be used to benefit low- and moderate-income people,
- Amount and source of local funds to be expended on the project, and
- Notification of any displacement resulting from the proposed activities or Notification of No Displacement.

#### Public Hearing Documentation

As part of any CDBG application, the Grantee must submit the following documentation for each Public Hearing:

- Original Affidavit of Publication for each legal advertisement,
- Original sign in sheets, and
- Minutes signed by the community official presiding over the meeting, or their designee. The Chief Elected Official (CEO) may authorize the Grant Administrator to conduct and take minutes of Public Hearings, in which case a Third Party Authorization letter must be included in the application.

See Citizen Participation Form 1: Authorization Letter for a sample letter providing authorization.

The Grantee must also respond to any written comments that are received during the public hearing process. These responses must be included in the public hearing documentation. At a minimum, the Grantee must indicate that comments will be considered, and provide an explanation of how comments will be resolved.

## INCOME SURVEYS

### Introduction

HUD describes guidelines (methodologies) for conducting income surveys to ascertain whether or not a Community Development Block Grant (CDBG)-funded activity designed to benefit an area generally qualifies as primarily benefiting LMI persons. Section 105(c)(2)(A)(i) of the Housing and Community Development Act (HCDA) of 1974 (as amended) stipulates that an activity designed to address the needs of LMI persons of an area shall be considered to principally benefit LMI persons if "...not less than 51 percent of the residents of such area are persons of low and moderate income." HUD's regulatory requirements for conducting a survey to determine the percentage of LMI persons in the service area of a CDBG-funded activity are located at 24 CFR 570.483(b)(1)(i) for the State program.

HUD provides the LMI Summary Data (LMISD) for Grantees to use in determining compliance with the CDBG National Objective of providing benefit to LMI persons on an area basis. The LMISD must be used "to the fullest extent feasible" unless a Grantee believes that the data are not current or do not provide enough information regarding income levels in the entire service area.

For more information on conducting an income survey please consult OCRA's [Conducting an Income Survey for the Community Development Block Grant Program](#) booklet.

### Confidentiality

If a Grantee chooses to conduct a survey, the answers provided by respondents must be kept confidential. People are more likely to provide honest answers if the answers are to remain confidential. The methodology chosen will influence how the confidentiality of the respondent is protected. A basic principle to remember is that it may be necessary during the data collection process to be able to contact a respondent who completed the questionnaire, but once data collection is completed the contact information of the respondent needs to be separated from the responses. For some methodologies, this can be done by using a cover sheet on the questionnaire. The cover sheet would include the contact information (e.g. name, address, and telephone number) for the respondent. After the survey is completed, the cover sheet may be numbered and separated from the actual interview sheet. If the cover sheets and the questionnaires are both numbered, they can be matched if necessary. It is suggested that the Grantee make reasonable efforts to protect the privacy of the respondents and follow applicable state and local laws regarding privacy and obligations of confidentiality. It may be helpful to contact the human subjects' offices at a university for advice on how to protect confidentiality.

### Lifespan of a Survey

Income surveys are good for five (5) years from the date of the first survey contact (e.g. first mailer, first phone call, and first house visit). For communities that use an income survey instead of U.S. Census data to qualify for CDBG funding, a letter of justification must be provided to OCRA for approval prior to the community beginning any income survey.

## ENVIRONMENTAL REVIEW

## Overview

The purpose of the Environmental Review is to analyze the effect the proposed project will have on the people and the natural environment within the project area. This process examines a project relative to the National Environmental Policy Act of 1969 (NEPA). NEPA was established to ensure environmental protection for federally funded projects. All Community Development Block Grant (CDBG) funds are also subject to the provisions of the Housing and Urban Development (HUD) regulations implementing NEPA.

This section will cover the environmental regulations that must be followed on all CDBG-funded projects. As recipients of CDBG funds, Grantees assume the responsibility for Environmental Review, decision-making and action that would otherwise apply to HUD under NEPA and other provisions of law that further the purposes of NEPA. All Environmental Review procedures must be completed prior to the submission of grant applications to the Office of Community and Rural Affairs (OCRA).

If another federal agency has funds invested in the project, it will also be conducting an Environmental Review. Grantees are encouraged to coordinate their reviews with that agency. This will help to eliminate unnecessary duplication of effort. However, before making a finding based upon another agency's review, Grantees must ensure that the process of determination is adequate to meet responsibilities under 24 CFR Part 58. Although a Grantee may concur with the finding and any assessments conducted by another agency, it is still responsible for making sure the contents of its Environmental Review Record (discussed later in this chapter) is complete. Also, Grantees are still required to fulfill the publication and comment requirements outlined in this chapter.

## Incurring Costs (24 CFR Part 58.22) and Submitting Draw Requests

Until approval under HUD regulations at 24 CFR Part 58 has been obtained, even though another federal agency may have approved the project, no action may be taken to commit HUD funds to the project or begin a "choice-limiting action." Choice-limiting actions include but are not limited to: putting a project out to bid, property acquisition or transfer, rehabilitation, conversion, lease, repair, construction or demolition.

Completion of the Environmental Review process is mandatory before taking any action on a specific site, or making a commitment or expenditure of HUD or any non-HUD project funds for property acquisition or transfer, rehabilitation, conversion, lease, repair construction or demolition activities.

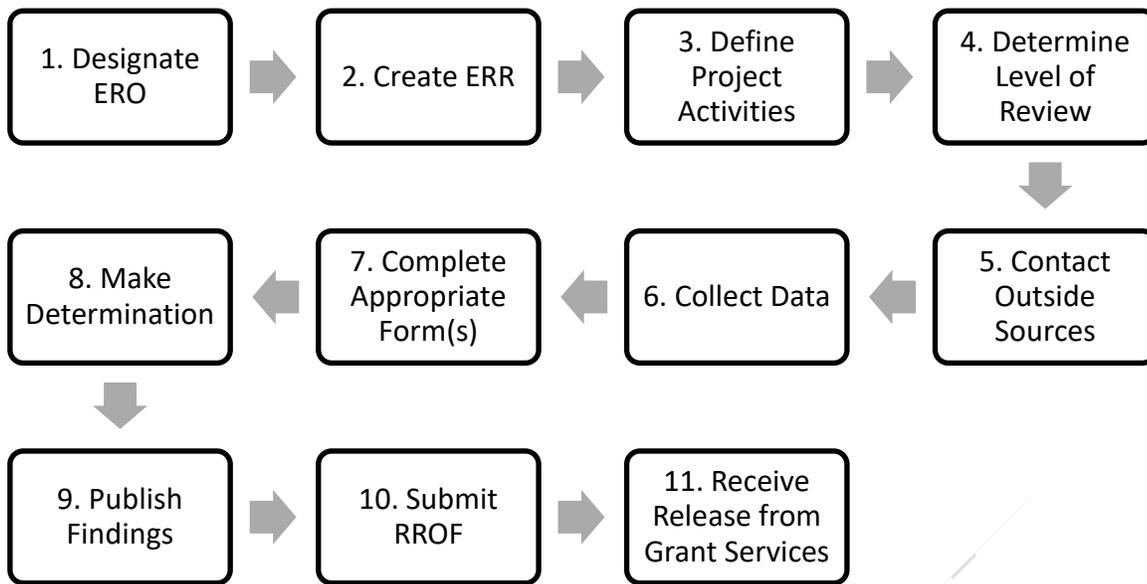
Grantees can be reimbursed for certain costs incurred prior to the Release of Funds. These costs include:

- Administration costs
- Design costs including architectural engineering
- Costs associated with the new environmental process

These costs must have been incurred after the contract effective date.

For all other project activities, Grantees cannot incur costs or draw down funds until the Environmental Review requirements are satisfied and Grant Services has released funds for the project. If any construction activities, including the signing of the construction contract and/or acquiring property are started before Grant Services' approval of the Request for Release of Funds, it will result in all construction costs becoming ineligible for reimbursement.

## Steps to Conducting an Environmental Review



NOTE: Grantees must submit the Environmental Review Record (ERR) to Grant Services prior to the environmental release of funds being issued.

### Environmental Review Officer

Each Grantee must designate an environmental officer who is responsible for completing the environmental review process. Typically, the grant administrator is designated as the environmental officer.

The Environmental Officer (typically the Grant Administrator) will be responsible for carrying out the Environmental Review process. As the flow chart demonstrates, this process is comprehensive and detailed. The steps to comply with NEPA and other applicable laws and regulations are below. As the [flow chart](#) demonstrates, the Environmental Review process is comprehensive and detailed. The amount of information needed to complete the review depends on the type of project the Grantee is proposing.

### Defining the Project Activities

Defining the project activities is a crucial step in the Environmental Review process. This step helps drive the level of Environmental Review and thus sets out the correct path for documenting compliance with 24 CFR Part 58. “Project” means an activity, or a group of integrally related activities, designed by the Grantee to accomplish, in whole or in part, a specific objective. When determining the scope of the project Grantees should be sure to include both CDBG and non-CDBG funds. For example, if non-CDBG funds are proposed to acquire property for a community center and HUD funds are planned for construction of the building, both the land acquisition and construction are subject to the Environmental Review. Likewise, if CDBG funds are being used to acquire a building or site, and non-CDBG funds are used to improve the project or otherwise affect the building or site, all changes to the building and site are reviewed the same.

### Project Aggregation (24 CFR Part 58.32)

Grantees must group together and evaluate as a single project all individual activities which are related on either a geographic or functional basis, or are logical parts of a composite of contemplated actions. When grouping activities, the Grantee should be aware that several sites, each requiring some degree of Environmental Review, actually might be considered one project. Some factors can be considered on an activity-wide basis, while others require site-by-site analysis. However, if the activities have separate classifications (see Step 4), the Grantee must follow the review steps listed under the most stringent classification.

### **Project Activities in Floodplains**

When project activities take place in floodplains, the Grantee must go through the “Eight-Step Decision Making Process” and consider “practicable alternatives” to the proposed action (Executive Order 11988 / 24 CFR Part 55). The step-by-step list of items that need to be addressed can be found in Appendix A.

### **Determining the Level of Review**

Every CDBG project requires some level of Environmental Review. The level of effort needed to prepare a review and the depth of analysis should be proportional to the size and complexity of the proposed project. The following are the five levels of Environmental Review:

- Exempt
- Categorically Excluded Not Subject To §58.5, (CENST)
- Categorically Excluded Subject To §58.5 , (CEST)
- Environmental Assessment
- Environmental Impact Statement

The Grantee must determine which level of environmental review is appropriate for the project in order to correctly complete the necessary documentation. Determining the activity classification is the responsibility of the Grantee’s Environmental Officer. To do this, the Environmental Officer must list all of the activities associated with the project, review the information contained in the chapter, and match each activity to the most appropriate classification.

### **Step-by-Step Processes for Each Level of Review**

#### Exempt Activities

An activity has an exempt classification when there is no effect whatsoever on the physical environment. There is only one step for exempt activities.

#### *Step 1: Submit Exempt Activity Notification*

The Grantee will submit the two page [Environmental Form 1: Certificate of Exemption](#) to the OCRA Environmental Specialist identifying the proposed project activities and certifying that they are all exempt activities. This letter is also to be included in the application for all planning grants.

#### Categorically Excluded ‘Not Subject To’ (CENST) Activities

A project that has been classified as a CENST requires a limited environmental review. There is

only one step for CENST activities.

*Step 1: Submit CENST Activity Notification*

The Grantee should submit the two page [Environmental Form 2: Certificate of Categorical Exclusion \(not subject to\)](#) to the OCRA Environmental Specialist identifying the proposed project activities and certifying that they are CENST activities.

Categorically Excluded 'Subject To' (CEST) Activities

A project that is considered CEST requires a limited environmental review. If the proposed project entails any categorically excluded activities, the Grantee is required to complete the following steps:

*Step 1: Submit CEST Activity Notification*

Complete and Submit the [Environmental Form 3: Certificate of Categorical Exclusion \(subject to\)](#) and the [Environmental Form 4: Statutory Worksheet](#) (see [Statutory Worksheet Instructions](#)) to the OCRA Environmental Specialist with notification of the proposed project activities.

Upon receipt of the forms, the OCRA Environmental Specialist will contact the Grantee and inform the Grantee on one of two outcomes:

Outcome #1 (CEST): The project will require a cursory review by certain environmental agencies. If this is the case, the OCRA Environmental Specialist will specify which agencies need to be contacted prior to the submission of the application. You must submit a copy of the OCRA response letter with the application.

Outcome #2 (Not CEST): Further environmental review is necessary. If this is the case, the OCRA Environmental Specialist will inform the Grantee that a full environmental assessment is necessary.

Whether directed to contact certain environmental agencies for a cursory review, or requested to complete a full environmental assessment, the Grantee should be sure to complete this step early in the process to ensure the receipt of responses and signoff(s) from required agencies, prior to submitting an application.

The Grantee should be aware that the [historic preservation](#) process must be followed when contacting the Indiana Department of Natural Resources (DNR) – State Historic Preservation Officer (SHPO).

*Step 2: Floodplain Notification*

If any part of the project is within the floodplain, the Grantee must conduct the HUD 8 Step Decision Making Process. See Appendix A of this chapter for more information.

*Step 3: Publish Notice of Intent*

Prepare a 'Notice of Intent to Request Release of Funds' (NOI/RROF) that details the activities associated with the project and publish this notice in a newspaper of general circulation. The

NOI/RROF should NOT be published prior to the grant being awarded. Please use [Environmental Form 5: Sample NOI/RROF](#) for a reference.

If any comments are received in writing, the Grantee must consider the comments, respond in writing, and provide copies of the correspondence to the OCRA Environmental Specialist.

*Step 4: Request Release of Funds*

As soon as the Grantee receives the newspaper publisher’s affidavit for the NOI/RROF, the Grantee must forward it along with the (RROF/Certification) Form and any correspondence related to public comments received to the OCRA Environmental Specialist. Upon receipt of this information, the OCRA Environmental Specialist will hold the request for fifteen days to allow additional public comment. After the fifteen-day comment period has elapsed, the OCRA Environmental Specialist will issue the environmental release, pending resolution of any conditions or concerns by environmental agencies, individuals or groups. Please use [Environmental Form 6: Request for ROF](#).

<b>Example: Notice of Intent/Request for Release of Funds (NOI/RROF) Publication Timeframe</b>	
Day 1	Publish (NOI/RROF) in newspaper & post on website
	Submit all Environmental Agency letters and response to OCRA (if not already sent), along with maps and supporting documents. The Request for Release of Funds and Certification cannot be signed and dated by the chief elected official until the conclusion of the local comment period.
Day 2	First day of 7-day Local Public Comment Period
Day 8	Local Public Comment Period Expires (Submit all comments received to the OCRA Environmental Specialist)
Day 9	Sign and send the RROF to the Grant Services
Day 12	State receives request
Day 13	First day of State comment period
Day 27	Last day of 15-day State comment period
Day 28	State approves RROF and Certification and issues a Release of Funds Letter

### Environmental Assessment Activities (24 CFR Part 58.36 & Subpart E)

A project that cannot be classified as Exempt, CENST, or CEST, but is classified under [24 CFR 58.36](#) requires the completion of an Environmental Assessment (EA). These activities are usually those that have a direct impact on the physical environment. The EA examines and recommends feasible ways to eliminate or minimize adverse environmental impacts and examines alternatives to the project itself, if appropriate. Any new construction would fall under this classification.

The EA is a “concise public document” (40 CFR 1508.9) which should be “analytic rather than encyclopedic” (40 CFR 1502.2) and focus on issues that are truly important rather than “amassing needless detail” (40 CFR 1500.1). The EA should include direct effects (same time and place) as well as indirect effects – those that are “reasonably foreseeable” (40 CFR 1508.8).

If the proposed project entails any EA activities, the Grantee must prepare and maintain a specific type of written record of the Environmental Review undertaken for the project. This written record is called the Format II Equivalency Environmental Review Record (ERR).

### **Environmental Review Record (24 CFR Part 58.38)**

Each CDBG project must have a written record of the Environmental Review process. This is the “Environmental Review Record” (ERR), which must be available for public review and comment. The ERR must contain the following:

- Description of the project and all of its activities (including non-HUD assisted activities);
- A map of the project area highlighting the service area;
- Documentation of compliance with environmental laws;
- Other relevant documents, notices or information; and
- Public comments on the Grantee’s Environmental Review.

Public comments and Grantee responses to those comments are extremely important and must be documented in the ERR. The ERR will vary in length and content by project. Some projects are exempt from NEPA review, categorically excluded from NEPA, found to have no significant impact on the environment, or may require a full environmental impact statement. The steps to comply with NEPA and other applicable laws and regulations are below.

Please note, maps prepared for ERRs – planning map, wetlands map, floodplain map, historical districts map - should be produced in color and from recognized sources.

To complete this type of ERR, the Grantee must undertake the following steps.

#### *Step 1: Environmental Packet Preparation*

The Grantee’s environmental officer must first put together a packet of information that fully explains the activities associated with the proposed project. This packet should include a project narrative and maps depicting the project site. It is recommended that the Grantee obtain the following maps with the project location clearly shown:

- A United States Geological Survey (USGS) topographical map
- A floodplain map
- An aerial photograph
- A wetland map (if applicable)

- A soils map (if applicable)

See [Environmental Form 7: Agency Contact Listing](#) for suggested documentation to be submitted per agency.

#### *Step 2: Contact the Environmental Agencies*

Send the environmental packet to the appropriate local, state and federal agencies requesting an environmental response. It is suggested that these mailings be sent 'certified mail, return receipt' to the applicable agencies listed on [Environmental Form 7: Agency Contact Listing](#).

Tribal Consultation must be completed as part of the environmental review process. See the [Tribal Consultation Guide](#) on the OCRA website.

The Grantee should be aware that the [historic preservation](#) process must be followed when contacting the Indiana Department of Natural Resources (DNR) – State Historic Preservation Officer (SHPO). This process is also necessary for all categorically excluded and assessed projects.

#### *Step 3: Floodplain Notification*

If any part of the project is within the floodplain, the Grantee must conduct the HUD 8 Step Decision Making Process. See Section 4.9 of this Chapter for more information.

#### *Step 4: Environmental Response Collection*

If any environmental response raises project concerns or requires further documentation or study, it is the Grantee's responsibility to clarify the concerns and/or obtain further documentation.

For example, often the DNR Historic Preservation and Archeology Division will require an archeological survey to be performed where construction is proposed in an 'undisturbed' area. In this event, the Grantee must have the study completed and have received the final Indiana DNR SHPO letter prior to completing the Format II ERR.

#### *Step 5: Complete Environmental Assessment Record*

Once all environmental responses have been received and all concerns addressed and/or studies completed, the Grantee may use the information contained in the responses to complete the Environmental Assessment Record. Please use [Environmental Form 8: Format II](#).

#### *Step 6: FONSI/FSI Determination*

Based upon the completion of the Environmental Assessment Record, the project activities will either be determined to have no negative impact on the environment thus being a Finding of No Significant Impact (FONSI); or have a possible negative impact on the environment and be determined as a Finding of Significant Impact (FSI). If the project activities are found to have a FSI, the Grantee should contact the OCRA Environmental Specialist for further direction.

## Environmental Impact Statement

If the proposed project is determined to have a potentially significant impact on the physical and/or human environment, an Environmental Impact Statement (EIS) is required. This determination is based upon the environmental responses collected from the applicable agencies.

In the event that this situation does occur, the Grantee must contact the OCRA Environmental Specialist and discuss possible means of mitigation and/or project modifications.

### *Step 7: Publication of Finding of No Significant Impact (FONSI) and Combined Notice*

If the project activities are determined to have no significant impact on the environment, the Grantee can prepare and publish a FONSI public notice prior to grant award OR publish a FONSI/RROF notice, also called the Combined Notice, following the announcement of grant award. The chosen notice should be published in a newspaper of general circulation. Please use the **Environmental Form 9: Sample FONSI** or the **Environmental Form 10: Combined Notice** to publish the finding. Do not publish the Combined Notice PRIOR to grant award.

If any comments are received in writing, the Grantee must consider the comments, respond in writing, and provide copies of the correspondence to the OCRA environmental specialist.

### *Step 8: Request Release of Funds*

As soon as the Grantee receives the newspaper publisher's affidavit for the NOI/RROF, the Grantee must forward it, along with the (RROF/Certification) Form and any correspondence related to public comments received to the OCRA environmental specialist. Upon receipt of this information, the OCRA Environmental Specialist will hold the request for fifteen days to allow additional public comment. After the fifteen-day comment period has elapsed, the OCRA Environmental Specialist will issue the environmental release, pending resolution of any conditions or concerns by environmental agencies, individuals or groups.

If an amendment to the activity is proposed, the Grantee must reevaluate its EA findings of no significant impact. An amendment may include new circumstances and/or environmental conditions arising during implementation or if an alternative not considered in the original EA is selected. The reevaluation determines whether the FONSI is still valid. If it is, but data or conditions have changed, Grantee must amend the original EA and update the ERR. If it is not, HUD is to be contacted by OCRA for consultation and guidance.

If the project site changes, a new EA must be completed for the new site.

The following sample timetable for the FONSI/RROF process:

<b>Example: Combined Notice Publication Timeframe</b>	
Day 1	Publish the FONSI/RROF (Combined Notice) (Form 10) in newspaper and post on website

	Submit all Environmental Agency letters and responses to OCRA (if not already sent), along with maps and supporting documentations. The Request for Release of Funds and Certification (Form 6) cannot be signed and dated by the chief elected official until the conclusion of the local comment period.
Day 2	First day of 15-day Local Public Comment Period
Day 16	Last day of 15-day Local Public Comment Period
Day 17	Sign and send the RROF (including all comments received) to the OCRA environmental specialist
Day 20	State receives request
Day 21	First day of State comment period
Day 35	Last day of 15-day State comment period
Day 36	State approves RROF and Certification and issues Release of Funds Letter

### **Re-Evaluation of Previously Cleared Projects**

Sometimes projects are revised, delayed or otherwise changed such that a re-evaluation of the environmental review is necessary. The purpose of the re-evaluation is to determine whether or not the original findings are still valid. If the original findings are still valid, but the data and conditions upon which they were based have changed, the Grantee must update their ERR by including this re-evaluation and its determination based on the changed circumstances.

