
Introduction

Welcome to the Community Development Block Grant Program

How to Use the CDBG Management Guide

Planning, administering and operating a CDBG project is a rewarding – but challenging – venture. The regulations with which recipients must comply can be very complex. The Iowa Department of Economic Development (IDED) Community Development Division provides you with this Guide as a tool to help you manage your CDBG award smoothly.

Management Guide Format

The CDBG Management Guide serves as the basic administrative reference manual for CDBG recipients. The Guide is divided into three chapters:

1) Introduction

- Getting Started
- The Next Steps
- Down the Road

2) Federal Requirements

- Environmental Review
- Procurement
- Civil Rights and Fair Housing
- Labor Standards
- Required Contract Provisions
- Site and Easement Acquisition

3) Financial Management

- General Financial Management
- Requesting CDBG Funds and Reporting on Activity Status
- Program Income

Forms and Supplements

The appendices at the end of the Guide contain all referenced forms and supplemental materials. There is an appendix associated with each chapter. For example, Appendix Two contains the forms and documents related to federal requirements (Chapter 2). At the end of each chapter is a list of items contained in its appendix.

Additional Assistance

While this Guide is intended to provide you the information you need to manage a CDBG project, you may encounter problems or have questions you don't find addressed here. Do not hesitate at any time to call IDEED for additional assistance. IDEED staff members – particularly the project manager assigned to your project – are available to help you. A list of staff members and their phone number is included in the appendix to this Chapter.

Getting Started

You've received your award letter and have this Guide in hand. What do you do next (after you read this Guide carefully, of course)? Here are five steps you should take – if you haven't already – to get started.

- 1) **Determine who will handle project administration.** Many CDBG recipients contract with professionals to handle the day-to-day management of their projects. If you decide to contract for administration, you must select an administrator according to a federal law requiring that professional services be procured on a competitive basis. Procurement instructions are outlined in Chapter 2.
- 2) **Obtain/Submit your DUNS Number immediately.** The DUNS Number is a unique nine-digit identification number provided by Dun & Bradstreet (D&B). The DUNS Number is randomly issued, never used twice, and is site-specific.

Most potential and existing US Government Contractors, Grantees and Loan Recipients are required to obtain a DUNS Number for US Government registration purposes. This requirement flows down to the CDBG program and its recipients. In order to add your project activities to the program that disburses money for the CDBG program, each funded entity must have this number. Many cities and counties may have already obtained it, and will simply have to inform us what it is in writing.

If you do not have a DUNS Number currently, you will find the instructions on how to get one in Appendix 1 of this manual. After you have been issued a DUNS Number, inform this office in writing what that number is.

Recipients choosing to contract for administrative services with Regional Planning Commissions or Councils of Governments do not have to go through the competitive procurement process. See Chapter 2 for details.

- 3) If you submitted your CDBG application “on behalf of” another entity (e.g., day care center, rural water association) you must establish a formal relationship with that entity (who will be known as your “subrecipient”). Before you distribute any CDBG funds, you must **execute a written agreement with your subrecipient.** The appendix to this Chapter includes a list of the minimum required provisions for the subrecipient agreement and a sample subrecipient agreement.

- 4) You will soon be receiving contract documents from IDED. When they arrive, **review them carefully**. If there are changes that should be made, notify your IDED project manager immediately. If the contract is correct, have it signed in the appropriate place by the Chief Elected Official (CEO) for the project. Return the original documents to IDED and retain a copy for your records.
- 5) Adopt a **Prohibition on the Use of Excessive Force**, a **Residential Anti-displacement and Relocation Assistance Plan (RARA)**, a **Code of Conduct** and an **Equal Opportunity Policy**. These are all requirements for local governments tied to the acceptance of CDBG funds. Copies of the excessive force prohibition and RARA must be submitted to IDED before funds will be released. Samples of these documents are included in the appendix to this Chapter.
- 6) Complete **signature authorization forms**, if necessary. The “authorized signature” for your project is established when your contract is signed. If you want another person to be able to sign official documents related to the project, or if someone other than the original signatory takes over as CEO, you must complete the Alternate Signature Authorization or the Signature Authorization for Change in CEO Form. These forms are included in the appendix to this Chapter.