If it is determined that the original findings are no longer valid, and a re-evaluation indicates potentially significant impacts, the Grantee must prepare an EA or EIS that is signed and dated by the CEO and includes:

- A written statement that explains how this re-evaluation was conducted and includes documentation of the results
- References the previous Environmental Review Record
- A description of both the old and new project activities, and provides maps delineating both old and new project areas
- A determination if FONSI is still valid

The written statement is placed in the ERR and a copy sent to the OCRA environmental specialist.

### **Environmental Reviews Prepared by or for Other Agencies**

OCRA will accept environmental reviews prepared by or for other state and federal funding agencies provided that the ERR and associated public notifications meet or exceed the requirements for OCRA's environmental reviews. Environmental reviews prepared by or for other agencies may not contact all the agencies required in OCRA's environmental review process. It is the responsibility of the Grantee to ensure that all appropriate agencies have been contacted, and that the environmental review is complete. Re-publication of the Combined Notice, FONSI and/or the NOI/RROF may be necessary. Please contact the environmental review specialist for clarification in this situation.

## **Agency Letters**

OCRA will only accept agency letters for 3 years from the date on the letter.

## Applicable Regulations Summary

[24CFRPart58](#) - HUD regulations for the Environmental Review process.

[24CFR58.34](#) - Regulations governing **Exempt** activities.

[24CFR58.35\(a\)](#) - Defines **Categorically Excluded Subject To (CEST)**

[24CFR58.35\(b\)](#) - Defines **Categorically Excluded Not Subject To (CENST)**

[24CFR58.38](#) - Defines requirements for **Format II Environmental Review Record (ERR)**

[36CFR800](#) - Regulations governing Historic Properties

[36CFR801](#) - Historic Preservation Requirements

[44CFR59-79](#) – Regulations governing Floodplains

[42USC6901-6987](#) – Regulations governing Water Supply and Solid Waste Disposal

[16USC1531-1543](#) – Regulations governing Endangered Species

[7CRF658](#), [7USC4201c2](#) – Regulations governing Agricultural Lands

[42USC7401-7642](#) – Regulations governing Air Quality

[33USC1251-1376](#), [42USC300f-300j-10](#) – Regulations governing Water Quality

[24CFR51](#) – Regulations governing Noise

[24CFR5c, d](#) – Regulations governing Hazards

[CPD Notice 12-006](#) – Process for Tribal Consultation

# PROCUREMENT

## Overview

Grantees must comply with the federal procurement requirements of 2 CFR 200. These regulations direct that all supplies, equipment, construction and services be acquired efficiently and economically, through open and fair competition. Grantees must use sound business judgment, not only in the acquisition of supplies, equipment, construction and services, but in the settlement of all contractual and administrative issues, protests, disputes and claims.

As required by 2 CFR Part 318, Grantees must adopt a written procurement policy and a code of conduct. This Handbook provides the framework for each of these requirements.

Grantees must ensure nondiscrimination in the solicitation and award of contracts funded in whole or in part with CDBG funds, including nondiscriminatory advertising and distribution of solicitations, nondiscriminatory bid specifications or evaluation criteria and nondiscriminatory awards of contracts. Grantees also must take affirmative steps to use small businesses and Minority- and Women-Owned Enterprises (MBE/WBE) when possible as sources of supplies, equipment, construction and services. A listing of certified minority- and women-owned businesses can be found on the Indiana Department of Administration's [website](#).

## Four Methods of Procurement

The regulations at 2 CFR Part 200.320 detail four methods of procurement. The procurement needs and the timing of procurement vary by project. Some Grantees procure grant administrators, engineers and/or architects prior to application. Others conduct most of their procurement after the grant award. Whatever the timing, there are four allowable methods of procurement:

- Competitive Negotiation Method
- Competitive Sealed Bid Method
- Noncompetitive and Sole Source Purchase Method
- Small Purchase Method

Please note, Grantees must fulfill all of the requirements under 24 CFR Part 58, Environmental Review, and until approval under this section has been obtained, no action may be taken to commit HUD funds to the project or begin a "choice-limiting action." Choice limiting actions include putting a project out to bid, property acquisition or transfer, rehabilitation, conversion, lease, repair construction or demolition.

## Competitive Proposals Method

There are two types of requests under this method, Request for Proposals (RFP) and Request for Qualifications (RFQ). The RFP is generally used for procurement of professional services and the RFQ is reserved strictly for procuring architectural/engineering (A/E) professional services. Each type of request is detailed below.

Please note that 2 CFR 200.319 prohibits contractors from competing for procurement if the contractor has assisted or participated with development of draft specifications, requirements, statements of work, and invitations for bids or requests for proposals. For example, if a consultant assists a community by preparing an RFP for CDBG grant administration, the consultant cannot respond to the RFP for those services.

### Request for Proposals (RFP)

Procurement by competitive proposals generally is the method used for the selection of professional services. More than one source submits an offer and either a fixed-price or cost reimbursement (with a maximum amount or “not to exceed” figure) type of contract is awarded. Proposals from an adequate number of qualified sources are solicited through a formal, written request for proposals (RFP). The RFP must be publicized and must identify all evaluation factors and their relative importance.

Grantees must have a method for conducting technical evaluations of the proposals and for selecting awardees. Any response to publicized requests for proposals must be honored to the maximum extent practical. An award is made to the responsible firm whose proposal is most advantageous, with price and other factors considered.

The following process is to be used to procure the services of grant administrators, rate consultants, etc. for CDBG-funded contracts.

#### *Step 1: Establish or Appoint Evaluation Committee*

Appoint an evaluation team of knowledgeable members (town council, board of public works members, etc.) and develop an evaluation plan to rank respondents and provide guidance during the selection process. Typically three to five people make up the evaluation committee. At least one of the committee members must be the chief elected official (CEO) or designee. An example of a scoring criteria evaluation document is [RFP Evaluation Form](#).

Committee members may not have any potential conflicts of interest with any of the individuals, firms or agencies under review (e.g., family relationships, close friendships, business dealings) and no person who might potentially receive benefits from CDBG-assisted activities may participate in the selection, award, or administration of a contract supported by CDBG funding if he or she has a real or apparent conflict of interest. All real or apparent conflicts should be immediately disclosed and handled appropriately. See Conflict of Interest section of this handbook for additional guidance on how to handle conflicts of interest.

#### *Step 2: Determine Scope of Work*

Determine the scope of work needed to complete the project. The scope of work should describe

what tasks need to be completed, and may include timeframes.

A Grantee may wish to have a consultant or third party assist with the development of the scope of work.

A consultant that intends to respond to the RFP/RFQ cannot participate in the development or drafting of specifications, requirements, statements of work, or invitations for bids or requests for proposals, including but not limited to, the development of the scoring criteria, the final selection of firms to be contracted, or the scoring of proposals. (See 2 CFR 200.319(a))

### *Step 3: Determine the Selection Criteria to Evaluate Respondents*

Determine what evaluation criteria will be used to rate the proposals submitted. Using the Proposal Evaluation form, document the Grantee's selected evaluation criteria. Please note this form includes sample criteria and should be updated to include Grantee's selected criteria.

Then, prioritize each selected criterion for its relative importance to the project by giving it a Weight of 1-10. It is important that once each of the selected criteria and its relative weight has been established that it not change. All reviewers must use the same criteria and weight value for all respondents.

Per 2 CFR 200 requirements, geographic proximity cannot be included as evaluation criteria.

### *Step 4: Develop the request for proposals (RFP) package*

Grantees must prepare an RFP for potential respondents. This document should include:

- Scope of work
- Evaluation criteria & scoring
- Submission deadline and instructions for submission
- Contact information for a local point of contact (to answer questions on the RFP)

An example of an RFP is provided as [Procurement Form 1: Sample RFP](#).

When developing an RFP document, it is important to make sure the Grantee is asking for the appropriate information to evaluate the proposal. For example, if one of the evaluation criteria is experience with the CDBG program, the RFP/RFQ should ask responders to include a description of their previous work in the CDBG program.

### *Step 5: Solicit Responses*

Send the RFP to at least five vendors via certified mail, return receipt requested. At least two of the vendors solicited by certified mail must be a state-certified MBE or WBE firm. These firms must provide the specific type of service being procured and are located within the general project proximity. See the Civil Rights Chapter for details on finding state certified MBE/WBE grant administrators.

### *Step 6: Publish RFP*

The Grantee must advertise the RFP at least once in a newspaper of general circulation. A formal legal advertisement is required. An example of the advertisement is provided as [Procurement Form 2: Sample RFP Publication](#). Proposals are due no sooner than 15 days following the date of publication of the legal advertisement in order to encourage numerous

responses.

#### *Step 7: Open RFP Responses*

Proposals must be received at the address stated in the legal advertisement, logged in and stamped with the date and time received prior to being opened, and submitted to the Evaluation Committee for review. Any proposal not received by the date and time stated in the legal advertisement must be returned, unopened to the submitter.

#### *Step 8: Shortlist Vendors*

The purpose of the evaluation process is to select the responders whose proposals meet all of the criteria required in the solicitation. Each committee member should review and rate each of the proposals received in Step 7 using an Interview Evaluation and Score Sheet for each vendor shortlisted. See [Procurement Form 3: Proposal Evaluation](#). Each evaluator must use the same scoring and weighting criteria (established in Step 3) making their best effort to score each proposal fairly and without bias. All scores can then be averaged to determine the highest scoring proposals.

The committee must select two or more of the responders for interviews. The firms with the highest average points should be selected for interviews.

The Grantee is required to contact the firms selected in writing with the time, date and location of the interview. A sample letter is provided as [Procurement Form 4: Short List Letter](#). The Grantee must also notify those who will not be interviewed. A sample letter is provided as [Procurement Form 5: Non Short List Letter](#).

#### *Step 9: Make Vendor Selection*

On occasion, a Grantee may receive only one proposal. That respondent must be interviewed before the scoring committee. The interview may be conducted via conference call. OCRA will accept a letter of justification for not re-procuring services if the community has a history with the firm and feels comfortable accepting the proposal without re-soliciting the services.

Following the Evaluation Committee's review, the vendor whose proposal is determined to be the most advantageous to the project, based upon qualifications, price and other factors may be selected.

The score sheets (started in Step 8 and completed in this Step) must be signed by each member of the Evaluation Committee and maintained in the project file. These signed documents will be required at Release of Funds.

#### *Step 10: Notify Successful and Unsuccessful Proposer(s)*

The Grantee must notify all successful and unsuccessful vendors in writing. See [Procurement Form 7: Letter to Selected Firm](#) and Procurement Form 8: [Letter to Non Selected Firms](#) for samples.

#### *Step 11: Execution of Contract(s)*

The Grantee may execute contracts with the successful vendor after they have received the Notice

of Removal of Environmental Conditions from OCRA.

### Request for Qualifications (RFQ)

When procuring architectural/engineering (A/E) professional services, qualification-based procurement procedures should be used. Qualifications are solicited through a formal written request for qualifications (RFQ) process including a publicized notice. The most qualified competitor is selected based on established evaluation review criteria (sample criteria are included in this handbook). The award is then made subject to fair and reasonable negotiated compensation. This method of procurement, where price is not used as a selection or evaluation factor, may be used only in the procurement of actual A/E professional services.

#### *Step 1: Establish or Appoint Evaluation Committee*

The Grantee must appoint an evaluation team of knowledgeable members (town council, board of public works members, etc.) and develop an evaluation plan for use in ranking respondents and providing guidance during the selection process. Typically three to five people make up the evaluation committee. At least one of the committee members must be the CEO or their designee. An example of a scoring criteria evaluation document is provided as [Procurement Form 11: RFQ Evaluation](#).

Committee members may not have any potential conflicts of interest with any of the individuals, firms or agencies under review (e.g., family relationships, close friendships, business dealings) and no person who might potentially receive benefits from CDBG-assisted activities may participate in the selection, award, or administration of a contract supported by CDBG funding if he or she has a real or apparent conflict of interest. All real or apparent conflicts should be immediately disclosed and handled appropriately. See Conflict of Interest section of this handbook for additional guidance on how to handle conflicts of interest.

#### *Step 2: Determine Scope of Work*

Determine the scope of work needed to complete the project. The scope of work should describe what tasks need to be completed, and may include timeframes.

A Grantee may wish to have a consultant or third party assist with the development of the scope of work.

A consultant that intends to respond to the RFP/RFQ cannot participate in the development or drafting of specifications, requirements, statements of work, or invitations for bids or requests for proposals, including but not limited to, the development of the scoring criteria, the final selection of firms to be contracted, or the scoring of proposals. (See 2 CFR 200.319(a))

#### *Step 3: Determine the Selection Criteria to Evaluate Respondents*

Determine what evaluation criteria will be used to rate the proposals submitted. Using the evaluation form, document the Grantee's selected evaluation criteria. Please note this form includes sample criteria and should be updated to include Grantee's selected criteria.

Then, prioritize each selected criterion for its relative importance to the project by giving it a Weight of 1-10. It is important that once the each of the selected criteria and its relative weight has

been established that it not change. All reviewers must use the same criteria and weight value for all respondents.

When issuing an RFQ for professional services (architectural and engineering), costs should not be included in the selection criteria.

Per 2 CFR 200 requirements, geographic proximity cannot be included as evaluation criteria.

#### *Step 4: Prepare RFQ*

The Grantee must prepare a RFQ. A sample request is provided as [Procurement Form 9: Sample RFQ](#).

#### *Step 5: Solicit Responses*

The RFQ must be sent to at least five vendors via 'certified mail, return receipt requested'. At least two of the vendors solicited by certified mail must be a state certified MBE or WBE firm. See the Civil Rights Chapter for details on locating MBE/WBE architects or engineers.

#### *Step 6: Publish RFQ*

The Grantee must publish the RFQ at least once in a newspaper of general circulation a minimum of 30 days prior to the RFQ submission due date. A formal legal advertisement is required. An example of the advertisement is provided as [Procurement Form 10: Sample RFQ Publication](#).

#### *Step 7: Open RFQ Responses*

Statements of Qualifications must be received at the address stated in the legal advertisement, logged in and stamped with the date and time received, prior to being submitted to the evaluation committee for review. Any Statements of Qualifications not received by the date and time stated in the legal advertisement must be returned, unopened to the submitter.

#### *Step 8: Shortlist Vendors*

The purpose of the evaluation process is to select the responders whose statement of qualifications meet all of the criteria required in the solicitation. Each committee member (evaluator) should review and rate each of the Statement of Qualifications received in Step 7 using [Procurement Form 11: Statement of Qualifications Evaluation](#). Each evaluator must use the same scoring and weighting criteria (established in Step 3) making their best effort to score each Statement of Qualifications fairly and without bias. All scores can then be averaged to determine the highest scoring Statement of Qualifications.

The committee must select two or more of the responders for interviews. The firms with the highest average points should be selected for interviews.

#### *Step 9: Conduct Interviews*

The Grantee is required to contact the firms selected, in writing with the time, date and location of the interview. A sample letter is provided as [Procurement Form 4: Short List Letter](#). The Grantee must also notify those who will not be interviewed. A sample letter is provided as [Procurement Form 5: Non Short List Letter](#).

Using [Procurement Form 14: Interview Evaluation and Scoring Form](#), each committee member should review and rate each vendor based on the criteria set out by the committee making their best effort to rate the interviewees fairly and without bias.

On occasion, the Grantee may receive only one Statement of Qualifications. That respondent must be interviewed before the scoring committee. The interview may be conducted via conference call. OCRA will accept a letter of justification for not re-soliciting the services if the community has a history with the firm and feels comfortable accepting the firm's Statement of Qualifications.

#### *Step 10: Make Vendor Selection*

Following the evaluation committee's review, the vendor with the highest number of aggregate points should be selected for price negotiations. If unable to reach an agreement on the fees to be charged for the services required, the Statement of Qualifications may be rejected and the vendor with the second highest number of aggregate points may be approached for price negotiations. This process may continue until an agreement is reached, so long as the vendor selected is capable of providing the requested services based upon quality and other relevant factors.

The score sheets (started in Step 8 and completed in this step) must be signed by each member of the evaluation committee and maintained in the project file. These signed documents will be required at Release of Funds.

#### *Step 11: Notify Successful and Unsuccessful Proposer(s)*

The Grantee must notify all successful and unsuccessful vendors, in writing. See [Procurement Form 7: Letter to Selected Firm](#) and [Procurement Form 8: Letter to Non Selected Firms](#) for samples.

#### *Step 12: Execution of Contract(s)*

The Grantee may execute contracts with the successful vendor after they have received the Notice of Removal of Environmental Conditions from OCRA.

File Checklist for Professional Services:

- Copy of the Request for Proposal (RFP) or Request for Qualifications (RFQ)
- Copy of the RFP/RFQ newspaper advertisement
- Certified mail receipts from MBE/WBE firms
- List of companies who submitted Statements of Qualifications or Proposals
- RFP/RFQ evaluation and scoring documents
- List of short-listed firms and documentation of interview process
- Short-listed firms evaluation and scoring documents
- Justification for selection of contractor

## Competitive Sealed Bid Method

The Competitive Sealed Bid Method is also referred to as an Invitation for Bid (IFB). This method of procurement is much more formal than the others and does not allow for negotiation. It is the required procurement method for all CDBG construction work.

### *Step 1: Prepare Invitation for Bid (IFB)*

The Grantee must develop an IFB that clearly identifies the services required including: all technical specifications required, any other requirements that apply to the contract, and instructions for preparing and submitting a bid. Bid specifications may not identify a specific name brand or provider except if required to identify a piece of equipment necessary for completion of the project. In this instance, the name brand or provider must be followed with the terminology, 'or approved equals'. Bid specifications are prepared by the professional services provider, either an architect or engineer. It is the responsibility of the Grantee to provide the bid specifications preparer with a copy of the [Federal Construction Contract Provisions](#) (OCRA website in Resources), and the Davis-Bacon Wage Decision applicable to the project. The bid specifications must include a statement that the wage decision is subject to change and the one that is in effect on the date of the bid opening will be applicable to the total project if the contract is awarded within 90 days of bid opening. If not, the applicable wage decision becomes the one that is in effect on the date that contracts are signed.

Bid terms and conditions to be included in the IFB include the following and should be reviewed by the Grantee's attorney:

- Technical specifications
- City, town or county, as well as federal and state requirements
- CDBG-related requirements
- Cost and pricing information
- Method of payment
- Advertisement for bid (as required by state law)
- Information specifying method of bidding, bid evaluation and contract award
- Contract form
- For contracts over \$100,000
  - Bid Proposal Form (Indiana General Form No. 96) required for public works projects with contracts to exceed \$100,000
  - Bonding forms (bid, performance, and payment bonds)
  - Section 3 requirements
- For Davis-Bacon projects: current prevailing federal wage publication

### *Step 2: Publish Invitation for Bid (IFB)*

The IFB must be published at least twice in a newspaper of general circulation, on the 8<sup>th</sup> day or after the first notice. The last advertisement must be published on or after the 8<sup>th</sup> day before the bid opening date. This 14-day minimum bidding period is accepted by OCRA but it is advised that communities give bidders more time. The IFB must state the date, time and location for submission of bids. The legal advertisement must provide information pertaining to where the project plans and specifications may be obtained or reviewed. In order to obtain the highest level

of free and open competition, publishing the IFB in well-known trade journals and/or sending a copy of the IFB to the area's local contractors may increase the number of responses received. An example of an IFB advertisement is provided as [Procurement Form 17: Sample IFB Publication](#).

### *Step 3: Solicit MBE/WBE Responses*

In order to achieve the State's 10% MBE/WBE goal, a copy of the IFB advertisement must be sent via certified mail to at least two [state-certified MBE/WBE contractors or vendors](#).

### *Step 4: Receive Bids*

As bid packets arrive, the time and date the bid was received from the vendor is written on the outside of the bid packet. Any bid received after the date and time due must be rejected and returned to submitter unopened.

### *Step 5: Open Bids*

Bids must be opened and read aloud at a public meeting, at the date, time and location stated in the legal advertisement. The bidder's name and amount of bid must be read and recorded in the minutes of the bid opening meeting. No action should be taken at the bid opening meeting except by order of the CEO to take the bids under advisement. Bid opening meeting minutes and a sign in sheet of all attendees must be maintained for the project records and will be required at Release of Funds.

If all bids exceed the amount budgeted for construction costs, the Grantee has only two options. The local funds budget may be increased to cover the additional costs or all bids may be rejected and the CEO may instruct the architect or engineer to revise bid specifications and rebid the project in an attempt to bring construction costs to within the project budget. The project may not be altered or changed to eliminate any part of the original project scope.

### *Step 6: Make Vendor Selection*

The Competitive Sealed Bid Method of procurement requires that the construction contract be awarded to the lowest bidder, provided that the lowest bidder is found to be a responsive and responsible bidder.

If the bids received are within the project budget, the architect or engineer will review all bid packages to determine if each one is responsive and responsible and the Grantee's legal counsel will verify that the bonding and certification requirements outlined in the bid specifications have been included. Upon completion of these reviews, the architect or engineer will prepare a bid tabulation sheet, [Procurement Form 18: Bid Tabulation](#) and a written statement to the Grantee making a recommendation of the lowest responsive and responsible bidder. The bid tabulation must be certified (stamped) by the project architect or engineer. If the low bidder is found to be unresponsive or irresponsible and is not recommended by the project architect or engineer, the Grantee's legal counsel must be consulted prior to making the determination to reject the lowest bid and consider the second lowest bidder. A written legal opinion must accompany all procurement documents where the low bidder was not selected in case of a formal bid protest or possible litigation. The legal opinion letter will be required by OCRA at the Release of Funds meeting.