The Next Steps

You're on your way, but there are still some major tasks to complete. Here are five more steps to take:

- 1) **Begin the environmental review process.** The environmental review process required by federal law has some built-in time constraints. You should begin the environmental review as early as possible. The process involves using a review checklist to document that the project will not have an adverse impact on the environment and contacting other agencies for comments on the environmental impact of your project. **Remember: you cannot sign construction contracts or start construction until you have completed the environmental review and received a Release of Funds.**
- 2) **Clear contract conditions.** Your contract may have some special conditions that must be cleared before you can incur costs on your project. Examples of possible contract conditions include receipt of building permits or clearance by other state agencies. You should clear any contract conditions and submit notification to IDED so construction can begin on schedule. If you have any questions about the conditions in your contract, contact your assigned project manager.
- 3) If necessary, **procure architectural and/or engineering services.** Many projects require engineering and/or architectural services. If yours does, you should procure them as soon as possible. You must procure engineering and architectural services through a competitive process, requesting qualifications from three or more firms or individuals (a bid price is not required) and selecting one based on qualifications. Ideally, the architect or engineer will be familiar with CDBG or similar programs, competent in the required technical areas and able to provide services in a timely manner. Specific procurement requirements are described in Chapter 2.
- 4) **Prepare to contract for construction.** If your project will involve construction, you must follow applicable labor laws. You must follow competitive bidding procedures to select contractors. After you've executed your contract with IDED and completed any necessary planning, you should prepare a bid package. In most cases, this includes a wage rate determination. You should request a wage rate determination from IDED 30 days before advertising for bids. Also, 10 days before the bid opening date you should call IDED to

determine if the wage rate has been modified or superseded. Before awarding any contract, you must verify with IDEED that each selected contractor is not on a federal or state debarred list. You should inform IDEED of the date construction will begin. Specific procurement and labor requirements are described in Chapter 2.

Do not sign any construction contracts until after you have received a release of funds letter from IDEED.

- 5) **Establish your financial management and reporting procedures.** There is a specific process to be used to “draw down” federal funds. Additionally, there are some important financial management and reporting requirements with which recipients must comply. Review Chapter 3 carefully for instructions on financial management and how to request CDBG funds.

Down the Road

As you get going on your project, it pays to think ahead. Here are six more issues you'll encounter as you move forward with your project:

- 1) It may be months – or even further down the line – but it's never too soon to think about **project monitoring**. Your IDEED project manager will perform an on-site review of your project. The purpose of this visit is to assess your performance and compliance with program requirements and to provide you with any technical assistance you may need. The monitoring visit will go more smoothly if you have kept good records from the very beginning, documenting the progress of the project and the actions you have taken to satisfy the various federal requirements. The appendix to this Chapter includes a record-keeping checklist.

Recipients are responsible for monitoring the performance of any third-party contractors under any general administration or subrecipient agreement. The recipient is responsible for ensuring that all activities comply with all Federal and state regulations.

- 2) Hold a **public hearing on the status of funded activities**. Section 508 of the Housing and Community Development Act of 1987 requires local governments to comply with the State's Citizen Participation Plan. You should have already had a public hearing on your CDBG application. You must also have a public hearing on the status of funded activities at the appropriate time. A list of requirements for the public hearing is included in the appendix to this Chapter.
- 3) If you encounter some unforeseen change to your project after contract execution, you must submit to your IDEED project manager a written request for a **contract amendment**. A contract amendment is a formal, substantive change to the contract for time extensions, new activities or alteration of existing activities that will change the scope, location, objectives or scale of the approved activities or beneficiaries. Instructions for contract amendments are included in the appendix to this Chapter.
- 4) Upon completion of your project, if the beneficiaries have changed since the project was originally funded, you must submit the **Grantee Performance Report** (Form 3-D). The report form and instructions are included in the appendix to this Chapter.

The appendix to this Chapter contains copies of the State Administrative Rules and the federal regulations governing the CDBG program. You should familiarize yourself with these rules and regulations and refer to them as necessary.