Grantee has sixty (60) days from the date of bid opening to (a) award the contract or (b) reject all

bids. Notice to proceed must also be provided to the successful bidder within sixty (60) days of bid opening (IC 36-1-12-6).

#### *Step 7: Obtain Release of Funds and Award Construction Contract*

When the Grantee has received the architect or engineer's recommendation for award and certified bid tabulation, the Release of Funds must be obtained from Grant Services. Grantees may never award a construction contract prior to the Release of Funds. See Financial Management Chapter.

When a written Release of Funds authorization is received, the Grantee may award a firm, fixed price contract to the recommended bidder.

#### File Checklist for Construction and Related Services

- Copy of Invitation for Bid (IFB)
- Copy of IFB newspaper advertisement
- Certified mail receipts from MBE/WBE firms
- Minutes from public meeting where IFBs were opened
- Copy of the bid tabulation sheet, certified by the project architect/engineer
- Justification of selection

### **Noncompetitive and Sole Source Purchasing Method**

This method of procurement is used to solicit products or services from a single source and may only be used when the other three methods of procurement are not applicable and then only with the prior written approval of Grant Services. The stipulations that would exclude the other methods of procurement include the following:

- The item or service can only be obtained from one source.
- A condition of public emergency or urgency exists and time does not permit the use of a competitive procurement method.
- Following solicitation of a number of service providers, competition was deemed to be inadequate.

Noncompetitive and Sole Source procurement is discouraged and must be well documented to avoid disallowance by Grant Services monitors and Indiana State Board of Accounts examiners.

### **Noncompetitive Purchasing Method**

#### *Step 1: Justification for Use of Method*

The Grantee must prepare a written justification as to why this method of procurement is being utilized and allow Grant Services to review this justification prior to proceeding to Step 2.

#### *Step 2: Prepare Solicitation of Products/Services*

Prepare a specific list of products or services to be acquired along with a cost/price analysis that evaluates specific elements of cost and proposed profit. The document utilized for the cost/price analysis is provided as [Procurement Form 19: Cost/Price Analysis](#).

### *Step 3: Verify Data*

A licensed architect or engineer must verify the Grantee's data to certify the specifications and reasonableness of the estimated costs.

### *Step 4: Send Solicitation to Vendor*

The vendor should be provided with a specific listing of products or services required.

### *Step 5: Evaluate Bid*

The bid is evaluated based upon responsiveness and price reasonability. For this method of procurement, the Grantee may negotiate with the vendor to assure the most advantageous offer is acquired.

### *Step 6: Execution of Contract(s)*

The Grantee may execute contracts with the successful vendor after they have received the Notice of Removal of Environmental Conditions and Release of Funds from OCRA.

### **Small Purchase Method (For services and supplies ONLY, not construction contracts)**

This method of procurement may be used for the procurement of services, supplies, and/or other property that has an estimated dollar value less than \$50,000 (IC 5-22-8-2). The Small Purchases Method of procurement may not be used for professional services such as architectural, engineering, grant administration, etc., unless specifically allowed by OCRA and may never be utilized without the consent of Grant Services.

#### *Step 1: Determine Threshold*

The Grantee must determine whether or not the estimated dollar amount of the product or service being procured is equal to or less than the applicable bidding limit. If the estimated amount is equal to or less than the amount prescribed, go to Step 2. If the estimated amount will exceed the prescribed limit, use another method of procurement.

#### *Step 2: Prepare Solicitation for Products/Services*

By email, letter or fax, at least three vendors must be contacted for competitive quotes. There is no requirement to contact MBE/WBE providers. At least seven days must be allowed for responses. The Grantee should be specific in describing the product or service being requested. An example of a solicitation contact letter is provided as [Procurement Form 20: Small Purchase Request for Quote](#).

#### *Step 3: Document Responses*

All responses and solicitations should be documented and records maintained. Verbal quotes are not valid. Prepare a tabulation for all responses received. Award should be made to vendor with the lowest quote.

#### *Step 4: Make Vendor Selection*

If the vendor with the lowest quote is not selected, the Grantee must document the justification as to why another vendor was selected. Issues such as poor past performance or bad references are

typical reasons for selection denial. The Grantee's legal counsel should be consulted on all procurements awarded to vendors not having the lowest quote.

#### *Step 5: Execution of Contract(s)*

The Grantee may execute contracts with the successful vendor after they have received the Notice of Removal of Environmental Conditions/Release of Funds from OCRA.

If the Grantee only receives one quote, the consulting engineer or architect must validate that the price is reasonable. For record keeping purposes, a cost/price analysis must be performed using [Procurement Form 19: Cost/Price Analysis](#). Making several separate small purchases from the same vendor or different vendors in order to stay under the formal bidding threshold is prohibited by Indiana Code.

#### File Checklist for Supplies/Materials

- Copy of Request for Quotation (RFQ)
- Certified mail receipts from Minority Business Enterprise (MBE) vendors
- Documentation of all quotes received
- Justification of selection
- Cost/price analysis performed when only one quote is received

#### **Excluded Parties**

Grantees must not award any contract to any organization that is debarred or suspended or is otherwise excluded from or ineligible for participation in federally-assisted programs. This applies to any CDBG-assisted contract at any tier in the process. Verification of contractor eligibility will be required for Release of Funds and is covered in the Labor Standards section of this handbook.

#### **Conflict of Interest**

The OCRA policy regarding conflict of interest mirrors that of the federal CDBG regulations. These requirements apply in the procurement of supplies, equipment, construction services and professional services, and the acquisition and disposition of real property. Federal guidelines stipulate that no person who performs any CDBG function or who has any CDBG responsibility, or who is in a decision making position, or who has inside information may obtain a financial interest or benefit from an activity funded in whole or in part with CDBG funds.

In general, the rule states that no employee, officer or agent of the Grantee shall participate in the selection, the award, or the administration of a contract supported by federal funds if a conflict of interest, real or apparent, exists.

This requirement applies to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the state, or of the unit of general local government (UGLG), or of any designated public agencies, or Subrecipients who are receiving CDBG funds.

OCRA has determined that a conflict of interest exists when the same individual or firm is hired to provide both grant administration and engineering services on an OCRA funded project. Furthermore, OCRA has determined that a conflict of interest exists for a consulting firm that is providing 'technical assistance', such as a planning grant report, to also furnish grant administration for that same project.

Should the Grantee suspect a possible conflict of interest situation, Grant Services must be contacted for a formal opinion.

### **Required Contract Provisions**

All contracts executed for performance of CDBG-related activities must include a full and complete description of the federal and state requirements for contract compliance. The following documents must be physically attached to each contract as applicable:

1. Professional Service Contracts must include the [Provisions](#).
2. Construction contracts must include the [Federal Construction Contract Provisions](#) including the [Housing and Urban Development \(HUD\) Form 4010](#).

Construction contracts must include the following documents either physically or by reference to the project bid specifications and any addendums:

1. Applicable Davis-Bacon and Related Acts (Davis-Bacon) Wage Decision assigned to the project.
2. Bid Bond, Payment Bond and Performance Bond obtained by contractor and provided to Grantee to insure contract fulfillment.
  - a. The Bid Bond guarantees that the selected bidder will execute the required contract documents within the specified period of time.
  - b. The Payment Bond is binding upon the contractor, subcontractors and their successors or assigns, for the payment of all indebtedness to a person for labor and service performed, material furnished, or services rendered.
  - c. The Performance Bond ensures that the contractor will fulfill all of the obligations under the contract within one year of substantial completion.

The bonding company issuing the bonds must hold a 'Certificate of Authority' as acceptable sureties.

### **Contract Contents and Provisions**

All contracts for work or services on CDBG-funded projects must include the following provisions:

1. Effective date of contract;
2. Detailed description of the work or services to be performed;
3. Specifications of materials or other services to be provided;
4. Time for performance and completion of contract services;
5. Method of compensation;
6. Conditions and terms under which the contract may be terminated, and remedies for violation or breach of contract; and
7. Printed and signed names and titles of Signatories for all contract parties.

### **Retainage Requirements**

It is a requirement of Indiana Code that for public works projects a percentage of the total

contract amount due to all construction contractors be set aside until the project is satisfactorily completed, all suppliers have been paid in full, and all contractors, subcontractors and suppliers have submitted lien waivers. The amount of retainage withheld may not exceed:

1. 10% of the dollar value of all work satisfactorily completed until 50% of the project is complete, or
2. 5% of the dollar value of all work satisfactorily completed until 100% of the project is complete.

A Retainage Agreement must be reached, in writing, between the Grantee and the prime contractor to establish a procedure for holding the retained funds until all parties agree that the retainage may be released to the contractor upon satisfactory completion of the project.

Retainage Account funds may be:

1. Deposited into a mutually agreed upon financial institution, in a separate account. If deposited to an interest bearing account, any accrued interest belongs to the contractor;
2. Held in a bank account belonging to the Grantee, with transactions recorded and maintained in a separate ledger account; or
3. Deducted from amounts of draw-downs for payments due contractor so that the State is holding the retainage funds until they become due and payable to the contractor.

The Retainage Funds may only be released by the signature of both the Grantee and prime contractor.

### **Change Order Procedures**

No change orders are permitted prior to the onset of construction. While the CDBG-funded project is under construction, circumstances may arise that require changes to the scope of work called for in the original contract. Change orders are permitted if properly prepared and approved. Total net (+/-) change orders on a project may not exceed 20% of the original contract amount. Change orders must be prepared by the project architect or engineer and approved by the Grantee's governing board, in writing. When additional units of materials are needed, the cost used to calculate the change order amount must be the same price as quoted in the original contract.

Contractors should never assume a change order will be approved and commence the work identified in the change order before all approvals have been obtained. Verbal approvals are not sufficient and additional work or services not formally approved could result in the contractor doing work for which the Grantee is not obligated to pay.

Construction projects may sometimes encounter unforeseen circumstances which require changes to the scope of the project contract which exceed the 20% maximum net change orders permitted. Should this occur, it is the responsibility of the project architect or engineer to present to the Grantee a written explanation of the nature of the required changes and a full and complete explanation as to why the circumstances encountered were unforeseen during project design. The decision to approve this change must be made by the Grantee and it is recommended that legal counsel be obtained.

Changes to a project which result from unforeseen circumstances do not count toward the 20%

maximum change order limit.

### **Insurance Requirements**

All contractors and vendors performing work or services on CDBG-funded projects are required to carry the following types of insurance policies for at least the minimum level of coverage:

1. Worker's Compensation/Employees' Liability - \$100,000 per person
2. Auto Insurance for injuries and damages caused by the contractor's vehicle on the job site
3. Comprehensive Public Liability - \$250,000 per person
4. Property Damage Policy - \$100,000 per incident with an aggregate minimum of \$300,000

Other types of insurance coverage may be required based upon the specific federally-assisted project.

### **Disclosure Reports and Code of Conduct**

The Grantee must maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest exists. Such a conflict would arise when the employee, officer, or agent, or any member of his or her immediate family, his or 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 the firm selected for an award.

In order to affirm that no conflict of interest exists on the implementation of any contracts which are a part of the federally assisted project, every Grantee must complete a [Contract Form 1: Disclosure Report](#), to be included in all applications for grant funding. The Disclosure Report must be updated throughout the project as additional contracts are awarded, and maintained in the project files. A final Disclosure Report listing all contracts pertaining to the federally assisted project must be submitted to the Office of Community and Rural Affairs (OCRA) at monitoring. In addition, when a potential conflict of interest arises on a project [Contract Form 1.5: Request for Conflict of Interest Exception](#) must be completed and submitted to Grant Services for review and approval.

Such potential conflicts could be the use of a consulting project manager, a perceived gain from relocation benefits, etc. If you have any questions about the possibility of a potential conflict, please contact Grant Services immediately.

### **Contractor Debarment**

Contracts for work or services for compensation on a project funded in whole or in part with CDBG funds may not be awarded to parties excluded from participation in federally-assisted projects. Please refer to the Labor Standards chapter for more information on determining debarred contractors.

Any entity that enters a contract to perform work or services on a CDBG project may be subject to debarment proceedings for the following violations:

1. Repetitive violations of any federal or state law or department program regulation

- or instruction;
2. Repetitive failure to perform contractual obligations or carry out representations or warranties to the Grantee or the funding agency under any program administered by said agency;
  3. Acts of misconduct indicating a lack of business integrity directly affecting the responsibility to participate in department programs including but not limited to false representation, embezzlement, theft, forgery, fraud, negligence, bribery, falsification of records, and receipt of stolen property;
  4. Repetitive violations of any non-discrimination or equal opportunity requirements in connection with any program administered by the agency; or
  5. Debarment from any agency of the federal or state government.

Recommendations for debarment for any of the above violations may be addressed to the OCRA's Grant Services stating the conditions under which the violations occurred.

### **Applicable Regulation Summary**

[24 CFR Part 85 Chapter 36](#): This regulation sets forth the standards that are applicable to procurement. Rules governing the contents of bid specifications, especially the required federal provisions, are included. It also addresses the methods of procurement and all of the rules governing the utilization of the methods. The remaining information under this regulation pertains to the bonding requirements and general contract provisions.

[24 CFR Part 570.489\(h\)](#): This regulation sets forth the federal requirements regarding conflicts-of-interest.

The Indiana laws that apply to procurement include [IC-5-3-1-2](#), [IC-5-16-5](#), [IC-5-16-11](#), [IC-5-22-8](#), [IC-5-22-17](#), and [IC-36-1-12](#). The foregoing state statutes may be amended from time to time by acts of the Indiana General Assembly. Additionally, each unit of local government must establish local procurement-related ordinances/procedures which may be more restrictive than those provided under [IC-36-1-12](#). Always consult with the Grantee's legal counsel prior to initiating procurement activities for each project.

[IC-35-44.1-1-4](#): This regulation sets forth standards for public servants applicable to the disclosure of conflicts of interest.

[2 CFR 225](#) – OMB Cost Principles (previously OMB A-87) establishes principles and standards for determining costs for federal awards carried out through grants, cost reimbursement contracts, and other agreements with state and local governments.

[Executive Order 12549](#), Debarment and Suspension

[31 CFR Part 223.1](#): This regulation sets forth standards for Surety Companies Doing Business with the United States.

## **Contract Development & Administration**

There are two types of contracts permitted under the CDBG regulations. They are:

- Firm
- Fixed-Price Contract or Lump-Sum Contract

A Firm, Fixed-Price Contract requires that the contractor deliver the product or service for the agreed-upon price. This type of contract is required for:

- Professional services, including Grant Administration, Labor Standards, and Environmental Review,
- Engineering or Architectural services except when the level of work to be completed is unknown at the time of contract execution,
- Legal fees, rate consultant, or any other type of professional services required, and
- Construction of the project activities.

## **Cost Reimbursement Contract**

This type of contract is permitted for professional services when the level of work to complete a specific task is unknown. The fully executed contract must always state an estimated amount and a 'Not to Exceed' limit.

Costs plus Percentage of Cost contracts are specifically prohibited by CDBG regulations for any type of work or services to be performed on CDBG funded projects.

## **Contract Requirements**

All contracts executed for performance of CDBG related activities must include a full and complete description of the federal and state requirements for contract compliance. The following documents must be physically attached to each contract as applicable:

- Professional Service Contracts must include the Third Party Contract Provisions.
- Construction contracts must include the Federal Construction Contract.
- Provisions including the Housing and Urban Development (HUD) Form 4010.

Construction contracts must include the following documents either physically or by reference to the project bid specifications and any addendums:

1. Applicable Davis-Bacon and Related Acts (Davis-Bacon) Wage Decision assigned to the project.
2. Bid Bond, Payment Bond and Performance Bond obtained by contractor and provided to Grantee to insure contract fulfillment.
  - a. The Bid Bond guarantees that the selected bidder will execute the required contract documents within the specified period of time.
  - b. The Payment Bond is binding upon the contractor, subcontractors and their successors or assigns, for the payment of all indebtedness to a person for labor and service performed, material furnished, or services rendered.

- c. The Performance Bond ensures that the contractor will fulfill all of the obligations under the contract within one year of substantial completion.

The bonding company issuing the bonds must hold a 'Certificate of Authority' as acceptable sureties.

### Contract Contents and Provisions

All contracts for work or services on CDBG funded projects must include the following provisions:

1. Effective date of contract,
2. Detailed description of the work or services to be performed,
3. Specifications of materials or other services to be provided,
4. Time for performance and completion of contract services,
5. Method of Compensation,
6. Conditions and terms under which the contract may be terminated, and remedies for violation or breach of contract, and
7. Printed and signed names and titles of Signatories for all contract parties.

### Retainage Requirements

It is a requirement of Indiana Code that for public works projects a percentage of the total contract amount due to all construction contractors be set aside until the project is satisfactorily completed, all suppliers have been paid in full, and all contractors, subcontractors and suppliers have submitted lien waivers. The amount of retainage withheld may not exceed:

1. 10% of the dollar value of all work satisfactorily completed until 50% of the project is complete, or
2. 5% of the dollar value of all work satisfactorily completed until 100% of the project is complete.

A Retainage Agreement must be reached, in writing, between the Grantee and the prime contractor to establish a procedure for holding the retained funds until all parties agree that the retainage may be released to the contractor upon satisfactory completion of the project.

Retainage Account funds may be:

1. Deposited into a mutually agreed upon financial institution, in a separate account. If deposited to an interest bearing account, any accrued interest belongs to the contractor,
2. Held in a bank account belonging to the Grantee, with transactions recorded and maintained in a separate ledger account, or
3. Deducted from amounts of draw-downs for payments due contractor so that the State is holding the retainage funds until they become due and payable to the contractor.

The Retainage Funds may only be released by the signature of both the Grantee and prime contractor.

### Change Order Procedures

No change orders are permitted prior to the onset of construction. While the CDBG funded project is under construction, circumstances may arise that require changes to the scope of work called for in the original contract. Change orders are permitted if properly prepared and approved. Total net (+/-) change orders on a project may not exceed 20% of the original contract amount. Change orders must be prepared by the project Architect or Engineer and approved by the Grantee's governing board, in writing. When additional units of materials are needed, the cost used to calculate the change order amount must be the same price as quoted in the original contract.

Contractors should never assume a change order will be approved and commence the work identified in the change order before all approvals have been obtained. Verbal approvals are not sufficient and additional work or services not formally approved could result in the contractor doing work for which the Grantee is not obligated to pay.

Construction projects may sometimes encounter unforeseen circumstances which require changes to the scope of the project contract which exceed the 20% maximum net change orders permitted. Should this occur, it is the responsibility of the project Architect or Engineer to present to the Grantee a written explanation of the nature of the required changes and a full and complete explanation as to why the circumstances encountered were unforeseen during project design. The decision to approve this change must be made by the Grantee and it is recommended that legal counsel be obtained. This determination, along with the written explanation must be submitted to Grant Services for approval.

Changes to a project which result from unforeseen circumstances do not count toward the 20% maximum change order limit.

### Insurance Requirements

All contractors and vendors performing work or services on CDBG funded projects are required to carry the following types of insurance policies for at least the minimum level of coverage:

1. Worker's Compensation/Employees' Liability, \$100,000 per person,
2. Auto Insurance for injuries and damages caused by the contractor's vehicle on the job site,
3. Comprehensive Public Liability, \$250,000 per person, and
4. Property Damage Policy, \$100,000 per incident with an aggregate minimum of \$300,000.

Other types of insurance coverage may be required based upon the specific federally assisted project.

### Disclosure Reports and Code of Conduct

The Grantee must maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest exists. Such a conflict would arise when the employee, officer, or agent, or any member of his or her immediate family, his or 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 the firm selected for an award. An example of this type of potential conflict could be the use of a consulting project manager, a perceived gain from relocation benefits, etc.

In order to affirm that no conflict of interest exists on the implementation of any contracts which are a part of the federally assisted project, every Grantee must complete a Contract Form 1: Disclosure Report, to be included in all applications for grant funding. The Disclosure Report must be updated throughout the project as additional contracts are awarded, and maintained in the project files. A final Disclosure Report listing all contracts pertaining to the federally assisted project must be submitted to the Grant Services at monitoring. In addition, when a potential conflict of interest arises on a project Contract Form 1.5: Request for Conflict of Interest Exception must be completed and submitted to Grant Services for review and approval.

If you have any questions about the possibility of a potential conflict, please contact Grant Services immediately.

## LABOR STANDARDS AND CERTIFIED PAYROLL REVIEW

### Overview

This chapter includes a description of the laws and regulations associated with federal Labor Standards administration and enforcement.

Construction contracts assisted, in whole or in part, with federal funds are subject to prevailing wage requirements. While the U.S. Department of Labor (DOL) has general administrative oversight of all federal Labor Laws, Housing and Urban Development's (HUD's) Office of Labor Relations works closely with DOL to administer the day-to-day responsibilities of enforcing Davis-Bacon and Related Acts (Davis-Bacon).

This chapter covers policies and procedures that must be followed when undertaking construction projects with CDBG funds, including bidding and contracting requirements, compliance with labor standards requirements, pre-construction conferences, and construction oversight requirements.

### Determining Applicability of Federal Labor Standards

The following summaries outline the requirements for each labor standards act.

1. **Davis-Bacon** requires the payment of prevailing wage rates, which are determined by the DOL, to all laborers and mechanics on construction projects that are larger than \$2,000 (the entire project, not separate contracts), and regulates:
  - a. Wage rates by work classifications
  - b. Fringe benefits
  - c. Fair payment without deductions/rebates
  - d. Withholding of funds from contractors in noncompliance
  - e. Termination of contract due to noncompliance
2. **Contract Work Hours and Safety Standards Act (CWHSSA)** applies to contracts that are greater than \$100,000 (contracts under \$100,000 are still subject to other labor laws). The CWHSSA serves the following functions:
  - a. Regulates overtime compensation
  - b. Requires payment of time and one-half of regular pay for overtime hours worked on the covered project
  - c. Defines overtime as all hours worked - on all projects - in excess of 40 hours in one work week
3. **Copeland Act (Anti-Kickback Act)** makes it a federal crime for anyone to require any laborer or mechanic employed on a federally assisted project to kickback (i.e. give up or pay back) any part of their wages. The Anti-Kickback Act:
  - a. Requires contractors and subcontractors to submit weekly certified payroll reports

- b. Regulates permissible payroll deductions
  - c. Requires that all contractors and subcontractors keep accurate payroll records and maintain those records for a minimum of three years following completion of the project
  - d. Prohibits contractors or subcontractors from paying workers with an I.O.U., equipment, or any other form of barter. All payments must be in the form of a weekly check written to the employee, or a direct deposit to the employee's account
4. **Fair Labor Standards Act (FLSA)** stipulates federal minimum wage, overtime, and child labor requirements. These standards may be preempted by more stringent federal standards such as the Davis-Bacon and CWHSSA.

### **Labor Standards Responsibilities**

When a grant is awarded, the Grantee must designate a Labor Standards Officer (LSO) to ensure compliance with Davis-Bacon and Related Acts. This designee must be a certified grant administrator and has overall responsibility for labor compliance and for maintaining the project's labor files.

#### LSO Responsibilities during Construction

1. Visit the construction site to confirm the required posters and correct wage determinations are posted in clear view of employees.
2. Collect and examine weekly payrolls as they are submitted so any necessary corrective action can be initiated immediately. Items to be reviewed include:
  - Classification of workers
  - Comparison between the classification and wage and fringe to verify the total package is at least equal to that required by the wage decision
  - Overtime pay, if applicable
  - Deductions
  - Apprentice/trainee program enrollment verification
  - Statement of compliance signature by owner or officer of contractor.
    - i. If compliance signature is from a representative other than owner, an authorization for alternative signature must be provided.
3. Conduct on-site employee interviews. Ensure at least 10% of employees are interviewed and must represent all classifications of employees.
4. Maintain the labor standards file. The file should include the following:
  - Verification of eligibility of each contractor and subcontractor
  - Wage Decision
  - Construction bid package
  - Public advertisements for bids
  - Documentation of efforts to solicit minority/women contractor participation
  - Contract documents (with required Federal Construction Contract Provisions)
  - Pre-construction conference documentation
  - Notice of Start of Construction
  - Contractor/subcontractor employee payroll sheets with signed statement of compliance
  - Employee interview forms (including Section 3 interviews, if applicable)
  - Final Wager Compliance Report

- Final Inspection/Project Completion Report
- Other related correspondence

#### Resource Documents

- Federal Labor Standards Requirements in Housing and Urban Development Programs: HUD Handbook 1344.1 Rev.2
- A Contractors Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects: Labor Relations Desk Guide LR01.DG

### Step-by-Step Outline of Davis-Bacon Requirements

Once it is determined that a construction project is subject to federal Labor Standards Provisions, the following steps must be taken to ensure compliance. The following is designed to provide a streamlined overview of the required steps for addressing Davis-Bacon requirements. More detailed information about specific steps appears later in this chapter.

Step 1: Submit [Labor Standards Form 1: Labor Officer Notification](#) to OCRA's Labor Standards Specialist at FEEPS or within 30 days of the grant award.

- Provide the project architect or engineer with a copy of the Federal Construction Contract Provisions to be included in the project bid specifications.

Step 2: Obtain initial Wage Decision via the [DOL website](#) 45 to 60 days prior to bid opening.

- Provide Wage Decision to the architect or engineer to be included in the project bid specifications.

Step 3: Prepare Bid Documents. The following documents must be included in bid documents:

- Federal Labor Standards Provisions – HUD Form 4010; and
- The Wage Decision

Step 4: Advertise for Construction Bids.

- See Procurement Chapter for Competitive Sealed Bid instructions.

Step 5: Maintain a list of those entities/persons that request a bid packet.

Step 6: Hold Pre-Bid Conference.

- Complete and submit [Labor Standards FORM 3: Pre-Bid Conference Sign-In Sheet](#)
- Sign and submit [Labor Standards Form 4: Pre-Bid Conference Guide Acknowledgement](#)
- Complete and submit [Labor Standards Form 5: Wage Determination Lock-In Notice](#)

Step 7: Open all bids publicly – and maintain a log of bids as they are opened.

Step 8: Obtain bid tabulation certified by Architect/Engineer.

Step 9: Retain copy of signed minutes of bid opening.

Step 10: Complete and submit [Labor Standards Form 6: Contractor/Subcontractor Verification](#).

Attach SAM and Limited Denial and any certifications.

Step 11: Confirm Release of Funds (ROF) from OCRA. Do not award or sign construction contracts until ROF is received.

Step 12: Award contract and submit [Labor Standards Form 7: Notice of Contract Award](#).

Step 13: Hold a Pre-Construction Conference then submit [Labor Standards Form 8: Pre-Construction Conference Acknowledgement](#) to Grant Services.

- Every contractor/sub must be present
- Sign-in sheet must be kept as well as signed minutes

Step 14: Obtain Wage/Fringe Benefit Certification from contractor(s) and subcontractors using [Labor Standards Form 9: Wage/Fringe Benefit Certification](#) and submit to Grant Services.

- Ensure all listed fringe benefits are eligible.

Step 15: Submit [Labor Standards Form 10: Contractor Certification](#) and [Labor Standards Form 11: Subcontractor Certifications](#) to Grant Services.

Step 16: Submit [Labor Standards Form 12: Notice of Start of Construction](#) to Grant Services.

Step 17: On a weekly basis, check contractor's and subs' weekly payrolls against the Wage Decision to ensure compliance with prevailing wages.

- Use [Labor Standards Form 13: Monthly Payroll Summary](#) as needed

Step 18: Conduct interviews of Contractor's and subs' employees and record on [Labor Standards Form 14: Record of Employee Interview](#).

Step 19: When final CPRs have been received and reviewed submit the [Labor Standards Form 15: Final Wage Compliance Report](#) to Grant Services.

Step 20: When all work on the project has been completed submit the [Labor Standards Form 16: Final Inspection/Project Completion Report](#) to Grant Services.

## Federal Construction Contract Provisions

The Labor Standards Provisions HUD 4010 must also be attached to all construction contracts (prime contractor and all sub-contractors) provisions must be referenced. The Federal Construction Contract Provisions and the prevailing wage rates must either be included or referenced in the contract. The latest [Federal Construction Contract Provisions](#) and HUD 4010 can be found on OCRA's website.

## Wage Determination Online Program

The DOL has issued a directive that the Davis-Bacon Wage Determination that is in effect on the day of bid opening is the wage decision that must be used for all construction on a federally funded project. The wage decision in effect on the day of Bid Opening is only valid for 90 calendar days including weekends.

The screenshot shows the homepage of Wage Determinations OnLine.gov. At the top, there is a navigation bar with 'HOME', 'FAQs', 'User Guide', and 'Help'. Below this is a main menu with three categories: 'Service Contract Act', 'Davis-Bacon Act', and 'Related Information'. Each category has a list of links. The 'Service Contract Act' category includes links for 'Selecting SCA WDs', 'e98', 'Archived WDs', 'WDs due to be revised', and 'PACT (Price Adjustment Calculation Tool) NEW!'. The 'Davis-Bacon Act' category includes links for 'Selecting DBA WDs', 'Archived WDs', 'WDs due to be revised', and 'Rollover Crosswalk NEW!'. The 'Related Information' category includes links for 'Agency Labor Advisors', 'Library', and 'DOL Wage and Hour Website'. Below the menu is a 'Welcome to the Wage Determinations OnLine Program!' section with introductory text. To the right, there is a 'News and Updates...' section with several news items, including one about the effective date of the Health and Welfare Fringe Benefit Rates and another about the interaction of the Affordable Care Act and fringe benefit requirements.

Although there are three types of wage decisions, OCRA construction projects will use either the heavy/highway or building decisions.

Service Contract Act	Davis-Bacon Act	Related Information
<ul style="list-style-type: none"> <li>Selecting SCA WDS</li> <li>e98</li> <li>Archived WDS</li> <li>WDS due to be revised</li> <li>PACT (Price Adjustment Calculation Tool) <b>NEW!</b></li> </ul>	<ul style="list-style-type: none"> <li>Selecting DBA WDS</li> <li>Archived WDS</li> <li>WDS due to be revised</li> <li>Rollover Crosswalk <b>NEW!</b></li> </ul>	<ul style="list-style-type: none"> <li>Agency Labor Advisors</li> <li>Library</li> <li>DOL Wage and Hour Website</li> </ul>

**CAUTION:** Users should note that the only WDS applicable to a particular solicitation or contract are those that have been incorporated by the contracting officer in that contract action.

### Selecting DBA Wage Decisions

Select DBA WD by number:

(Enter WD number in the following format: two letter abbreviation for the state and the number of the WD. For example, VA3, NOT VA030003 or MD150 NOT MD030150.)

OR

By Selection criteria beginning with:

State:

County:

Construction Type:  (Types of Construction Under DBA)

WD Number:

[Back](#)

Browse by [state/territory](#).

View the latest [modifications and additions](#) to the Davis-Bacon Database.

View the [modifications or additions](#) to Davis-Bacon Wage Determinations due to be issued and published on WDOL.gov.

View [Archived Wage Determinations](#)

The majority of projects will only have one wage decision. For example, if you are building a library and it includes the installation of a paved parking lot, the wage decision that should be used is the building determination. The parking lot, if it were a separate project, would be considered a heavy/highway project, but in this example, because it is incidental to the library, it is covered by the building determination. Rarely will a project have a budget that shows 50% building and 50% heavy/highway construction activities, but in this instance two decisions would have to be utilized. Divisions of the project requiring different wage decisions should be bid out separately. If there is a question as to whether your project requires two different decisions please contact OCRA's Labor Standards Specialist.

**Pre-Bid Conference Requirement**

It is mandatory to hold a Pre-Bid Conference for every OCRA-funded project. The date, time and place of meeting must be included in the advertised invitation for bids. Representatives of the Grantee, the labor standards officer, prospective contractors and subcontractors, and the engineer or architect for the project should attend.

The labor standards officer should review the federal requirements with those present. The [Pre-Bid Conference Guide](#) outlines what the labor standards officer must cover at the meeting. At the meeting, the engineer or architect should discuss the scope of work and give the prospective bidders a chance to comment or ask questions regarding the plans and specifications. Each attendee is required to sign the attendance sheet ([Labor Standards Form 3: Pre-Bid Conference Sign-In Sheet](#)).

The labor standards officer must sign the [Labor Standards Form 4: Pre-Bid Conference Guide Acknowledgement](#) stating that all required information was provided at the meeting. The signed meeting minutes, along with Labor Standards Form 3 and Form 4 must be provided to OCRA for the Release of Funds.

Prospective bidders must be advised that the wage decision included in the bid specifications is subject to change and the wage decision that is in effect on the date of the bid opening will be applicable to the project, provided that the contract is awarded within 90 days of bid opening. If an addendum needs to be issued to clarify any items discussed, including the

updated wage determination (if one is issued), it must be issued to all plan holders of record no less than 72 hours prior to bid opening. The labor standards officer must insure that this information is communicated to all prospective bidders at the Pre-Bid Conference.

### **Wage Determination Notice**

Because the DOL continually monitors the economic conditions of the construction contracting profession, the wage rates are subject to change. It is essential that the labor standards officer verify that the most current rates are being utilized.

The Davis-Bacon Wage Determination that is in effect on the day of bid opening is the wage decision that must be used for all construction related activities on the federally funded project. Therefore, the following actions must be taken:

1. The labor standards officer must obtain the wage decision in effect on the day of bid opening and provide it to the project architect or engineer to be forwarded to all prospective bidders.
2. If it can be justified that there was not a 'reasonable time' available before bid opening to notify bidders of the modification, the previous wage decision may be assigned to the project. OCRA defines a 'reasonable time' as a minimum of 72 hours prior to bid opening.
3. The labor standards officer must complete [Labor Standards Form 5: Wage Determination Notice](#) and submit to OCRA's labor standards specialist for verification of the wage decision issued as the final decision applicable to the project.
4. Wage Decisions are only effective for 90 calendar days after the bid opening. On the 91<sup>st</sup> day, the previously issued determination expires. The labor standards officer is to notify OCRA's labor standards specialist if the contract is not awarded within 90 calendar days of bid opening by sending in a new [Labor Standards Form 5: Wage Determination Notice](#). The labor standards officer is also responsible for notifying the contractor and engineer or architect of the new wage decision that is applicable to the project. If the contract is not awarded within 90 calendar days of the bid opening, the wage decision that is in effect on the date that the construction contract is signed is the decision that will be utilized for the entire project. In this case, the contractor will need to provide written documentation that it will honor the original bid and the updated wage decision.

The wage decision in effect on the date the construction contract is signed is the wage decision that will be utilized for the entire project. This wage decision must be posted at the job site(s).

### **Conformance Rates**

Occasionally a contractor plans to use classifications of workers that are not listed on the wage decision assigned to the project. When this occurs, a Conformance Rate is needed. To obtain a Conformance Rate:

1. The contractor needs to notify the grant administrator of the need for a Conformance Rate.
2. The Grant Administrator requests the appropriate forms from a Grant Services' labor standards specialist. The grant administrator assists the contractor in filling out the forms with the contractor proposing a pay rate based on wages for that particular job in nearby counties.

3. Completed forms are submitted to the Grant Services labor standards specialist for review and approval.
4. The labor standards specialist submits the forms to the Department of Labor (DOL). They have a 30 day turnaround on conformance rate requests. Upon receiving the decision from DOL, the Grant Services labor standards specialist sends the information to the Grant Administrator.
5. The grant administrator distributes the decision to the contractor. The approved wages must be posted with the Wage Decision.

### **Bid Opening**

At the bid opening, the bids should be taken under advisement and no action taken until **after** the Grantee receives Release of Funds from OCRA. Refer to the Procurement Chapter for specific instructions on how to proceed with the bidding process.

### **Verification of Contractor/Subcontractor Eligibility**

Grantees must verify the eligibility status of all contractors to ensure they are not listed on HUD's Consolidated List of Debarred, Suspended and Ineligible Contractors or DOL's Consolidated List of Debarred and Suspended Contractors. This requirement also applies to engineers, architects, and grant administrators.

After bid opening but prior to Release of Funds, it is the Grantee's responsibility to verify that the lowest responsible and responsive bidder is eligible to work on federally funded projects. The labor standards officer must verify contractor/subcontractor eligibility by checking the online debarment list on the System Award Management (SAM) website at <https://www.sam.gov/SAM/> and HUD's [Limited Denial of Participation List](#) (LDP). Print out the results of your search and keep in each contractor file.

System for Award Management

**SAM**  
SYSTEM FOR AWARD MANAGEMENT

USER NAME:  PASSWORD:  [LOG IN](#)

[Forgot Username?](#) [Forgot Password?](#) [Create an Account](#)

[HOME](#) | [SEARCH RECORDS](#) | [DATA ACCESS](#) | [GENERAL INFO](#) | [HELP](#)

**CREATE USER ACCOUNT**

Your CCR username will not work in SAM. You will need a new SAM User Account to register or update your entity records. You will also need to create a SAM User Account if you are a government official and need to create Exclusions or search for FOUO information.

[Create User Account](#)

**REGISTER/UPDATE ENTITY**

You can register your Entity (business, individual, or government agency) to do business with the Federal Government. If you are interested in registering or updating your Entity, you must first create a user account.

[Register/Update Entity](#)

Use the SAM Status Tracker to: [Check Status](#)

**SEARCH RECORDS**

All entity records from CCR/FedReg and ORCA and exclusion records from EPLS, active or expired, were moved to SAM. You can search these records and new ones created in SAM. If you are a government user logged in with your SAM user account, you will automatically have access to FOUO information.

[Search Records](#)

**WHAT IS SAM?** [Need Help?](#)

The System for Award Management (SAM) is an official website of the U.S. government. SAM consolidated the capabilities of CCR/FedReg, ORCA, and EPLS. There is NO cost to use SAM. Register to do business with the U.S. government for free directly from this site. Find free help with your SAM registration on our HELP tab, including user guides, videos, and FAQs.

Note: As of April 27, 2018, entities reviewing or updating their registration will be required to submit an original, signed notarized letter confirming the authorized Entity Administrator associated with the DUNS number before the registration is activated. This new process will likely take a minimum of two weeks or longer. It is strongly advised that grant administrators and communities allow ample time to complete this process.

### HUD's Limited Denial of Participation List

**Homes & Communities**  
U.S. Department of Housing and Urban Development

[Download List](#) | [Help](#) | [Enforcement Center](#) | [Search/index](#)

**U.S. Department of Housing and Urban Development**

**Limited Denial of Participation, HUD Funding Disqualifications and Voluntary Abstentions list as of 8/12/2016**

To search by name, enter the name or names in the box below.  
Search options for John Smith are "Smith" or "Smith, J" or "Smith, John" or "John".  
Use the keyword or to search for multiple names. For example: "Smith or Jones".

[Search](#)

Once the SAM & Limited Denial searches are complete the labor standards officer must then submit a certified statement ([Labor Standards Form 6: Contractor/Subcontractor Verification](http://www.in.gov/ocra/2575.htm)) <http://www.in.gov/ocra/2575.htm> to a labor standards specialist verifying that the contractors or subcontractors are eligible to participate in the federally funded project. Include copies of the SAM and LDP List search results when submitting this Form.

At this time the prime contractor(s) may not have identified all subcontractors that will be working on the project. Before any new subcontractors can work on the project the labor standards officer must verify their eligibility by checking the above website and completing [Labor Standards Form 6: Contractor/Subcontractor Verification](#), along with recording copies of SAM and LDP List search results. These records may be turned in to the Labor Standards Specialist as they are completed or provided at monitoring. The labor standards officer must stress to the prime contractor(s) the importance of being notified of any new subcontractors that they plan to use on the project.

### **Release of Funds**

After the bid opening, if all required documentation has been received and approved by Grant Services, the Grantee will be issued a Release of Funds letter. Certain requirements must be fulfilled in order to obtain Release of Funds for the federally assisted project. Required documents include the following:

- Financial Documentation
  - Local match commitment letter/loan documents, if different from application
  - Certification of Professional Services Providers Form signed by engineer and grant administrator (Financial Form 6.4)
- Procurement Packet
  - Copies of all professional service-related contracts
  - RFP/RFQ newspaper notice and publisher's affidavit
  - Copies of solicitation letters and certified mail receipts
  - List of all firms that responded to RFP/RFQ
  - Signed evaluation score sheets from proposal review, if applicable
  - Letters to those firms not selected for interview (due to shortlisting)
  - Signed evaluation score sheets from interviewer, if applicable
  - Letters to those firms interviewed but not selected
  - Selection letter from CEO, if only one response was received
  - Copy of IFB newspaper notice with proof of publication with publisher's affidavit
  - Certified mail receipts of at least two (2) MBE/WBE state-certified firms solicited
  - Copy of bid tabulation – signed and certified by Engineer/Architect with seal
  - Copy of letter from engineer/architect recommending contractor and bid price, including any alternatives, if applicable
- Labor Standards
  - Labor standards officer notification (Labor Form 1, if not already submitted)
  - Initial Wage Determination assignment notice (Labor Form 2)
  - Copy of pre-bid conference sign-in sheet (Labor Form 3)
  - Copy of signed pre-bid conference meeting minutes
  - Signed pre-bid conference guide acknowledgement (Labor Form 4)
  - Wage Determination lock in notice (Labor Form 5)
  - Copy of bid-opening sign-in sheet
  - Copy of signed bid-opening minutes

- Contractor/Subcontractor verification (Labor Form 6)
- Printout from [www.sam.gov](http://www.sam.gov) and HUD's Limited Denial of Participation List [www.hud.gov/topics/limiteddenialsofparticipation](http://www.hud.gov/topics/limiteddenialsofparticipation) verifying eligibility of each Contractor/Subcontractor identified
- Acquisition
  - Copies of recorded easements, if applicable
- Subrecipient
  - Recorded Lien and Restrictive Covenant, if applicable
- Financial Management Form 6: ROF Checklist is available as a tool for the Grantee
- Labor Release for construction drawdowns:
  - Labor Forms 7, 8, 9, and 12 need to be submitted to Grants Services two weeks prior to submitting a Claim Voucher for construction costs. This allows time for review and the submission of any additional documentation. Construction draws cannot be processed without prior labor release and claim vouchers could be sent back if necessary documentation is not received timely.

### **Notice of Contract Award**

When the Grantee has received the Release of Funds letter, construction contract(s) may be awarded. Immediately upon contract award, the labor standards officer must provide [Labor Standards Form 7: Notice of Contract Award](#) to OCRA's Labor Standards Specialist. The Labor Standards Officer must make sure that a copy of the Federal Construction Contract Provisions, and the final wage determination are physically attached to all construction contracts entered into on the federally funded project; including: general contractor(s), and subcontractor(s), second and third tier sub-contractor(s), and self-employed owner(s). Refer to the Procurement Chapter for specific instructions on items that need to be included in the construction contract. This documentation will be reviewed at monitoring.

If the project has two or more phases/divisions a separate Form 7 must be submitted for each contract awarded.

### **Pre-Construction Conference Requirements**

When the eligibility of the bidder(s) has been verified and before any work is performed by the contractor, the Grantee shall schedule a mandatory Pre-Construction Conference. The Pre-Construction Conference must be attended by the Grantee, Labor Standards Officer, contractor(s), known subcontractor(s) and the engineer or architect. This conference reduces the likelihood of later conflicts caused by assumptions and misunderstandings between the contractor and the Grantee.

The Labor Standards Officer should follow the [OCRA Pre-Construction Guide](#) and plan to utilize and distribute a pre-construction checklist to ensure that all areas are properly addressed. At the Pre-Construction Conference, the labor standards officer should provide the prime contractor copies of the appropriate [Labor Standards Posters](#) that must be displayed at the job site. Those posters are on OCRA's website under CDBG Resources. The Wage Decision that was locked in for the project must also be provided to the prime contractor and be posted at the job site.