- 5) Updated **Applicant/Recipient Disclosure/Update Report**. This provides a listing of any persons with a financial interest in the project. An initial report should have been included as part of your CDBG application. If there are any changes in the information that was provided in the initial report, an updated report must be submitted to IDED. The report form and instructions are included in the appendix to this Chapter.
- 6) The appendix to this Chapter includes guidelines on **audit and closeout procedures**. It's a good idea to understand these requirements early in your project since you may need to have audits conducted prior to completion of the project.

In the Appendix to Chapter 1

The Appendix to Chapter 1 contains the following:

- Community Development Staff Members
- Definitions and Acronyms
- Requirements for Subrecipient Agreements
- Sample Subrecipient Agreement
- Sample Policy on the Prohibition of the Use of Excessive Force
- Sample Equal Opportunity Policy Statement
- Sample Residential Anti-displacement and Relocation Assistance Plan
- Signature Authorization Forms
- Record-keeping Checklist
- Citizen Participation Requirements
- Sample Notice of Public Hearing/Status of Funded Activities
- Contract Amendment Procedures
- Applicant/Recipient Disclosure/Update Report and Instructions
- Audit and Closeout Requirements
- Grantee Performance Report and Instructions (Form 3-D)
- DUNS Number Guide
- State Administrative Rules on CDBG
- Federal Regulations, State Community Development Block Grant Program (24 CFR Part 570, Subpart I)
- Title 1 of the Housing and Community Development Act of 1974, Section 105(a)

Your Notes

Federal Requirements

The Major Compliance Areas

This Chapter describes the federal requirements that apply to the CDBG program. Recipients should review this Chapter carefully and refer to it as necessary to ensure compliance.

Environmental Review

The National Environmental Policy Act of 1969 (NEPA) establishes national policies, goals, and procedures for protecting, restoring and enhancing environmental quality. CDBG recipients must comply with this law and with related federal regulations, which are referenced in 24 CFR Part 58. As a CDBG recipient, you have taken on the responsibility to evaluate how your project will affect the environment by complying with the requirements set out in 24 CFR Part 58. The requirements are complex, and are only summarized below. For a definitive description of environmental requirements, you may want to consult the regulations, which can be found at <http://www.hud.gov/offices/cpd/environment/index.cfm>

If another federal agency has funds invested in your project, it will also be conducting an environmental review. You are encouraged to coordinate your review with that agency. This will help eliminate the unnecessary duplication of effort. However, before making a finding based on another agency's review, you should ensure the process of determination is adequate to meet responsibilities under 24 CFR Part 58. Although you may concur with the finding and any assessments conducted by another agency, you are still responsible for making sure the contents of your environmental review record (discussed later in this section) is complete. Also, you **must** still fulfill the **publication and comment requirements** outlined in this section.

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

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

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

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

For all other project activities, recipients cannot incur costs or draw down funds until the environmental review requirements are satisfied and the Department has released funds for the project. **If any construction activities, including the signing of the construction contract, are started before the Release of Funds, it will result in all construction costs becoming ineligible for reimbursement.**

The 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. The ERR must contain a description of the project and its activities; a map of the project area; documentation of compliance with environmental laws; other relevant documents, notices or information; and public comments on the recipient’s environmental review. Public comments – and your 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 environmental 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 outlined below.

See the appendix to this Chapter for a flow chart of the environmental review process.

Related Federal Laws and Authorities (24 CFR Part 58.5)

In addition to following NEPA procedures and assessing the impact of the project on the human environment, recipients must certify that they are in compliance with the following related laws and authorities:

- Historic Properties: Historic Preservation Act, specifically Section 106 (36 CFR Part 800)
- Floodplain Management: Executive Order 11988 (24 CFR Part 55)
- Wetlands Protection: Executive Order 11990 (24 CFR Part 55)
- Endangered Species: The Endangered Species Act (50 CFR Part 402)
- Air Quality: The Clean Air Act, specifically Section 176 C and D (40 CFR Part 6, 51, 93)
- Farmlands Protection: Farmlands Protection Policy Act (7 CFR Part 658)
- Noise: Noise Control Act (24 CFR Part 51, Subpart B)
- Man-made Hazards: HUD Environmental Standards (24 CFR Part 51, Subpart C & D)
- Environmental Justice: Executive Order 12989
- Coastal Zone Management Act & Coastal Barrier Resource Act (Not Applicable to Iowa)
- Wild and Scenic Rivers Act (Not Applicable to Iowa, no designated rivers)
- Water Quality: Safe Drinking Water Act: (Not Applicable to Iowa, no sole source aquifers)