In addition to the labor standards requirements, the Labor Standards Officer must also review the Civil Rights and Section 3 requirements with the contractors. A brief overview has been included in the [Pre-Construction Conference Guide](#); however, for additional information please refer to the

Civil Rights Chapter.

At the conference, the labor standards officer must make a copy of HUD's guide [Making Davis-Bacon Work: A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects](#) available to all contractors and subcontractors in attendance. After the conference, the Labor Standards Officer must send the [Labor Standards Form 8: Pre-Construction Conference Acknowledgement](#) to the Labor Standards Specialist. Be sure to answer all the questions on the form, including the one on the back. This information must be received before any claim vouchers for construction costs will be processed.

### **Wage/Fringe Benefit Certification**

Prior to any work beginning on the project, the labor standards officer must obtain the Wage/Fringe Benefit Certification from the prime contractor(s) and any known subcontractor(s). After reviewing those documents and determining that the contractor(s) are aware of the Davis-Bacon wage rates for the project and have listed how the entire package will be paid, a copy of the signed [Labor Standards Form 9: Wage/Fringe Benefit Certification](#) must be forwarded to the Labor Standards Specialist prior to any claims being submitted.

For a detailed listing of what documentation is needed as proof of fringe benefit packages, please see Section 9.20 - Fringe Benefits.

### **Contractor Certification/Subcontractor Certification**

At this time, the labor standards officer must obtain the [Labor Standards Form 10: Contractor Certification](#) and all [Labor Standards Form 11: Subcontractor Certifications](#). Forms 10 and 11 are to be placed in the contractor(s) and/or subcontractor(s) files and be available for review at monitoring.

### **Notice of Start of Construction**

Following execution of the contract documents and submission of all required forms, a notice to proceed may be issued to each prime contractor to begin work. The engineer or architect usually prepares the notice. When work on the project begins, the Labor Standards Officer must provide the [Labor Standards Form 12: Notice of Start of Construction](#) to the labor standards specialist.

All pay applications approved by the project engineer or architect must include language to include a 'partial lien waiver' for the portion of work completed to date. Before approval of the final pay claim by the project engineer or architect, a 'final lien waiver' must be obtained from the prime contractor which will attest to payment in full to all subcontractors and suppliers. The grant administrator must also determine that the contractor is current with submissions of federal documents and certified payroll reports before preparing the claim voucher for CDBG funds.

At the monitoring visit, payrolls from the construction start date, reported above, through construction completion will be reviewed.

### **Certified Payroll Reports**

Certified Payroll Reports (CPRs) must be submitted no less often than weekly to the Labor Standards Officer to be maintained in the Grantee's Labor Standards files. Payrolls must be submitted in one of the two following ways:

- Federal Form [WH-347](#) (CPR)

- Computer Generated form that includes all information included in the WH-347

Either option for submitting the CPR requires that it be accompanied by a [Statement of Compliance](#) signed by the owner or an officer of the contractor/subcontractor. The Statement of Compliance is Page 2 of the WH-347 or a separate document if using a computer generated payroll form. The Statement of Compliance must be signed for all weeks.

The contractor and subcontractor(s) must number and date each CPR. The first week in which work is performed, the CPR must be marked 'Initial' and the last payroll report must be marked 'Final'. Contractor(s) and subcontractor(s) are required to submit a CPR for each consecutive week from the Initial Report to the Final Report. 'No work' CPRs must be submitted whenever there is a temporary break in the work on the project. CPRs for weeks with no work performed must be signed. If a contractor completes a portion of the work identified in his contract and is required to be off the job site for a period of time while project construction continues to the point where he can complete the remainder of the work identified in his contract, this contractor may submit a written statement to the Labor Standards Officer, signed by the owner or officer of the company that no work will be performed on the job site from Month, Day, and Year to Month, Day and Year. When this statement is received, the contractor is not required to submit weekly CPRs until their work on the project resumes.

CPRs must contain the name and the last 4 digits of the social security number (XXX- XX-1234) for all persons performing work on the project job site. CPRs must also list the correct work classification for all duties performed and the hourly rate of wages paid, number of hours worked on the project daily and weekly, gross pay from all hours worked on the project, gross pay earned during the pay period for work on all jobs, authorized deductions and net wages paid. Authorized deductions are based on the gross amount earned for all jobs during the pay period so that the net amount paid to the employee corresponds with the payroll check issued. When an employee performs work in more than one classification in any pay period, they must be listed twice on the CPR identifying separately the classification of work, rate of pay and hours worked in that classification during the period.

Owners of businesses working with their crew on the federally-assisted job site may certify to the payment of their own prevailing wages in conjunction with the prevailing wages paid to their employees. An owner is defined as one who has at least 20% ownership in a company. This exception to reporting standards does not suggest that such owners are not likewise entitled to prevailing wages for their labor. Rather, it accepts the wage payment certification on weekly payroll reports by the owner for his or her own wages as that certification accompanies the certification offered for the payment of prevailing wages to his or her employees. Such owners need only list their name, work classification including 'Owner' and the daily and total hours worked. Such owners do not need to list a rate of pay or amounts earned. Company owners following this procedure must be listed on [Labor Standards Form 10: Contractor's Certification](#) or [Labor Standards Form 11: Subcontractor's Certification](#) in order to be classified as an owner. If a company has multiple owners, submit documentation of proof of ownership, such as Articles of Incorporation or an equivalent legal document.

It is the responsibility of the labor standards officer, on behalf of the Grantee, to review the CPRs for accuracy and to determine that no unauthorized deductions have been made. Customary deductions that are required by law or by the order of a proper authority are permitted. Any voluntary deduction, other than those required by law or proper authority, must be authorized in writing by the employee. A written statement, signed by the employee, must accompany the first payroll on which the deduction appears. If the deduction will be ongoing, such as health

insurance, a weekly statement is not required. However, if the voluntary deduction is occasional, such as the purchase of tools, each time the deduction occurs the CPR must be accompanied by a written authorization from the employee.

The principal contractor (also referred to as the prime contractor) is responsible for full compliance with the labor standards provisions applicable to the project - with regard to its own workforce and with regard to the compliance of every subcontractor, including lower-tier subcontractors.

As a tool to assist the Labor Standards Officer with monitoring the receipt of a Certified Payroll Report (CPR) a [Labor Standards Form 13: Monthly Payroll Report Summary](#) may be maintained. *This is not a required form.*

Every person who performs work on a federally-assisted construction project is 'employed' regardless of any contractual relationship which may be alleged to exist between a contractor or subcontractor and such person. The contractor/subcontractor is responsible for insuring that the worker is paid at least as much as the wage rate (base + fringe benefits) listed on the wage decision for the classification of work they perform and must be listed on the CPR submitted weekly.

Truck drivers are covered by Davis-Bacon in the following circumstances:

1. Drivers of a contractor or subcontractor for time spent working on the site of the work.
2. Drivers of a contractor or subcontractor for time spent loading and/or unloading materials and supplies on the site of the work, if such time is not de minimis.
3. Truck drivers transporting materials or supplies between a facility that is deemed part of the site of the work and the actual construction site.
4. Truck drivers transporting portion(s) of the building or work between a site established specifically for the performance of the contract or project where a significant portion of such building or work is constructed and the physical place(s) where the building or work called for in the contract(s) will remain.

The site of work for a prevailing wage project, 29 CFR 5.2(k)(1), is limited to the physical place or places where the construction called for in the contract will remain when work on it has been completed. For example, if the project is for new waterlines throughout the Town, the entire Town is the site of work.

### **Fringe Benefits**

Fringe benefits listed on the applicable wage decision must be paid to or for the employee for every hour worked on the federally-assisted project. Those benefits may be provided to the employee in the form of a fringe benefit package, or the cash equivalent of the fringe benefits due may be added to the amount of the base wage with the total amount due reflected in the hourly rate column on the Certified Payroll Report. Paragraph (a) or (b) on the [Statement of Compliance](#) must be marked on every certified payroll report to indicate the method by which fringe benefits will be paid.

If the fringe benefits are being paid to a bona fide fringe benefit plan, the labor standards officer must obtain verification from the contractors or subcontractors of the calculation of benefits paid

and proof of payment. Bona fide fringe benefit plans are identified at [29CFR4.171](#). Examples include but are not limited to:

**1. Health, life or other similar insurance premiums paid by the employer**

Documentation includes:

- a. Most recent insurance statement with a breakdown of each covered employee's premium; and
- b. A signed letter by an officer of the company that states how much of the premium they cover (percentage or dollar amount).

**2. Pension or retirement contributions recognized by the Internal Revenue Service (IRS) and contributed by the employer**

Documentation includes:

- a. Letter from Pension Provider stating which employees participate in the program;
- b. Signed letter by an officer of the company that states what percentage of contributions they match, or if it is automatically given to the employee even if they do not contribute; and
- c. Monthly statements throughout the project that show how much the employee contributed and how much the employer contributed.

**3. Holiday and/or vacation pay contributed by the employer**

Documentation includes:

- a. Copy of Employee Handbook that states the number of paid vacation and holidays provided to employees and a copy of employer's calculations for the amount of fringe benefit credit claimed for vacation and holiday pay listed by employee.

**4. Union Fringe Benefit Packages**

Documentation includes:

- a. Copy of the Union Benefits Breakdown provided by each specific Union to the contractor; and
- b. Monthly statement listing covered employees and verifying payment to the plan.

Fringe benefits do not include employer payments or contributions required by other federal, state, or local laws, such as the employer's contribution to Social Security or Workman's Compensation.

The labor standards officer must verify that the base rate plus fringe benefit amount paid to each employee is equal to or greater than the amount stated in the wage decision assigned to the project. To determine the hourly amount of fringe benefits being paid by the contractor for the employee, the annual amount paid must be divided by 2080 hours.

Example: \$150.00 per month medical insurance premium paid by employer X 12  
Months per year = \$1,800.00 Annual Premium Divided by 2080 (Full-time hours/year) =  
\$0.87 hourly fringe amount

If the contractor's total wage plus fringe benefits package equates to less than the total wage plus fringe benefits amount specified in the Davis-Bacon wage decision, the difference should

be paid directly to the employee as part of his/her weekly check.

Example: ABC Construction pays \$3,000 per year to Redline Insurance for John Smith. They also contribute \$5,000 per year to a 401 K plan for John. ABC's yearly fringe benefit contribution for John Smith is \$8,000. On an hourly basis, this equates to \$3.85 (\$8,000/2,080 hours per year). The specified fringe benefit amount according to the applicable wage decision for John's classification is \$5.20. ABC Construction will need to add the difference of \$1.35 (\$5.20 - \$3.85) to John's hourly rate.

### **Overtime Pay**

All employees who work more than 40 hours in a work week are eligible for overtime pay. If the overtime hours occur on the CDBG project, the employees must be paid time and one-half on the base wage plus straight time fringe benefits for every hour over 40 worked. If the overtime occurs on other jobs, the overtime should be calculated at the employee's regular rate of pay. It is not the labor standards officer's responsibility to enforce the overtime law for work done other than on the CDBG project. If violations of this or any other labor law are suspected, they may be reported to the DOL.

### **Record of Employee Interview**

It is the labor standards officer's responsibility to conduct on-site employee interviews of at least 10% of each contract. The [Labor Standards Form 14: Record of Employee Interview](#) forms are held in the Grantee's labor standards files for review at monitoring.

If any discrepancies are disclosed, the labor standards officer, on behalf of the Grantee, must take immediate action to resolve the issue(s). Where underpayments of wages have occurred, the employer will be required to pay wage restitution to the affected employees. The labor standards officer will notify the employer and prime contractor in writing of any underpayments that are found during payroll review or employee interviews. The prime contractor is responsible for ensuring that any restitution is paid. If any contractor is non-responsive, the Grantee may withhold payment to the prime contractor until compliance is obtained. If the contractor fails to make restitution, the Grantee will be held responsible for the additional payments owed to the contractor's employees. In addition, the contractors or subcontractors that violate the Labor Standards Federal Provisions may face administrative sanctions imposed by HUD and/or DOL.

### **Final Wage Compliance Report**

When the final CPRs have been received and reviewed, the [Labor Standards Form 15: Final Wage Compliance Report](#) must be submitted to OCRA's Labor Standards Specialist. This form must report any restitution paid to the workers with attached proof of payment.

### **Final Inspection and Project Completion**

When all work on the project has been completed in accordance with the grant application, Grant Agreement and bid specifications and there are no pending issues, the Labor Standards Officer must submit the [Labor Standards Form 16: Final Inspection/Project Completion Report](#) to Grant Services. This form must be signed by the Grantee's chief elected official and the project engineer or architect.

### **Exceptions to Davis-Bacon Coverage**

There are certain exceptions to the Davis-Bacon and Related Acts (Davis-Bacon). The Act does not apply to:

1. Construction projects at or below \$2,000, if they are not part of a larger project arbitrarily separating a project into contracts below \$2,000 in order to circumvent the requirement, is not permitted.
2. Rehabilitation or new construction of residential structures containing less than eight units.
3. Projects that require the purchase of equipment only; the Davis-Bacon wage rates apply when CDBG funds are used to purchase equipment that requires installation and the installation charges involve more than an incidental amount of construction work. HUD defines 'incidental amount' as 20% of the cost of the equipment. Therefore, if installation charges are less than 20% of the cost of the equipment, Davis-Bacon does not apply. If installation cost exceeds 20% of the cost of equipment, Davis-Bacon does apply and the prevailing wage rates must be paid to the installers.
4. Any individual classified as an Apprentice if that employee is registered in a bona fide apprenticeship program approved by the DOL through the Bureau of Apprenticeship and Training or a DOL recognized State Apprenticeship Council. Duly registered apprentices may be paid wage rates in accordance with the levels identified in the approved apprenticeship program. This includes probationary apprentices (6 weeks to 6 months of probation) but excludes pre-apprentices (those on a waiting list for the apprenticeship program). If the employee is not in a registered apprenticeship program, they must be paid the prevailing wage rate for the classification of work performed.

The Apprenticeship Certification document for each employee claimed as an apprentice must be obtained prior to any work being performed by an apprentice on the job site. The maximum number of apprentices that may be used on the job site may not exceed the ratio of apprentices to journeymen allowed in the approved program.

5. Foremen or supervisors who spend at least 80% of their time on site performing supervisory duties. These employees may occasionally fill in for another worker such as during lunch breaks, but should the performance of any type of construction labor on the project amount to more than 20% of their total hours on site, they must be paid prevailing wages plus fringe benefits for the classification of work they perform construction labor.
6. Owners of businesses working with their crew may certify the payment of their own wages in conjunction with the prevailing wages paid to their employees. Such owners need only list their name, work classification including 'owner' and the daily and total hours worked. They do not need to list a rate of pay or amounts earned.
7. Truck Drivers are **NOT COVERED** by Davis-Bacon in the following instances:
  - a) Material delivery truck drivers while off "the site of the work".
  - b) Drivers of a contractor or subcontractor traveling between a Davis-Bacon job and a commercial supply facility while they are off the "site of work".
  - c) Truck drivers whose time spent on the site of the work is *de minimis*, such as only a few minutes at a time merely to pick up or drop off materials or supplies.
8. Employees working off the 'site of work' such as in fabrication plants, tool yards, batch plants, borrow pits, job headquarters, etc.
9. With prior approval from OCRA/Grant Services, any regular employee of the state or political subdivision may perform certain work on the project construction at less than the prevailing wage rates. This is identified as 'Force Account Work' and with advance approval from OCRA/Grant Services these employees may work for their regular hourly pay rate which may be less than the prevailing wage rates assigned to the project.

**Example:** If a city wants to use their utility employees to install light fixtures for a downtown project, the Mayor must submit a letter to OCRA/Grant Services (prior to grant application submittal) requesting to use Force Account Labor as in-kind match on the project. The letter must describe the services that they will be performing, number of hours each employee anticipates working, and their regular hourly rate of pay. For example, the letter might state: "the City utility employees have sufficient manpower to install the replacement light fixtures.

Our utility superintendent anticipates that it will take approximately 90 hours, (three employees at 30 hours each) at a cost of \$2,250 (90 hours x \$25.00 per hour. We are therefore requesting to use \$2,250 in force account labor In-kind local match."

If a Grantee wishes to utilize the force account work option, they should reference [IC-36-1-12-3](#) and request approval from OCRA prior to submitting their application. The approval letter from OCRA/Grant Services must be included in their grant application. In addition, the Grantee must provide documentation of the hours worked by the employees at the project site.

10. Volunteer Labor, Force Labor, and In-Kind Donations, are to submit requests at least 7 days prior to application deadline. Requests must be submitted by the Chief Elected Official on the applicant's letterhead and stipulate the type of request: Force Labor, Volunteer Labor, or In-Kind Donations. Request for multiple types should be included on the same letter.

Force Labor requests must include the type of work being performed, the usual rate of pay for the unit of local government's employee, and the anticipated number of hours to be worked per laborer. Applicants requesting Force Labor must include proof of employment at submission of the request. The letter must have a statement that the applicant understands that they must track employee name, hours, and rate of pay.

Volunteer Labor requests must include the type of work being performed and the number of hours to be worked per volunteer. Applicants are responsible for tracking names and hours worked of volunteers and ensuring that volunteers are not compensated. The applicant is also responsible for ensuring that volunteers have not been paid as laborers on this project at any time. Volunteer labor contribution is calculated using a \$15/hour rate. A list of the names of volunteers that will assist with the project must be submitted to Grant Services prior to commencing work. Persons not included on the list cannot work on the project.

In-Kind Donation requests must include the type of services or items being donated and the normal cost for the services or items.

The sum of all Force Labor, Volunteer Labor, and In-Kind Donations can only account for 5% of the grant amount or a maximum \$25,000 towards the applicant's local match.

11. Demolition work, which is not related to construction, is not subject to the prevailing wage requirements of Davis-Bacon and Related Acts. For example, the demolition of a building because such structure is no longer needed would not in itself be a covered construction activity. However, where an existing building is being demolished as a phase of a construction project subject to Davis-Bacon and Related Acts, the demolition would also be covered.

Grant Services should be contacted if there are questions regarding whether a project is covered by Davis-Bacon and Related Acts.

### **Applicable Regulation Summary**

The U.S. Department of Labor has published rules and instructions concerning the Davis-Bacon and Related Acts in the Code of Federal Regulations. These regulations, which are used as the basis for administering and enforcing the laws, may be found in 29CFR Parts 1, 3, 5, 6, and 7.

## CIVIL RIGHTS & FAIR HOUSING

### Overview

This chapter covers the rules and regulations that are applicable to upholding the rights of every individual regardless of race, color, religion, gender, disability, age, familial status, or national origin on projects that utilize federal funds.

### Equal Access & Gender Identity in CPD Programs

On September 21, 2016, HUD published a final rule in the Federal Register entitled “Equal Access in Accordance with an Individual’s Gender Identity in Community Planning and Development Programs.” Through this final rule, HUD ensures equal access to individuals in accordance with their gender identity in programs and shelter funded under programs administered by HUD’s Office of Community Planning and Development (CPD). This rule builds upon HUD’s February 2012 final rule entitled “Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity” (2012 Equal Access Rule), which aimed to ensure that HUD’s housing programs would be open to all eligible individuals and families regardless of sexual orientation, gender identity, or marital status. The final rule requires that recipients and Subrecipients of CPD funding, as well as owners, operators, and managers of shelters, and other buildings and facilities and providers of services funded in whole or in part by any CPD program to grant equal access to such facilities, and other buildings and facilities, benefits, accommodations and services to individuals in accordance with the individual’s gender identity, and in a manner that affords equal access to the individual’s family.

The premise of the established civil rights rules and regulations, as they pertain to CDBG-funded projects, is to promote the following:

- Equal Employment Opportunities (EEOs) for All Persons;
- Equal Opportunity in Services, Benefits, and Participation in CDBG Projects;
- Promotion of Fair Housing Practices; and
- Promotion of Section 3 Requirements

This section provides a detailed account of the rules and regulations that the Civil Rights/Section 3 Officer must understand and implement as applicable.

### Affirmatively Furthering Fair Housing (AFFH)

Every Grantee must promote fair housing practices within its jurisdiction. While there are many ways that Grantees can promote fair housing practices, the following guidelines have been adopted by OCRA:

#### *Step 1: Develop a Fair Housing Ordinance.*

The Grantee should work with their attorney to develop a Fair Housing Ordinance. A sample Fair Housing Ordinance has been provided ([Civil Rights Form 2: Sample Fair Housing Ordinance](#)). The Fair Housing Ordinance must be formally adopted by the Grantee and included with each application for funding.

### *Step 2: Display the Applicable Fair Housing Posters*

The Grantee and their Civil Rights/Section 3 Officer are responsible for placing the applicable civil rights posters in conspicuous locations of public buildings, including local government offices, and the posters must always be displayed at the job site. The required posters may be found on OCRA's website at [www.ocra.IN.gov](http://www.ocra.IN.gov) under "Other Resources", "Civil Rights Posters".

### *Step 3: Conduct Fair Housing Activity*

In addition to the required procedures of adopting a Fair Housing Ordinance and displaying the Fair Housing posters, Grantees are required to take additional steps to further promote fair housing practices within the community. Grantees must choose an activity from the [Civil Rights Form 3: Affirmatively Furthering Fair Housing \(AFFH\) Checklist](#) to conduct during the grant period. This form must be submitted prior to Release of Funds. These activities must then be documented for review at monitoring. Grants will not be closed out prior to completion of the chosen activity. Examples of acceptable steps to promote Fair Housing practices include but are not limited to distributing the Fair Housing Brochure, reviewing sales and rental practices in the community, or conducting a Fair Housing Assessment.

### **Drug Free Workplace Policy**

A Drug Free Workplace Policy must be formally adopted by the Grantee, if one does not exist. This policy is intended to establish a drug free workplace, and will be considered as a condition of employment. A sample Drug Free Workplace Policy has been provided as [Civil Rights Form 4: Drug Free Workplace Ordinance](#).

A copy of the Drug Free Workplace Policy MUST be included in all applications for funding.

### **Opportunities for Minority and Women Business Enterprises (MBE/WBE)**

Federal rules and regulations require the promotion of equal opportunities in services, benefits, and participation in federally funded projects. These opportunities must be extended to business enterprises classified as MBE/WBE. An MBE/WBE is defined by OCRA as a business that has met the qualifications and has been certified as an MBE/WBE business by the State of Indiana's Department of Business Administration. A list of certified MBE/WBEs may be obtained through the [Minority Business Development Division's](#) website.

It is the policy of both the federal and state governments to see that these business enterprises have the maximum feasible opportunity to participate in the performance of contracts awarded under the CDBG programs. The State of Indiana has adopted a goal of 6% MBE and 7%WBE weighted average goal for state contracts.

The Civil Rights/Section 3 Officer is required to maintain documentation supporting the Grantee's 'best efforts' to achieve the state goals on each CDBG funded project. While there are many ways that Grantees can document their 'best efforts', the following guidelines have been adopted by OCRA:

### *Step 1: Solicitation*

When the Grantee procures professional services such as grant administration or architectural/engineering services and all construction related activities, the Grantee is required to solicit at least two certified MBE/WBE firms by certified mail, return receipt requested. The returned certified mail receipts must be maintained in the Grantee's Civil Rights file and copies must be provided to OCRA in order to obtain Release of Funds.

### *Step 2: Documentation*

If applicable, document reasons MBE/WBE firms were not selected.

### *Step 3: Recordkeeping*

If applicable, maintain and document information regarding the dollar amount of all MBE/WBE contracts awarded. This information is needed for reporting requirements and final monitoring review.

## **Section 3 Requirements**

The Section 3 program requires that recipients of certain Housing and Urban Development (HUD) financial assistance, to the greatest extent possible, provide job training, employment, and contract opportunities to Low- and Very Low-Income residents in connection with projects and activities in their neighborhoods.

The 'greatest extent feasible' means recipients must make every effort to target, recruit, and direct economic opportunities to Section 3 residents and businesses.

### Section 3 Beneficiaries

Section 3 beneficiaries are those people with low- and very low-income. Section 3 sets the low-income limit at 80% and very low-income limit at 50% of the median family income for counties and metropolitan areas across the country. Please note that the definition for Section 3 beneficiaries does not exactly match the definition that CDBG uses for low- and moderate-income (LMI). Use [Civil Rights Form 5: Resident Employment Opportunity Data](#) to document eligibility.

Section 3 residents may include:

1. Residents of public housing;
2. Section 8 voucher holders;
3. Recently unemployed;
4. Veterans;
5. Recipients of other federal assistance (TANF, unemployment, etc.);
6. Single mothers re-entering the workforce; and
7. Recent college graduates

Employment opportunities may include:

1. Construction labor;
2. Management and administrative support;

3. Architectural, engineering and professional services; and
4. Payroll, bookkeeping, and clerical positions.

Eligibility for employment opportunities:

1. A Section 3 resident must meet the qualifications of the position to be filled.
2. Section 3 business concern must have the ability and capacity to perform. Use [Civil Rights Form 6: Certification for Business Concerns](#) to document business eligibility.
3. Section 3 is not intended to create an entitlement for eligible residents and businesses – it creates opportunities.
4. Simply meeting the definition does not automatically mean that jobs or contracts will be awarded.

OCRA has established the following guidelines to promote and encourage Section 3 participation. It is the responsibility of the local government to promote Section 3.

### Grantee Responsibilities

It will be the responsibility of the Grantee's civil rights/section 3 officer to be familiar with the Section 3 guidelines in the Civil Rights Section of the CDBG Handbook and to oversee the implementation and procedures of Section 3.

Requirements include:

1. Assuring that advertisements for procurement promote and describe the Section 3 guidelines.
2. Assuring that bid specifications written by the engineer or architect include the detailed Section 3 requirements provided by HUD and the State.
3. Conducting a Pre-Bid Conference utilizing the [Pre-Bid Conference Guide](#) available on the OCRA website.
4. All contractors and subcontractors must provide a list of all current employees as of contract award. Grant administrators must compare weekly payroll reports to this document to ensure no additional staff has been hired.
5. Providing Grant Services with copies of the Pre-Bid Conference meeting minutes, acknowledgement form and sign-in sheet prior to Release of Funds. The meeting minutes should confirm that the requirements to comply with Section 3 Guidelines were discussed. See [Civil Rights Form 7: Examples of Efforts to Award Contracts to Section 3 Businesses](#). Section 3 brochures are available from OCRA or on the HUD website in both [English](#) and [Spanish](#).
6. Grant Administrator should verify if sub-contractors meet criteria for Section 3 Business Concern.
7. Providing Grant Services with copies of the [Labor Standards Form 8: Pre-Construction Conference Acknowledgement](#) before any drawdowns will be approved.
8. Displaying Section 3 posters in the nearest Work One Offices and community buildings. Locations of the nearest Work One Office as well as applicable contact persons are available at <https://www.indianacareerready.com/>.
9. All contractors and subcontractors will place the appropriate job vacancy on [Indiana Career Connect \(ICC\)](#) website. All contractors and subcontractors will search ICC for candidates that meet the requirements of the position and contact the appropriate

regional contact and coordinate with the regional provider to help in filling open positions.

10. Assuring a list of all contacts received regarding Section 3 employment is maintained and provided to the contractor if new positions are available.
11. Assuring the [Civil Rights Form 8: Section 3 Compliance Form](#) is completed by all contractors and subcontractors when work on their contract is complete and provided to the Grantee or their Civil Rights/Section 3 officer.

### Equal Employment Opportunity (EEO) Compliance 3

The EEO Posters must be displayed at the job site. It is the responsibility of the Civil Rights/Section 3 officer to provide the posters to the Grantee and verify that the posters are displayed at the job site.

### **Accessibility Certification**

All CDBG-assisted facilities must be designed, constructed and altered so as to be accessible to and usable by persons with physical disabilities. To accomplish this, the Civil Rights/Section 3 officer must complete the following tasks:

#### *Step 1: Architect/Engineer Coordination*

Coordinate activities with the design architect or engineer.

#### *Step 2: Certification of Accessibility*

The Grantee and project engineer or architect are responsible for:

1. Affirming that the completed project is accessible to all persons regardless of disabilities,
2. Completing the [Civil Rights Form 9: Certification of Accessibility](#) and submitting to the Grant Services Civil Rights Specialist no later than Project Monitoring.

Certain types of projects utilizing CDBG funds, including planning projects, are exempt from the above step. Contact the Grant Services Civil Rights Specialist for clarification, if needed.

### **Limited English Proficiency**

In compliance with Executive Order 13166, OCRA has developed the four-factor analysis and the following Language Access Plan (LAP) for Limited English Proficiency (LEP) persons.

In certain situations, failure to ensure that persons who have limited English proficiency can effectively participate in, or benefit from, federally-assisted programs may violate the federal prohibition against national origin discrimination.

Because virtually all assistance is provided by the unit of local government (UGLG) or nonprofits, all Grantees are required to follow the measures outlined below.

#### *Step 1: Conduct Analysis*

Conduct the four-factor analysis prior to advertising the initial public hearing. A sample has been provided as [Civil Rights Form 10: Four Factor Analysis and Language Access Plan](#). Because the State's four-factor analysis has already identified five counties with LEP populations exceeding 1,000 or 5% of population, (Allen, Elkhart, Lake, Marion and St. Joseph) all

applicants from those counties will be required to prepare a LAP regardless of the results of their four-factor analysis.

*Step 2: Provide Language Assistance (If required)*

If the four-factor analysis reveals one or more LEP populations (an LEP population of five percent but at least 50 persons or an LEP population of 1,000 or more persons) within the jurisdiction, the Grantee will provide appropriate language assistance by 1) posting notices of the CDBG application public hearings in areas frequented by LEP persons of the threshold population(s) in the language(s) spoken, and 2) providing translation services at public hearings if requested to do so by LEP persons.

*Step 3: Develop LAP*

If a community meets the threshold, they are required to develop a LAP and provide a description of outreach efforts prior to Release of Funds. Particular attention will be given to plan details for projects including acquisition, relocation or housing rehabilitation. The LAP must be included in the application and citizen participation notice(s) must include at a minimum, a statement in the appropriate language where information about the project can be obtained.

It is preferable to publish the entire notice in the second language.

It is recommended that notices be posted in public places where the non-English speaking residents visit or shop.

*Step 4: Documentation of LAP*

OCRA will monitor for compliance with LAP throughout the project development and implementation process. Grantees are advised to consult the OCRA Section 3 Officer with questions regarding LAP compliance.

## **SITE & EASEMENT ACQUISITION**

### **Overview**

This chapter focuses on the procedures involved in obtaining property and/or permanent and temporary easements. All of the applicable procedures are set forth by the Federal Uniform Relocation and Real Property Acquisition Policies Act (URA).

The objectives of the URA are:

1. To ensure that owners of real property to be acquired for Community Development Block Grant (CDBG)-assisted projects are treated fairly and consistently;
2. To encourage and expedite acquisition by agreements with property owners;
3. To minimize litigation; and
4. To ensure that persons displaced from their homes or places of business as a result of CDBG-assisted activities are treated consistently and equitably and do not suffer disproportionate injury as the result of a project designed for the benefit of the public as a whole.

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. 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. 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 the Indiana Office of Community and Rural Affairs (OCRA) 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. However, the Grantee may apply these regulations to any less-than-full acquisition.

The relocation assistance provisions are applicable to homeowners, tenants, businesses and non-profits that must move as a result of an acquisition. Such homeowners and tenants are considered displaced persons. If the project involves displacement of the owner or tenant, please contact the Grant Services Acquisition Specialist immediately before proceeding with the acquisition process.

Acquiring property and/or easements is typically very time consuming and requires participation and coordination of several individuals. It is the policy of OCRA that prior to submission of a grant application the Grantee must have completed all steps listed in this chapter for all

easements, land or buildings required for a given project. Prior to moving forward please check with Grant Services for special instructions if the property is to be paid for with grant funds or counted as a portion of the local match.

## **Steps for Acquiring Real Property and/or Easements**

### *Step 1: Determine what Properties will be Acquired*

The Grantee, with its engineer or attorney, should review every proposed activity to determine property acquisition needs and identify the particular properties to be obtained. Activities such as street widening, water and sewer improvements, or sidewalk construction do not have an obvious property acquisition requirement, but there is often a need to acquire easements or rights-of-way.

### *Step 2: Determine Ownership of Properties to be Acquired*

The Grantee must provide proof of ownership for the easement, land or building by conducting a title search of properties to be acquired for the project. This can be accomplished through a 50-year title search. If the owner has acquired the property through a means other than a warranty deed, then the Grantee must obtain either an attorney title opinion letter, or purchase title insurance through a title surety company. Permanent easement ownership may be determined by a search of records and accompanying attorney opinion letter stating the owner of record. In the case of public improvement activities, be sure to verify that the property to be improved is in the public domain. Sometimes rights-of-way are privately owned.

### *Step 3: Establish a File for Each Property or Easement to be Acquired*

The Grantee must establish and maintain a file for each property or easement to be acquired and include copies of all acquisition documents. Files must be retained for a period of three years after closeout of the grant year from which the grant funds were awarded. Grantees should be advised that the record retention period could exceed ten years. OCRA notifies Grantees as to when the three-year record retention period begins and expires. The Acquisition File Checklist ([Acquisition Form 1: File Checklist](#)) identifies the required file elements. At this time the Property Acquisition/Relocation Questionnaire ([Acquisition Form 2: Questionnaire](#)) should be initiated by the Grantee. It is advisable to complete the applicable sections of this form as the steps in the acquisition process are completed.

### *Step 4: Notify Owner of Interest in Acquiring the Real Property or Easement*

As soon as feasible, the Grantee shall notify the owner in writing of the Grantee's interest in acquiring the real property or easement and the basic protections provided to the owner by law. The Initial Notice to Property Owner ([Acquisition Form 3: Initial Notice](#)), the URA Brochure ([Acquisition Form 4: URA Brochure](#)) and any applicable Housing and Urban Development (HUD) relocation notice should be delivered to the property owner or sent by certified or registered first-class mail with return receipt requested. If the forms are hand delivered, a receipt ([Acquisition Form 4a: URA Receipt](#)) signed and dated by the property owner must be obtained. If the recipient does not read or understand English, the Grantee must provide translations and assistance. Copies of certified mail return receipts or hand-delivered receipts must be placed in the Grantee's property owner file.

### *Step 5: Determine Value and Obtain Appraisal(s) and/or Market Estimates for Each Property or Easement*

Before the initiation of negotiations, the value of the real property or easement should be determined by the Grantee.

If the estimate of property value is below \$10,000 a market estimate needs to be obtained. The market estimate must be in writing and provided by a licensed real estate broker or appraiser. For properties under \$10,000 in value, the market estimate is the basis of the offer.

If the estimate of property value is above \$10,000 the Grantee must have an appraisal and a review appraisal completed by individuals properly licensed by the Indiana Professional Licensing Agency. A copy of both appraisers' pocket identification cards must be obtained by the Grantee and kept in the property owner file. The appraiser should have no interest in the property or be related to or in business with anyone having an interest in the property to be acquired.

The review appraisal should focus on determining the adequacy of the appraiser's supporting data, and the soundness of the appraiser's opinion of fair market value. The reviewer must set forth in writing a recommendation as to the fair market value of the property. For properties over \$10,000 in value, the Review Appraisal is the basis of the offer.

If an owner requests an appraisal on property that the Grantee has determined to be less than \$10,000 in value, an appraisal and review appraisal must be obtained. Regardless of the value of the property, the owner or the owner's designated representative, shall be given the opportunity to accompany the appraiser during the appraiser's inspection of the property. Before the appraisal is undertaken, the Grantee or the appraiser must formally invite the property owner to accompany the appraiser during the inspection of the property. The Property Appraisal Invitation ([Acquisition Form 5: Property Appraisal](#)) should be delivered or sent by certified or registered first-class mail with return receipt requested. If service is by hand delivery a receipt ([Acquisition Form 5a: Property Appraisal Receipt](#)), signed and dated by the property owner must be obtained. Copies of certified mail return receipts or hand-delivered receipts must be placed in the Grantee's property owner file.

### *Step 6: Establish and Offer Just Compensation*

Upon completion of Step 5, the Grantee shall make a written offer to the owner to acquire the property for the full amount believed to be just compensation ([Acquisition Form 6: Sample Letter of Purchase Offer](#)). A copy of the market estimate (for projects under \$10,000) or a copy of the review appraisal (for projects over \$10,000) should accompany the offer. The offer or appraisal should include the following:

- A statement of the amount offered as just compensation;
- A description and location identification of the real property and the interest in the real property to be acquired (e.g., fee simple, easement, etc.); and
- An identification of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) which are included as part of the offer of just compensation. Where appropriate, the statement shall identify any other separately held ownership interest in the property, e.g., a tenant-owned improvement, and indicate that such an interest is not covered by this offer.

In very special instances acquisition may cover only a portion of a property and would leave the owner with an uneconomic remnant, the Grantee shall offer to acquire the uneconomic remnant along with the portion of the property needed for the project. In this instance, please contact Grant Services prior to making the Offer.

### *Step 7: Complete Acquisition or Decide not to Acquire*

The Grantee or the Grantee's attorney shall make all reasonable efforts to contact the owner or the owner's representative to discuss the offer to purchase the property, including the basis for the offer of just compensation, and explain the acquisition policies and procedures, including the payment of incidental expenses. The owner shall be given a reasonable opportunity to consider the offer and present material that the owner believes is relevant to determining the value of the property and/or to suggest modifications in the proposed terms and conditions of the purchase. The time given can vary significantly depending on the circumstances, but property owners must be given a reasonable amount of time to consider the offer.

Once the property owner has accepted the written offer, a purchase option or easement agreement must be signed. **No purchase agreements may be signed until after environmental release has been obtained and then only at the Grantee's risk.**

#### *Step 8: Special Procedures for Donations*

If the owner states that they are willing to accept less than the offered price or are willing to donate the property, a waiver of partial donation or donation with appraisal must be signed and attached to the agreement.

- [Acquisition Form 7: Waiver of Acquisition Rights with Full Donation After Appraisal](#)
- [Acquisition Form 8: Waiver of Acquisition Rights with Partial Donation After Appraisal](#)
- [Acquisition Form 9: Waiver of Acquisition Rights with Full Donation With No Appraisal](#)

#### **Willing Buyer/Seller Transaction**

On occasion a Grantee will be fortunate enough to find a suitable piece of property in which the property owner is interested in selling. This situation is known as a 'willing buyer/seller transaction.' An example of this situation would be a property that is already listed by the property owner for sale through a broker or self-sale. For this situation to be applicable, the property owner must seriously want to sell the property and the Grantee must have alternative locations in mind in case negotiations fail.

#### *Step 1: Determine Ownership of Property/Easement to be Acquired*

The Grantee must always provide proof of ownership for the acquisition of easements, land or buildings, even when using the Willing Buyer/Seller acquisition process. This is accomplished by conducting a 50 year title search to determine ownership of properties to be acquired. If the owner has acquired the property through a means other than a warranty deed, then the Grantee must obtain either an attorney title opinion letter, or purchase title insurance through a title surety company.

#### *Step 2: Establish a File for the Property*

The Grantee must establish and maintain a file for each property/easement to be acquired and include copies of all acquisition documents. Records must be retained for a period of three years after closeout of the grant year from which the grant funds were awarded. Grantees should be advised that the record retention period could exceed ten years. OCRA notifies Grantees as to when the three-year record retention period begins and expires. The Acquisition File Checklist ([Acquisition Form 1: File Checklist](#)) identifies the required file elements. At this time the [Acquisition Form 2: Property Acquisition/Relocation Questionnaire](#) should be initiated by the Grantee. It is advisable to complete the applicable sections of this form as the steps in the acquisition process are completed.

#### *Step 3: Obtain Appraisal(s) for the Property*

The willing buyer/seller process does not include official notification of the date and time of the appraisal. However, it may be necessary to obtain the owner's permission to appraise the property. The first correspondence to the property owner is the [Acquisition Form 10: Willing Buyer/Willing Seller Transaction Offer Letter](#).

*Step 4: Issue Willing Buyer/Willing Seller Transaction Offer Letter*

The Grantee must inform the owner in writing of their interest in the property and state that it will not use its power of eminent domain to acquire the property if negotiations fail. The Grantee must also inform the owner of the value of the property based upon the Appraisal. This offer must be made by certified mail using [Acquisition Form 10](#), and should include a copy of the appraisal. The offer to purchase may also be hand-delivered and the Grantee must obtain a signed receipt from the property owner.

*Step 5: Complete Acquisition*

If the owner finds the offer to be acceptable, a purchase option must be signed. No purchase agreements may be signed prior to environmental release.

**Relocation**

In the event the Grantee is acquiring a property that will require individuals to be temporarily or permanently relocated, the Grantee must follow additional rules and regulations stated in the URA.

If relocation procedures are required, the Grantee should contact the Grant Services Acquisition Specialist for step-by-step relocation instructions.

## **SECTION III**

# **FINANCIAL MANAGEMENT AND REPORTING**

## **FINANCIAL MANAGEMENT**

### **GENERAL FINANCIAL MANAGEMENT**

#### **Overview**

Accurate financial recordkeeping, including the timely deposit, disbursement and accounting of Community Development Block Grant (CDBG) funds is crucial to the successful management of a CDBG-funded project. Grantees must take the following steps to prepare a financial management system to receive and utilize CDBG grant funds:

1. Appoint a person to be responsible for Financial Management;
2. Establish accounting records;
3. Set up bank accounts or separate ledger accounts, and establish receipting procedures; and
4. Establish procedures for approving invoices, submitting claims, and issuing payment to vendors.

Financial recordkeeping is the primary responsibility of the Grantee's chief financial officer, i.e. the clerk-treasurer or auditor. It is the responsibility of the grant administrator to advise, assist and counsel the chief financial officer on administrative requirements in regard to the receipt, disbursement and accounting of federal funds and the records to be maintained. Failure to comply with financial management standards may result in monitoring and audit findings. Depending on the infraction, the Grantee may be required to pay back federal dollars.

This chapter will focus on the records that must be maintained in order to receive and utilize CDBG funds. Specific topics include the following:

1. Line of Credit Establishment
2. Required Financial Records
3. Release of Funds
4. Drawdowns and Disbursements
5. Grant Administration Costs
6. Semi-Annual Reporting

#### **Line of Credit Establishment**

In order for the Grantee to receive CDBG funds, a line of credit must be established with Grant Services. To establish the line of credit, the Grantee must complete the following steps:

##### *Step 1: Execution of Grant Agreement*

The binding legal document between the State of Indiana and the Grantee is the grant agreement. The grant agreement contains a project description, timeline of activities, sources and uses of funds, conditions governing the use of CDBG funds and the special conditions for release of funds. The grant agreement must be signed by the Grantee's chief elected official. The Grant Agreement specifies four important dates in the progression of completing the CDBG project:

- The Environmental Release Date

- The Bidding Deadline Date
- The Release of Funds Date
- The Project Completion Date

The grant agreement is sent out from the State's electronic contracting system via email and requires a digital signature. After it is signed it will also need to be uploaded into the system using a username and password that is established through aforementioned bidder registration process or by Grant Services. This information, along with instructions for navigating the signature process, can be found in the email with the grant agreement.

#### *Step 2: Vendor Information Form & W-9*

The Grantee must sign and return the Vendor Information Form prior to submission of any claim vouchers. This form will be provided to the Grantee.