Exempt Activities (24 CFR Part 58.34)

Most projects funded by the Department are not exempt from NEPA requirements and other environmental reviews. However, reference the regulation cited above (24 CFR Part 58.34) to see if your project is exempt. If the exemption criteria described in the regulation fits your project description, you must do the following:

- Document in the ERR the process for making the exempt determination.
- If your project is exempt, submit the Finding of Exemption/Request for Release of Funds form, signed by the CEO, to IDED. A blank form can be found in the appendix to this Chapter. Upon receipt and approval of the form, IDED will release funds.

After IDED releases funds, the recipient may draw funds after applicable contract conditions have been satisfied.

Categorical Exclusions (24 CFR Part 58.35)

Categorical Exclusions are those activities that are not exempt and require no environmental assessment. There are two types of Categorical Exclusions:

- 1) Excluded activities that still must comply with the policies and regulations outlined in the previously listed related Federal Laws and Authorities are:
 - Acquisition, repair, reconstruction, rehabilitation or improvement of public facilities (other than buildings) when the facilities and/or improvements are in place and will be retained for the same purpose, without change in size or capacity of more than 20 percent;
 - Removal of material and architectural barriers which restrict the mobility and accessibility of elderly persons and persons with disabilities;
 - Certain public service activities;
 - Rehabilitation of non-residential structures, including commercial, industrial, and public buildings when the following conditions are met:
 - The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
 - The project does not involve changes in land use such as from residential to nonresidential, commercial to industrial, or from one industrial use to another.
 - Combinations of the above activities.

If your project is categorically excluded using the above criteria you must do the following:

- Document in the ERR the process for making the categorically excluded determination.
 - **If the project is located in a floodplain or wetland only:** The *Notice of Proposed Project to be Located in a Floodplain or Wetland* (the notice is included in the appendix to this Chapter) must be published at least once in a local newspaper of general circulation. In cities with no newspaper, notices must be displayed in the local post office and its substations and other public places. The recipient must allow the public 15 days for local comment before moving on to the next step.
 - **If the project is located in a floodplain or wetland only:** The *Notice of Decision Regarding Project to be Located in a Floodplain or Wetland* (the notice is included in the appendix to this Chapter) must be published at least once in a local newspaper of general circulation. In cities with no newspaper, notices must be displayed in the local post office and its substations and other public places. The recipient must allow the public 7 days for local comment before moving on to the next step.
 - In order to assure compliance with the Related Federal Laws and Authorities, complete the *Categorically Excluded Projects/Areas of Compliance with Related Laws and Regulations* checklist found in the appendix to this Chapter.
 - Publish a *Notice of Intent to Request Release of Funds* (NOI/RROF) at least once in a local newspaper of general circulation. In cities where there is no newspaper of general circulation, notices must be displayed in the local post office and its

substations. The public must be given at least 7 days to comment before moving on to Step 5. A blank NOI/RROF is included in the appendix to this Chapter. The recipient must use this notice, or its equivalent, to meet federal requirements. If the project is located in a floodplain or Wetland include language from the *Notice of Decision Regarding Project to be Located in a Floodplain or Wetland* (the notice is included in the appendix to this Chapter) in the NOI/RROF notice.

- After the local seven-day comment period has elapsed, submit the *Request for Release of Funds and Certification* form to IDED along with a copy of the publication and SHPO documentation. A blank form is included in the appendix to this Chapter. Upon receipt of the form, IDED will allow 15 days for public comment. IDED will consider only comments pertaining to those matters listed under 24 CFR Part 58.75(6).

After IDED releases funds, the recipient may draw funds after applicable contract conditions have been satisfied.

- 2) Excluded activities that are **not** subject to the previously listed Related Federal Laws and Authorities are certain 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. If this criteria describes your project you must do the following:

- Document in the ERR the process for making the determination.
- Submit the Finding of Categorical Exclusion: Not subject to the Related Federal Laws and Authorities/Request for Release of Funds form. A blank form can be found in the appendix to this Chapter. No public comment periods are necessary for this type of categorically excluded project. Upon receipt and approval of the form, IDED will release funds.