#### **Required Financial Records**

CDBG funds must be maintained in a separate account or in a separate fund within an existing account. Detailed records of receipts and expenditures of grant funds must be maintained at all times. Records must be supported by source documents including but not limited to deposit receipts, invoices and payments, and contracts awarded.

The following forms are required by the federal funding agency and must be maintained by the Grantee and available for inspection throughout the project:

#### Federal Cash Control Register

This form is used to track the receipt and expenditure of federal funds. Expenditures of local funds are not reported on this document. It is the State's policy under the guidance of the Code of Federal Regulations, that grant funds of \$5,000 or more must be disbursed within five business days from the date they are deposited in the Grantee's designated account. The Federal Cash Control Register also maintains a cumulative amount deposited and disbursed throughout the grant project for accurate recordkeeping purposes. This form is available as [Financial Management Form 1: Federal Cash Control Register](#).

#### Contract Obligation Control Ledger

This form provides a listing of all contractual obligations committed for the federally-assisted project. All contracts must be listed including but not limited to those for professional services, legal fees, and acquisition and construction. Required information includes the contractor's name, contract date, and total contract amount. The amounts to be paid from CDBG funds are to be listed separately from amounts to be paid from local funds. This form is available as [Financial Management Form 2: Contract Obligation Control Ledger](#).

#### Contractor Expenditure Ledger

This financial document is a supplement to the Contract Obligation Control Ledger and tracks the total contract amount, payments, change orders and remaining balance for each contract listed on the Contract Obligation Control Ledger. A separate expenditure ledger should be maintained for each contract awarded for the grant project. This ledger is useful to the Financial

Officer in monitoring the progress of payments on each contract, which should be compared to the work actually performed to assure that work on the contract is completed according to schedule and budget. This ledger is also maintained to assure that the Grantee is not being invoiced for amounts more than the total of the contract including any change orders. This form is available as [Financial Management Form 3: Contractor Expenditure Ledger](#).

#### Property Inventory Ledger

The Grantee is required to report any purchases made with CDBG funds including, but not limited to, tangible personal property having a useful life of more than one year and an acquisition cost of \$300 or more per unit, and any equipment or vehicles which have a serial number. The financial officer must maintain an inventory of property purchased with CDBG funds throughout the life of the grant. While the Office of Community and Rural Affairs (OCRA) does not allow the use of CDBG funds to pay for personal property, this form is a mandatory piece of documentation. The form is available as [Financial Management Form 4: Property Inventory Ledger](#).

Do not include equipment purchased by a contractor or administrator, unless it is determined in the bid process that the equipment belongs to the Grantee. Furthermore, do not include major capital infrastructure expenditures, such as water mains or sewer lines.

#### **Contractor File Documentation**

An additional aspect of proper Financial Management of a CDBG project is the maintenance of a separate file for each contractor and subcontractor on the project. Each file should contain:

1. The contractor's contract including federal language requirements;
2. The contractor's Payment Bond and Performance Bond;
3. The contractor's Certificate of Insurance;
4. Copies of all change orders;
5. The Contractor Expenditure Ledger; and
6. Copies of all invoices and all checks written to the contractor from both federal and local dollars.

#### **Additional Information**

The forms listed in this Financial Management section do not replace any State Board of Accounts standardized forms to be used by counties, cities, and towns. The financial forms listed herein are required by the federal funding source and are in addition to any forms required by other state agencies.

While not required by the federal funding agency, Grant Services must review disbursements from local funds at monitoring. For that purpose, a 'Local Match Ledger' is included as [Financial Management Form 5: Local Match Ledger](#) & [Financial Form 6.4](#).

## REQUESTING CDBG FUNDS

### Release of Funds

No claims for grant funds will be considered by OCRA until the Grantee has obtained an official 'Release of Funds' from Grant Services. This is a several month process during which the Grantee follows federal guidelines to prepare for implementation of the project. Exhibit C of the grant agreement specifies the date deadline for fulfilling the requirements to obtain release of funds.

Certain costs may be incurred by the Grantee prior to release of funds but only as specifically stated in the grant award letter. Such costs may only include professional fees such as engineering, architectural, environmental, administration or preliminary acquisition expenses and are incurred entirely at the Grantee's own risk.

Under no circumstances may the Grantee encumber any other grant funds prior to release of funds. Therefore, the Grantee should never enter into any construction-related contracts prior to obtaining the official release of funds letter. The documents required for release of funds include:

- Financial Documentation
  - Local match commitment letter/loan documents, if different from application
  - Certification of Professional Services Providers Form signed by Engineer and Grant Administrator ([Financial Form 6.4](#))
- Procurement Packet
  - Copies of all Professional Service Related Contracts
  - RFP/RFQ Newspaper Notice and Publisher's Affidavit
  - Copies of Solicitation Letters and Certified Mail Receipts
  - List of all Firm's that responded to RFP/RFQ
  - Signed evaluation score sheets from proposal review, if applicable
  - Letters to those firms not selected for interview (due to short listing)
  - Signed evaluation score sheets from interviewer, if applicable
  - Letters to those firms interviewed but not selected
  - Selection letter from CEO, if only one response was received
  - Copy of IFB Newspaper Notice with Proof of Publication with Publisher's Affidavit
  - Certified mail receipts of at least two (2) M/WBE State Certified Firms solicited
  - Copy of Bid Tabulation – Signed and Certified by Engineer/Architect with Seal
  - Copy of letter from Engineer/Architect Recommending Contractor and Bid Price, including any Alternatives, if applicable
- Labor Standards
  - Labor Standards Office Notification ([Labor Form 1](#), if not already submitted)
  - Initial Wage Determination Assignment Notice ([Labor Form 2](#))
  - Copy of Pre-Bid Conference Sign-in Sheet ([Labor Form 3](#))
  - Copy of Pre-Bid Conference Meeting Minutes
  - Signed Pre-Bid Conference Guide Acknowledgement ([Labor Form 4](#))
  - Wage Determination Lock In Notice ([Labor Form 5](#))
  - Copy of Bid-Opening Sign-In sheet

- Copy of Bid-Opening Minutes
- [Labor Form 6: Contractor/Subcontractor Verification](#)
- Printout from [www.sam.gov/SAM/](http://www.sam.gov/SAM/) and HUD's Limited Denial of Participation List verifying eligibility of each Contractor/Subcontractor identified
- Acquisition
  - Copies of recorded easements, if applicable
- Subrecipient
  - Recorded Lien and Restrictive Covenant, if applicable

[Financial Management Form 6: ROF Checklist](#) is available as a tool for the Grantee.

The Grant Administrator can either schedule an appointment to deliver all the release of funds documents or mail the complete set of documents to Grant Services. In an effort to make the release of funds process run more smoothly, OCRA requires that all release of funds documents be submitted as an entire package. If the release of funds package submitted is incomplete it will be returned to the grant administrator without review. The only exception to this rule is for State Revolving Fund (SRF) or United States Department of Agriculture-Rural Development (USDA-RD) closings which need to be submitted at the last minute.

When all required documentation has been reviewed and approved by Grant Services, the Grantee will receive a 'Notification of Release of Funds' letter. Upon receipt of this correspondence, the Grantee may enter into the construction-related contracts beginning with the date of the release of funds letter or any subsequent date.

### **Drawdowns and Disbursements**

Grantees should seek to provide timely payments of CDBG funds to all contractors. However, Grantees should not approve claims for payment until the project engineer or architect has approved the pay application and submitted it to the grant administrator. All pay applications approved by the project engineer or architect must include language to include a 'partial lien waiver' for the portion of work completed to date. Before approval of the final pay claim by the project engineer or architect, a 'final lien waiver' must be obtained from the prime contractor which will attest to payment in full to all subcontractors and suppliers. The grant administrator must also determine that the contractor is current with submissions of federal documents and certified payroll reports before preparing the claim voucher for CDBG funds. The claim voucher must be submitted to the Lt. Governor's Business Office. This form will be provided to the grantee after grant award.

Step-by-step instructions for completing the claim voucher are included with [Financial Management Form 7a: Claim Voucher Instructions](#). If not completed properly, the claim voucher may not be processed and will be returned to the Grantee for correction.

Generally, the state pays 35 days in arrears. However, the period of time for processing the claim voucher is 15 to 30 days. It is important to note that the time period will be extended during the last month of June as the State Auditor's Office must suspend payments in order to close out the fiscal year and prepare the state's year-end reports. Because of these possible delays, Grantees should be attentive to forecasting cash flow needs and coordinate closely with contractors regarding the timing of their requests for payments.

After approval of the claim voucher by the Lt. Governor's Business Office, the claim is forwarded to the Auditor's Office for payment. Funds are electronically transferred to the Grantee's bank account of record. If the Grantee makes changes to their bank account of record, they must notify the Auditor's Office of the updated account information.

Grantees must be alert to the receipt of federal funds and be prepared to issue payments to their contractors within five business days of the deposit.

Under no circumstances should a Grantee retain more than \$5,000 of federal money in their bank account for more than five business days. If for any reason the federal funds cannot be disbursed during the five day period, the Grantee will be required to return all interest earned on the federal funds over \$100 to OCRA by check made payable to the U.S. Treasury. Grantees are advised to keep federal funds in non-interest bearing accounts.

CDBG funds and local match dollars must be spent proportionally to pay for the project. When drawing grant funds this means that if the project comes in under budget, a portion of the local dollars are not spent, and a portion of CDBG funds are not spent. For example, a community applies for a \$500,000 grant, and contributes a \$125,000 local match. In this instance, 80 percent of the funds are from OCRA and 20 percent of the funds are local. If the project ends up costing \$500,000, then the Grantee would use \$400,000 of CDBG grant funds and \$100,000 of local match funds. It is not unusual for projects to come in under budget and not need the full amount of the CDBG grant.

### **Program Income**

Program income is defined as gross income received by the Grantee or a Subrecipient that was directly generated from the use of CDBG funds and exceeds \$35,000 in receipts for a single calendar year.

Program income includes, but is not limited to the following:

1. Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds (the time period of applicability is governed by CDBG regulations and is dependent upon the date of the final grant closeout);
2. Proceeds from the sale of equipment purchased with CDBG funds as allowed in advance by Grant Services;
3. Gross income from the use or rental of real or personal property acquired by the Grantee or a Subrecipient with CDBG funds;
4. Gross income from the use or rental of real property owned by the Grantee or a Subrecipient that was constructed or improved with CDBG funds;
5. Payments of principal and interest on loans made using CDBG funds;
6. Proceeds from the sale or assignment of loans made with CDBG funds;
7. Interest earned on funds held in a revolving fund account;
8. Interest earned on program income; and/or
9. 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 all or part of the CDBG portion of a public improvement.

### **Program Income Usage**

Program income funds may be used to fund an eligible CDBG activity that meets all state and federal requirements of the CDBG program. Prior to disbursement of any program income an application requesting approval for the use of Program Income must be submitted to Grant Services. Below is a listing of typical program income uses:

1. Program income proceeds may be used to support another CDBG activity as prescribed under Title 1 of the Housing and Community Development Act of 1974, as amended. Each activity must be carried out in compliance with all applicable CDBG laws and regulations.
2. Program income may be used to provide local matching funds or cost sharing for other CDBG grant programs administered by Grant Services or the Indiana Housing and Community Development Authority (IHCDA).

#### Program Income Exclusions and Exemptions

Program income does not include the following:

1. Receipts for Grantee or Subrecipient controlled property that are:
  - a. Proceeds from fundraising activities carried out by Subrecipients receiving CDBG assistance; or
  - b. Proceeds from the disposition of real property acquired or improved with CDBG funds when such disposition occurs after the applicable time period specified in the CDBG regulations.
2. Interest earned by the Grantee on grant funds before their disbursement is not program income, and must be returned to the US Treasury, relocation payments; and
3. Payments for loss of rental income.

#### Program Income Management

It is the responsibility of the Grantee to administer and track all program income activities. The Grantee must do the following:

1. The Grantee may only use program income to fund eligible CDBG activities that meet a national objective. All program expenditures must be approved by application to Grant Services.
2. Maintain financial records on the receipt and expenditure of program income funds separately from other CDBG program funds currently being administered at the local level. A separate bank account must be established and entitled 'CDBG Program Income Account'. The Grant Services field monitors and State Board of Accounts' examiners will compare all receipts and disbursements against the information supplied by the Grantee in its quarterly program income reports.
3. Submit quarterly status reports on the program income received and disbursed to Grant Services. Please use [Financial Management Form 8: Program Income Report](#).
4. Treat program income as a form of CDBG funding and adhere to the specific CDBG program requirements as it relates to procurement, Environmental Reviews, labor standards, etc.

#### **Successful Financial Management and Grant Monitoring and Audit**

Following the expenditure of all federal and local funds and completion of the project, Grant Services will monitor the project. The list below contains possible Financial Management-related infractions:

1. Violation of the \$5,000 / Five Day Rule
2. Inadequate financial documentation
3. Expenses incurred that were not related to the project
4. Costs incurred outside of the effective period of the grant
5. Unallowable costs incurred under the CDBG regulations
6. Costs that required prior approval and none was obtained
7. Payments to engineers, architects or grant administrators with CDBG funds when these services were not procured following federal regulations

### **Contract Modifications**

After a grant agreement has been fully executed for a CDBG-funded project, there should be no changes made to the project activities, beneficiaries, budget, grant amount or grant ending date. The Grantee is expected to carry out the project exactly as stated in the grant application for which the grant was awarded and the grant agreement was executed.

On occasion, there may be unforeseen circumstances that require a modification to the grant agreement. In those instances, it is the responsibility of the Grantee to submit a written request for modification to OCRA and Grant Services. The written request must include a full and complete explanation of the circumstances surrounding the request for modification. The Grantee's request should include a written explanation from the project architect or engineer identifying the changes needed and stating why the situation was unforeseen at project design.

Review of the modification request will be evaluated by OCRA and Grant Services for the following criteria prior to any decision being made:

- a. Does the proposed modification present any deterrent to meeting federal and state policies?
- b. Does the proposed modification affect the original scoring of the application to the extent that would have prevented the grant from being awarded if presented as identified in the modification request?
- c. Does the Grantee have any monitoring findings or overdue reports on this particular grant?
- d. Has the Grantee made every effort to proceed with the project in a timely and responsible manner?

If OCRA and Grant Services are unable to approve the modification request, the Grantee may voluntarily de-obligate the grant and cancel the project until such time as the problems are resolved and a subsequent application may be submitted.

If the modification request is approved, the Grantee will be notified by letter as soon as possible after review of the request is completed.

Modifications are classified as Category 1, Category 2 or Category 3. Before submitting a modification request, the Grantee must determine which Category best describes their modification and follow the requirements for the appropriate category.

### Category 1 Modification

1. Modifications include:
  - a. Requests for extension of the project Completion Date ([Contract Form 2: Category 1 Modification Time Extension](#))
  - b. Requests to revise the budget by moving project costs between line items ([Contract Form 3: Category 1 Modification - Other than Time](#))
  - c. Requests to modify the grant goals to be accomplished by less than 10% ([Contract Form 3: Category 1 Modification - Other than Time](#))
2. Modifications require:
  - a. A written explanation from the chief elected official (CEO) and project engineer, if applicable

### Category 2 Modification

1. Modifications include:
  - a. Requests to revise the budget by moving more than 10% of the project costs between line items ([Contract Form 4: Category 2 or 3 Modification - Budget](#))
  - b. Requests to modify the grant goals to be accomplished by more than 10% ([Contract Form 5: Category 2 or 3 Modification - Request Letter](#))
2. Modifications require:
  - a. A written explanation from the CEO and project engineer, if applicable;
  - b. Requirement that the Grantee hold a public hearing to inform the citizens of the proposed changes to the project and consideration of citizen comments for or against the changes ([Contract Form 6: Category 2 or 3 Modification - Sample Public Notice](#));
  - c. Proof of publication of legal advertisement stating date, time and place of public hearing published at least ten (10) days in advance;
  - d. Minutes of public hearing signed by an officer of the Grantee or the grant administrator with written authorization from the CEO;
  - e. Sign in sheet providing the names of all attendees; and
  - f. A written statement by the governing board regarding resolution of any citizen complaints received regarding proposed changes to the project.
  - g. If budgetary modification, must also submit revised budget.

### Category 3 Modification

1. Modifications include:
  - a. Requests to change the project location or participants
  - b. Requests for additional grant funding if less than maximum grant amount was originally awarded – request considered only after contact with Grant Services determines that additional funds are available
2. Modifications require:
  - a. Written explanation from the CEO and the project engineer, if applicable;

- b. Requirement that Grantee hold a public hearing to inform the citizens of the proposed changes to the project and consideration of citizen comments for or against the changes;
- c. Proof of publication of legal advertisement stating date, time and place of public hearing published at least ten (10) days in advance;
- d. Minutes of public hearing signed by an officer of the Grantee or the grant administrator with written authorization from the CEO;
- e. Sign in sheet providing the names of all attendees;
- f. Written statement of governing board regarding resolution to any citizen complaints received regarding proposed changes to the project; and
- g. Adopted resolution of governing board to submit the modification request for approval ([Contract Form 7: Category 3 Modification - Sample Resolution](#)).

Every attempt must be made to complete the project within the allotted time frame. Time extensions are a deterrent to the expenditure of funds ratio maintained by HUD and could put future funding allocated to the State of Indiana in jeopardy. Grant-funded projects are expected to be completed as proposed with only rare occasions when a modification must be requested. Approval of modifications is not guaranteed.

### **Miscellaneous Items**

There are other issues that may arise during the project's implementation that may require documentation from the Grantee. For example, if there is a change to the construction contract due to unforeseen circumstances, this will require a change order. A change in the project's scope or a need for a time extension requires a project modification. [See the Contract Development and Modification Chapter]

## REPORTING

### Overview

A critical grant administrator responsibility is to maintain a complete set of records documenting the project and the compliance with all applicable regulations, and to provide timely reporting on the project.

The filing system should be easy to use and provide a historic account of activities for examination and review by the State, auditors and local staff. All records must be available to the Office of Community and Rural Affairs (OCRA) upon request, including any pertinent books, records, accounts, documents, papers, and other material that is relevant to the grant. Certain records must also be available to the public. Additionally, Grantees must keep files that contain personal information, such as social security numbers, in a secure place.

Grantees and grant administrators should discourage the use of the full social security numbers as an identifier. Redacting this information is important. Using the last four digits of the social security number as the unique identifier can address this issue.

Files should, to the extent possible, be maintained in a central location. Financial records, supporting documents, statistical records and all other records pertinent to a grant must be retained until 3 years after OCRA closes the grant year from which funds were allocated with the U.S. Department of Housing and Urban Development (HUD).

The submission of timely reports is essential for compliance with the Grant Agreement. Grantees are ineligible to apply for and receive other grants, as long as they have overdue reports. Grantees will not be allowed to drawdown funds if they have overdue reports.

### Semi-Annual Reporting

Semi-annual reports providing updates on the status of the project must be submitted by the Grantee ([Reporting Form 1: Semi-Annual Report](#)). The reporting periods and due dates are as follows:

1. For the period of January 1 through June 30 the report is due no later than July 31.
2. For the period of July 1 through December 31 the report is due no later than January 31.

The semi-annual reporting requirement begins when the Grantee receives a copy of the fully-executed grant agreement from Grant Services and continues until the Grantee has reached financial and administrative closeout of the grant.

Claim vouchers will not be processed and no additional funds will be awarded if semi-annual reports are delinquent.

### Subrecipient Semi-Annual Reporting

If a Subrecipient is involved in the federally-assisted project, a Subrecipient semi-annual report must be submitted for a period of five years after administrative closeout of the grant ([Reporting Form 2: Subrecipient Semi-Annual Report](#)). Report periods and due dates are the same as stated above for the Grantee semi-annual reports. The Subrecipient reporting requirement begins when the Grantee's semi-annual reporting period ends, at administrative closeout. It is

the responsibility of the Grantee to monitor the performance of the Subrecipient during the five-year period to insure that the federally-assisted facility continues to meet all of the stated grant goals and objectives.

### **Recordkeeping & Checklists**

Grantees must establish a system for recordkeeping that assists Grant Services with the review of files for compliance. In other words, records should be kept in a manner that clearly tells the whole story of a Community Development Block Grant (CDBG) project from beginning to end.

The Grantee is responsible for maintaining all records pertinent to a grant, including supporting documentation, for three years from the date the State closes the program year, from which the grant funds were awarded. Because this required record retention period could exceed ten years, the State will notify Grantees when a program year has been closed with HUD and include the end date of the record retention period.

Representatives of HUD, the Inspector General, the General Accounting Office, the Comptroller General of the United States, the State Auditor's Office, the State Board of Accounts, and OCRA or any of their duly authorized representatives will have access to any pertinent books, records, accounts, documents, papers, and other materials belonging to or in use by the Grantee or sub-Grantee in order to conduct audits, examinations, excerpts or transcripts.

### **Procurement**

The required documentation is as follows:

1. Supplies/Materials
  - a. Copy of Request for Qualifications (RFQ)
  - b. Certified mail receipts from Minority Business Enterprise (MBE) vendors
  - c. Documentation of all quotes received
  - d. Justification of selection
  - e. Cost Analysis performed when only one quote is received
2. Professional Service
  - a. Copy of the Request for Proposal (RFP) or Request for Qualifications (RFQ)
  - b. Copy of the RFP/RFQ newspaper advertisement
  - c. Certified mail receipts from MBE/WBE firms
  - d. List of companies who submitted Statements of Qualifications or Proposals
  - e. RFP/RFQ evaluation and scoring documents
  - f. List of short-listed firms and documentation of interview process
  - g. Short-listed firms evaluation and scoring documents
  - h. Justification for selection of contractor
3. Construction and Related Services
  - a. Copy of Invitation for Bid (IFB)
  - b. Copy of IFB newspaper advertisement
  - c. Certified mail receipts from MBE/WBE firms
  - d. Minutes from public meeting where IFB's were opened
  - e. Copy of the bid tabulation sheet, certified by the project architect/engineer
  - f. Justification of selection

## Contract Development

The required documentation is as follows:

1. Professional Services
  - a. Copy of a Firm, Fixed – Price or Cost Reimbursement Contract with the required Third Party Provisions attached
  - b. Disclosure Report for each contract
2. Construction – Related Services
  - a. Copy of a Firm, Fixed – Price Contract with the required Federal Construction Contract Provisions attached
  - b. Copy of the Bid Guarantee
  - c. Copy of the Performance Bond
  - d. Copy of the Payment Bond
  - e. Copy of contractor(s) insurance policy
  - f. Disclosure Report for each contract
  - g. Proof of the established Retainage Account
  - h. Documentation on all Change Orders

## Financial Management

The required documentation is as follows:

1. Copy of the state approved grant agreement
2. Copy of the Grantee's W-9 form
3. Copy of the completed Federal Cash Control Register
4. Copy of the completed Contract Obligation Control Ledger
5. Copy of the completed Contractor Expenditure Ledger(s)
6. Copy of the completed Property Inventory Form (rarely used)
7. Availability of all the Grantee's standard financial records in respect to the project, e.g. Claims; Ledger of Receipts, Disbursements, and Balances Ledger of Appropriations, Encumbrances, Disbursements and Balances
8. Copy of the official Notification of Release of Funds letter issued by the OCRA
  - a. Copy of all drawdowns (claim vouchers)
  - b. Copies of all Semi-Annual Grantee Performance Reports

## Environmental Review

The required documentation is as follows:

1. Exempt Activity Project Classification
  - a. Copy of the Certificate of Exemption
  - b. Copy of Notice of Removal of Environmental Conditions
2. Categorically Excluded Projects Subject To
  - a. Copy of Certification of Categorical Exclusion (Subject to) and a copy of Statutory Worksheet
  - b. Copy of the Categorically Excluded Activity Notification letters and responses
  - c. Copy of the Notice of Intent to Request Release of Funds (NOI/RROF) advertisement

- d. Copy of the RROF Certification
  - e. Copies of any letters received in response to the NOI/RROF
  - f. Copy of OCRA's Notice of Removal of Environmental Conditions
3. Assessed Activity Project Classification
- a. Copy of environmental request packet
  - b. Copy of all environmental response letters
  - c. Copy of any environmental studies e. g. archaeological surveys, etc.
  - d. Copy of completed Format II document
  - e. Copy of the "Combined Notice of Finding of No Significant Environmental Impact and a Request for Release of Funds"
  - f. Copy of the RROF Certification
  - g. Copy of OCRA's Notice of Removal of Environmental Conditions

### Acquisition and Relocation

The required documentation is as follows:

1. Property Acquisition
  - a. Copy of Title Searches
  - b. Copy of completed property questionnaire
  - c. Copy of letter to owner(s) informing them of the Grantee's interest in the property and of the owner(s) rights outlined in the Uniform Relocation Act (URA) brochure, "When a Public Agency Acquires Your Property"
  - d. Certified mail receipts and/or signed dated receipts regarding above referenced letter
  - e. Copy of property owner(s) certified mail receipt for notification of appraisal, if applicable
  - f. Copy of market estimates on property valued under \$10,000
  - g. Copy of appraisal and review appraisal on property valued over \$10,000
  - h. Copies of appraisers' pocket identification cards
  - i. Copy of offer to owner(s)
  - j. Copy of purchase option or signed easement agreement
  - k. Copy of donation/waiver forms
  - l. Proof of payment, if applicable
2. Relocation (Contact OCRA Acquisition Specialist for forms and assistance.)
  - a. Copy of letter to owner(s) informing them of the Grantee's interest in the property and of the owner(s) rights outlined in the appropriate URA brochure
  - b. Certified mail receipts regarding above referenced letter
  - c. Copy of the Notice of Nondisplacement or Notice of Eligibility for Relocation Assistance
  - d. Documentation of the replacement needs assessment
  - e. Documentation of comparable replacement dwellings
  - f. Copy of the Ninety-Day Notice
  - g. Copy of the Relocation Claim Forms

### Civil Rights

The required documentation is as follows:

1. Copy of Civil Rights Officer Notification
2. Copy of Grantee's Fair Housing Ordinance
3. Verification that all Equal Employment Opportunity (EEO) and Drug Free and Fair Housing Posters are displayed
4. Copy of all MBE/WBE bid solicitation and project participation
5. Copy of Invitation for Bid with appropriate civil rights documentation
6. Copy of construction plans and specifications with appropriate civil rights documentation attached
7. Copy of contractor(s) EEO Reports, if applicable
8. Copy of contractor(s) Affirmative Action Plans, if applicable
9. Copy of the Section 3 Compliance form
10. Copy of updated Disclosure Form

### Labor Standards

The required documentation is as follows:

1. Copy of the Labor Standards Officer Notification
2. Copy of Wage Determination Assignment Notice
3. Copy of Invitation For Bid
4. Copy of construction plans and specifications with appropriate labor standards documentation attached
5. Copy of Pre-Bid Conference Sign-in sheet
6. Copy of Pre-Bid Conference Guide Acknowledgement
7. Copy of the Wage Determination Lock-In Notice
8. Copy of the Contractor/Subcontractor Verification form
9. Copy of the Notice of Contract Award
10. Copy of the construction-related contract(s) with the HUD 4010 form and Federal Construction Contract Provisions referenced or attached
11. Copy of the Preconstruction Conference Acknowledgement
12. Copy of contractor(s) fringe benefit programs
13. Copy of Force Account Labor approval letter from OCRA, if applicable
14. Copy of Force Account Labor time cards, rates of pay, and hours worked for each employee working on project
15. Copy of Volunteer Labor approval letter from OCRA, if applicable
16. Documentation showing hours worked and jobs completed by each volunteer
17. Copy of any apprenticeship certification programs, if applicable
18. Copy of Contractor(s) Certification form
19. Copy of Subcontractor(s) Certification forms, if applicable
20. Copy of the federal Office of Contract Compliance Programs (OFCCP) Subcontract Notification, if applicable
21. Copy of all weekly certified payroll reports for contractor(s)/subcontractor(s)
22. Copy of all employee interviews
23. Copy of the Final Wage Compliance form
24. Documentation of any wage deficiencies and copies of restitution payments, if applicable
25. Copy of the Final Inspection/Project Completion report

## Modifications

The required documentation is as follows:

1. Category 1 Modification
  - a. Copy of the Modification Request letter
  - b. Copy of OCRA approval of the request
2. Category 2 Modification
  - a. Copy of the 'Notice of Grant Modification' newspaper advertisement
  - b. Copy of the minutes and attendance roster of the modification public meeting
  - c. Copy of the modification request packet
  - d. Copy of OCRA approval of the request
3. Category 3 Modification
  - a. Copy of the 'Notice of Grant Modification' newspaper advertisement
  - b. Copy of the minutes and attendance roster of the modification public meeting
  - c. Copy of the modification resolution
  - d. Copy of the modification request packet
  - e. Copy of OCRA approval of the request

## Other Documentation

1. Verification of all new water and sewer users
2. Proof of Insurance on assisted facilities
3. Intake documents for non-presumed Limited Clientele and Job Creation projects
4. Job Creation Verification Reports for all new employees

## Grant Closeout

1. The required documentation is as follows:
2. Copy of Grantee Performance Report
3. Copy of the grant monitoring documentation
4. Copy of the Financial Settlement/Expenditure Summary
5. Copy of the Administrative Closeout documentation

## **GRANT CLOSEOUT & BEYOND**

## Overview

The closeout and settlement process is the final phase of the Community Development Block Grant (CDBG) project administration. This process is comprised of a series of activities that verify that the requirements of the agreement between the Office of Community and Rural Affairs (OCRA) and the Grantee have been completed. After activities are completed and funds drawn down, closeout can begin. This chapter will discuss the steps associated with the grant closeout process.

### Closeout Process

It is the responsibility of the Grantee, with the assistance of the grant administrator, to initiate the closeout process no later than 30 days after project completion and the last CDBG claim has been processed. (If CDBG funds were simply used for the acquisition of property, the Grantee should wait to initiate the closeout process until the project is complete and all stated objectives have been met.) Regardless, the project must be completed by the completion date specified in the grant agreement. Claim vouchers received after the stated completion date will not be processed.

To initiate the closeout process, the following conditions must be met:

1. All costs must be incurred and paid.
2. All funds must be drawn from OCRA.
3. No contingent liabilities should be outstanding unless Grant Services provides their written consent.
4. All project activities must be completed and the new facility or improvement must be available for use by the grant beneficiaries.

When these stated conditions have been met, the Grantee should immediately proceed with the closeout process.

The closeout process involves four distinct progressive steps: 1) Grantee Performance Reporting, 2) Grant Monitoring, 3) Administrative/Financial Closeout, 4) Audits, and 5) Final Closeout.

#### *Step 1: Grantee Performance Reporting*

[Closeout Form 1: Grantee Performance Report](#) must be submitted to Grant Services within 30 days after the project's completion date. Once approved, Grant Services personnel will contact the Grantee through their grant administrator to set up a date for the on-site monitoring to be conducted. Planning grant monitoring is typically conducted by desk-review instead of on-site. To facilitate that process, when submitting a Performance Report for a Planning Grant, you are asked to include that documentation identified on [Closeout Form 1a: Planning Grant Monitoring Checklist](#). This applies only to planning grants.

#### *Step 2: Grant Monitoring*

Grant Services will conduct an on-site monitoring to review all grant documentation, financial records, and the actual facility and/or improvements. The purpose of the monitoring is to verify that the project has met the stated goals and objectives and all of the federal CDBG regulations and that all contractors, subcontractors and suppliers have been paid in full and provided final lien waivers. Successful monitoring meetings largely depend upon the organization and accuracy of recordkeeping by the grant administrator. A [Monitoring Manual](#) as used by Grant Services to conduct the monitoring is available for review on OCRA's website in CDBG Resources.

If required materials are not available on the date of the monitoring, Grant Services will request the Grantee or grant administrator submit the required documentation within 15 days. If not submitted within 15 days, the issues will be listed on the official monitoring letter as a finding. The Grantee will be ineligible for CDBG funding on any project until such issues are resolved. Within 30 days after the monitoring meeting or desk review, Grant Services will forward a letter to the Grantee informing them of their grant status. This letter will state one of the following results:

- **No Findings:** If the Grantee's performance was found to be in compliance with all CDBG and OCRA regulations, Grant Services will state that the project had no findings and inform the Grantee to proceed to the next step of the closeout process.
- **Unresolved Findings:** If compliance issues were raised at the monitoring meeting, Grant Services will address these issues in writing. The Grantee will then have 30 days to resolve these issues. After Grant Services reviews the submitted documentation, Grantee will be advised how to proceed with the closeout process.

Until the Grantee has resolved all findings, the Grantee will not be eligible to apply for or receive any other CDBG funding. This includes CDBG grants from the Indiana Housing and Community Development Authority (IHCDA).

### *Step 3: Administrative Closeout*

This step involves the verification of attained goals and objectives (e.g. job-creation or housing-occupancy goals) set forth in the grant agreement. These goals/objectives will be reviewed at the monitoring visit.

When it has been determined that the Grantee has no findings or all findings have been resolved, the Grantee will be advised to submit [Closeout Form 2: Financial Settlement/Expenditure Report](#) and [Closeout Form 3: Administrative Closeout](#).

If it is determined that the goals/objectives have not been met, the Grantee will be advised to submit [Closeout Form 2: Financial Settlement/Expenditure Report](#). The Grantee must continue to submit the semi-annual reports (see the Reporting and Recordkeeping Chapter for more detail) until such time as the goals and objectives are met or modified by Grant Services. Once Grant Services has determined that the Grantee has met all obligations, the Grantee may proceed to administrative closeout by completing [Closeout Form 3: Administrative Closeout](#). When Grant Services has approved a Grantee's administrative closeout form and placed it in the administrative closeout status, the Grantee does not need to submit any more semi-annual reports. However, if the Grantee has a Subrecipient, the Grantee is responsible for the submission of the Subrecipient semi-annual reports for a period of five years after the date of Grant Services' approval of the administrative closeout (see Section 11.8).

Intended use of facility must be maintained for five years after closeout.

After CDBG-funded projects are completed and closed out, the facility must maintain its intended use for five years after closeout. No changes to the use of the facility or the type of

beneficiaries of real property acquired or improved with CDBG funds may be made without the advanced written approval of OCRA.

Those projects with Subrecipients will be monitored annually by OCRA staff to insure that the use and purpose of the facility has been maintained during the five year period.

#### *Step 4: Audits*

An audit is an official examination and verification of accounts and records. Audits are an important part of effective financial systems, as they produce useful financial reports and verify the reliability of a Grantee's financial management systems. Only an independent certified public accountant (CPA) with a current license to practice in Indiana can perform an audit. One of the primary financial management requirements implicit in the use of federal funds is the annual audit. The Indiana State Board of Accounts performs an A-133 audit, when applicable, at the time they audit all of the Grantee's financial records. 2 CFR 200 provides requirements for audits of governmental entities and nonprofit organizations. Failure to comply with the audit requirements can jeopardize the Grantee's ability to draw grant funds and receive future grants. The type and level of audit required is based on the amount of federal funds expended by a Grantee in a given fiscal year. Federal awards include financial assistance provided by the federal government to the Grantee in the form of grants, loans, property, contracts, loan guarantees, etc. Organizations that have expended more than \$750,000 in Federal funds within a fiscal year are required to have an A-133 audit conducted. A single audit is an audit that includes both an entity's financial statements and its federal awards (from all applicable federal programs). If an organization expends less than \$750,000 a year in federal funds, it is exempt from the federal audit requirements for that year; however, financial records must be made available if requested.

#### *Step 5: Final Closeout*

The final stage of the closeout process is the issuance of a Certificate of Project Completion. This certificate is issued when OCRA has received the Single Audit from the Indiana State Board of Accounts covering all years that CDBG funds were expended by the Grantee.

For certain project types, particularly those where the Grantee has designated a Subrecipient, the Certificate of Completion will not be issued until 5 years from the date of Administrative Closeout.

If there are no discrepancies or findings by the State Board of Accounts, the Certificate of Completion is issued and a copy is forwarded to the Grantee. If there are findings issued by the State Board of Accounts for a CDBG grant the Grantee is responsible for resolving the issue with the State Board of Accounts. Upon resolution, the certificate will be issued.

Findings by the State Board of Accounts will prevent the Grantee from receiving further CDBG funding until all such findings are resolved. Issuance and full execution of a 'Certificate of Project Completion' signifies that the applicable CDBG grant is considered closed by OCRA with no further associated requirements for the Grantee except for compliance with the records retention requirements of the federal government and the State of Indiana. Financial records, supporting documents, statistical records and all other records pertaining to a grant will be retained for a period of three years after the State closeout of the grant year from which the grant funds were awarded. Grantees should be advised that the record retention period could exceed ten years.

# APPENDICIES

**Appendix A: Floodplain Management 8 Step Decision Making Process**  
***Procedures for Making Determinations on Floodplain and Wetland Management***

Projects located within a floodplain or within a designated wetland are subject to Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands), respectively. HUD regulations describe measures for protecting floodplains and wetlands. The required eight-step process is explained below:

**Step 1:** Determine whether the proposed action is located in a 100-year floodplain and/or wetland. This can be determined by looking at the [Wetlands Maps](#) and Federal Emergency Management Agency (FEMA) Floodplain Maps. If no maps are available, use the best available information. If the proposed action would not be conducted in one of those locations, then no further compliance with this part is required. Categorically excluded projects are not excluded from this process.

**Step 2:** Notify the public at the earliest possible time of a proposal to consider an action in a floodplain and/or wetland, and involve the affected and interested public in the decision making process. This is accomplished by publishing the Early Public Review Notice.

- a. The public notices required in this section may be combined with other project notices wherever appropriate. All notices must be published in an appropriate local printed news medium. [See Environmental Form 11: Sample 8 Step Process Notice.](#)
- b. A minimum of 15 calendar days shall be allowed for comment on the public notice. A Finding of No Significant Impact (FONSI) cannot be made before the end of the 15 day comment period.
- c. A notice under this paragraph shall state: the name, proposed location and description of the activity, the total number of acres of floodplain and/or wetlands involved, and the name of the chief elected official (CEO), and phone number to contact for information. The notice shall indicate the hours and the unit of general local government's (UGLG's) main office at which a full description of the proposed action may be reviewed.

**Step 3:** Identify and evaluate practical alternatives to locating the proposed action within the floodplain and/or wetland.

- a. The consideration of practical alternatives to the proposed site or method may include:
  - i. Locations outside the floodplain and/or wetlands;
  - ii. Alternative methods to serve the identical project objective; and
  - iii. A determination not to approve any action.
- b. In reviewing practical alternatives, OCRA or the Grantee shall consider feasible technological alternatives, hazard reduction methods and related mitigation costs, and environmental impacts.

**Step 4:** Identify the potential direct and indirect impacts associated with the occupancy or modification of the floodplain and/or wetland.

**Step 5:** Where practical, design or modify the proposed action to minimize the potential adverse impacts within the floodplain and/or wetland and to restore and preserve its natural and beneficial values.

**Step 6:** Re-evaluate the proposed action to determine:

- a. Whether it is still practical in light of its exposure to flood hazards in the floodplain, the extent to which it will aggravate the current hazards to other floodplains and/or wetlands, and its potential to disrupt floodplain and/or wetland values; and
- b. Whether alternatives preliminarily rejected at Step 3 of this section are practical in light of the information gathered in Steps 4 and 5 of this section.

**Step 7:** Publish the final Notice of Explanation.

- a. If the re-evaluation results in a determination that there is no practical alternative to locating the proposed project in the floodplain and/or wetland, the Grantee shall publish the Final Notice of Explanation that includes:
  - i. The reasons why the project must be located in the floodplain and/or wetland;
  - ii. A list of the alternatives considered; and
  - iii. All mitigation measures to be taken to minimize adverse impacts and to restore and preserve natural and beneficial values.
- b. In addition, a minimum of 7 calendar days shall be provided for public comment before the approval of the proposed action. See [Environmental Form 12: Sample Notice of Explanation](#). This notice may be run concurrent with either the (FONSI/RROF) or the NOI/RROF.

**Step 8:** Upon completion of the decision making process in Steps 1 through 7, proceed with implementation of the proposed action. There is a continuing responsibility to ensure that the mitigating measures identified in Step 7 are implemented.

## Appendix B: Examples of Activities by Classification

### Exempt

Project activities that fall under this classification include the following:

1. Environmental and other studies, resource identification and the development of plans and strategies;
2. Information and financial services;
3. Administrative and management activities;
4. Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs;
5. Inspections and testing of properties for hazards or defects;
6. Purchase of insurance;
7. Purchase of tools;
8. Engineering or design costs;
9. Technical assistance and training;
10. Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration; and
11. Payment of principal and interest on loans made or obligations guaranteed by HUD.

### Categorically Excluded (24 CFR Part 58.35)

§58.35(b) Categorical exclusion not subject to §58.5

Activities that qualify under this classification include the following:

1. Tenant-based rental assistance;
2. Supportive services including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, state, and federal government benefits and services;
3. Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs;
4. Economic development activities, including but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations;
5. Activities to assist homebuyers with the purchase of existing dwelling units or dwelling units under construction, including closing costs and down payment assistance, interest buy-downs, and similar activities that result in the transfer of title;
6. Affordable housing pre-development costs including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact; and
7. Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under this part. If the approval is made by the same

responsible entity that conducted the Environmental Review on the original project, re-evaluation of the environmental findings is not required.

58.35(a) Categorical exclusion subject to §58.5

Activities that qualify under this classification include the following:

1. Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities, and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets);
2. Special projects directed to the removal of material and architectural barriers that restrict the mobility of, and accessibility to elderly and handicapped persons;
3. Rehabilitation of buildings and improvements when the following conditions are met:
  - a. In the case of a building for residential use (with one to four units), the density is not increased beyond four units, the land use is not changed, and the footprint of the building is not increased in a floodplain or in a wetland.
  - b. In the case of multifamily residential buildings when:
    - i. Unit density is not changed more than 20 percent;
    - ii. The project does not involve changes in land use from residential to non-residential; and
    - iii. The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.
  - c. In the case of non-residential structures, including commercial, industrial, and public buildings when:
    - i. The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
    - ii. The activity does not involve a change in land use, such as from nonresidential to residential, commercial to industrial, or from one industrial use to another.
4. Rehabilitation of buildings and improvements does not apply when the following conditions are met:
  - a. An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between; or
  - b. An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site.
5. Acquisition (including leasing) or disposition of, or equity loans on an existing structure or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use; and
6. Combinations of the above activities.

**NOTE:** OCRA does not fund housing-related projects.

## Appendix C: Helpful Resources for Preparing ERRs

*General Information & Training on HUD's Environmental Review Requirements*

<https://www.hudexchange.info/programs/environmental-review/environmental-review-training/>

*ArcGIS*

<http://www.arcgis.com/home/webmap/viewer.html?useExisting=1>

*FEMA Flood Map Service Center*

<https://msc.fema.gov/portal>

*Indiana Department of Natural Resources – Division of Historic Preservation & Archaeology*

<http://www.in.gov/dnr/historic/>

*U.S. Environmental Protection Agency Enviromap*

<https://www3.epa.gov/myem/envmap/find.html>

*U.S. Environmental Protection Agency Environmental Justice Screening and Mapping Tool*

<https://www.epa.gov/ejscreen>

*U.S. Fish & Wildlife Service Midwest Region Technical Assistance Website:*

<https://www.fws.gov/MIDWEST/ENDANGERED/section7/s7process/index.html>

*U.S. National Flood Hazard Layer Web Map Service*

<https://hazards.fema.gov/femaportal/wps/portal/NFHLWMSkmzdownload>

*USGS Topographic Maps*

<https://nationalmap.gov/ustopo/index.html>