After IDED releases funds, the recipient may draw funds after applicable contract conditions have been satisfied.

Environmental Assessment (24 CFR Part 58.36)

If the activity is neither exempt nor categorically excluded, you must prepare an Environmental Assessment (EA). The *Environmental Assessment Worksheet* is included in the appendix to this Chapter for this purpose. When properly completed, this form serves as the EA and complies with the environmental requirements in 24 CFR Part 58.40.

If the project is located in a floodplain or wetland only: The *Notice of Proposed Project to be Located in a Floodplain or Wetland* (the notice is included in the appendix to this Chapter) must be published at least once in a local newspaper of general circulation. In cities with no newspaper, notices must be displayed in the local post office and its substations and other public places. The recipient must allow the public 15 additional days for local comment.

If the project is located in a floodplain or wetland only: The *Notice of Decision Regarding Project to be Located in a Floodplain or Wetland* (the notice is included in the appendix to this Chapter) must be published at least once in a local newspaper of general circulation. In cities with no newspaper, notices must be displayed in the local post office and its substations and other public places. The recipient must allow the public 7 days for local comment before moving on to the next step.

If the EA indicates an activity may significantly affect the environment and requires an Environmental Impact Statement, contact IDED for assistance.

If the EA indicates the activity will have no significant effect on the quality of the human environment, the recipient must do the following:

- 1) Publish the Concurrent Notice to Public of a Finding of No Significant Impact (FONSI) on the Environment and Notice to the Public of Intent to Request Release of Funds (RROF) (the form is included in the appendix to this Chapter) at least once in a local newspaper of general circulation. In cities with no newspaper of general circulation, notices must be displayed in the local post office and its substations and other public places. The recipient must allow the public 15 days for local comment (18 days for posting) before moving on to Step 2. The notice must clearly indicate that it is intended to meet two separate procedural requirements and request that comments be specific as to which they address. If the project is located in a floodplain or Wetland include language from the Notice of Decision Regarding Project to be Located in a Floodplain or Wetland (the notice is included in the appendix to this Chapter) in the FONSI/RROF notice.
- 2) The FONSI/RROF notice must also be sent to individuals, groups, and agencies known to be interested in the activity. A list of agencies to which notices should be sent can be found in the appendix to this Chapter.
- 3) After the local comment period has elapsed, you must submit a *Request for Release of Funds and Certification* (a form is included in the appendix to this Chapter) to IDED along with a copy of the publication. Upon receipt of the RROF, IDED will allow another 15 days for public comment. IDED will consider only comments pertaining to those matters listed under 24 CFR Part 58.75
- 4) If an amendment to the activity is proposed, the recipient 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 if the FONSI is still valid. If it is, but data or conditions have changed, the recipient must amend the original EA and update the ERR.
- 5) If the project site changes, a new EA must be completed for the new site. The recipient must follow Steps 1 – 4 above to ensure compliance with 24 CFR Part 58.

After IDED releases funds, the recipient may draw funds after applicable contract conditions have been satisfied.

Through the RROF, the recipient accepts the role of responsible federal agency should there be a lawsuit concerning environmental laws and regulations. The CEO assumes responsibility for the jurisdiction when he/she signs the Request For Release of Funds and Certification.

Following is a **sample** timetable for the FONSI/RROF process:

Day 1: FONSI/RROF notice printed in newspaper

Day 2: First day of 15-day Local comment period

Day 16: Last day of 15-day Local comment period

Day 17: RROF and Certification sent to IDED

Day 20: State receives request; first day of State comment period

Day 35: Last day of 15-day State comment period

Day 36: State approves RROF and Certification

Procurement

CDBG recipients must comply with the federal procurement requirements of 24 CFR Part 85.36. These regulations direct that all supplies, equipment, construction and services be acquired efficiently and economically, through open and fair competition. You 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 24 CFR Part 85.36, recipients must adopt a written procurement policy and a code of conduct. Samples are included in the appendix to this Chapter.

Recipients 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. Recipients and subrecipients also must take affirmative steps to use small businesses and minority- and women-owned businesses when possible as sources of supplies, equipment, construction and services. For a list of clearinghouses for solicitation of minority-owned and female-owned businesses, see Appendix Two.

Four Methods of Procurement

The regulations at 24 CFR Part 85.36 detail four methods of procurement. These regulations are included in the appendix to this Chapter.

Small Purchase Procedures

This method of procurement can be used for the relatively simple and informal procurement transactions of securing certain services, supplies, equipment or other property that does not cost more than \$100,000 in the aggregate. Price or rate quotations are obtained from an adequate number of qualified sources to determine the most advantageous provider.

Sealed Bids

The sealed bid (formal advertising) method of procurement is consistent with state law for procurement transactions undertaken for public improvement projects (Chapter 384, *Code of Iowa*). For more detail, reference the Code and/or 24 CFR Part 85.36(d)(2). This is the preferred method of procurement for construction services regardless of cost.

Competitive Proposals

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.

Recipients must have a method for conducting technical evaluations of the proposals received 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.

When procuring architectural/engineering (A/E) professional services, qualification-based procurement procedures may 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 evaluation criteria are included in the appendix to this Chapter). 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.

Noncompetitive Proposals

This method of procurement involves the solicitation of a proposal from only one source. Procurement by noncompetitive proposals (sole-source procurement) may be used only when one of the four following circumstances applies:

- 1) The item is available only from a single source.
- 2) Public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.
- 3) The federal (state) grantor agency authorizes noncompetitive proposals.
- 4) After solicitation from a number of sources, competition is determined inadequate.

Sole source procurement is unusual and the circumstances and rationale for its use must be fully documented. Additionally, IDED must approve in advance sole source procurement for contracts or purchases valued at \$25,000 or more.

Exception for Administrative Contracts

Recipients wanting to contract for administrative services with regional or metropolitan planning commissions or councils of governments existing pursuant to Chapters 28H and 473A, *Code of Iowa*, may do so without regard to the provisions of 24 CFR Part 85.36 provided that such services are billed on an actual cost basis. IDED has determined that a primary function of metropolitan and regional planning commissions and councils of governments existing under Chapters 28E and 473A, *Code of Iowa*, is to provide assistance to units of local government, under the direct supervision and control of elected officials from the local units of government served. The public purpose served by the metropolitan and regional planning commissions or councils of governments, combined with their local control, tends to provide protection equal to those contemplated by the provisions of Subpart 36. However, nothing prevents any recipient from complying with the provisions of Subpart 36 when procuring administrative services if the recipient deems compliance to be equitable and in the best interest of the program.

Conflicts of Interest

Recipients must avoid conflicts of interest. In the procurement of property and services, 24 CFR Part 85.36 (for local governments) and OMB Circular 110 (for non-profit organizations) regarding conflicts of interest apply. In all cases not governed by those rules, conflicts of interest are not permitted. If a person is an employee, agent, consultant, elected official or appointed official of a recipient or subrecipient of CDBG funds and has project-related responsibilities or access to inside information, he or she may not obtain a financial benefit or interest from the project for himself or herself or those with whom he or she has family or business ties during his or her tenure or for one year thereafter.

Civil Rights and Fair Housing

Your contract lists several federal regulations related to civil rights, equal opportunity and fair housing. Basically, these regulations mandate that no person in the United States shall, on the grounds of race, color, national origin, religion, creed, age, sex, disability, familial status, political affiliation, citizenship gender identity, or sexual orientation be denied benefits or be subjected to discrimination under any program funded in whole or in part with federal funds. By signing your contract, you certify that you will comply with the laws listed. If you do not understand the requirements, you should request the full text of the regulations from IDED and consult with the IDED civil rights/fair housing specialist.

While some of the civil rights and fair housing regulations simply prohibit discrimination, others require you to take some affirmative steps or action. These are addressed below.

Affirmatively Furthering Fair Housing

Title VIII of the Civil Rights Act of 1968 and Title I of the Housing and Community Development Act of 1974 require that recipients take some action to affirmatively further fair housing in their communities. Acceptable actions range from using the equal housing opportunity logo on your letterhead to sponsoring fair housing training for landlords, real estate agents and lenders.

A list of suggested affirmative fair housing actions is included in the appendix to this Chapter, along with copies of the equal housing opportunity logo and a sample affirmative fair housing policy. When your project is monitored, your project manager will review the actions you took to affirmatively further fair housing, so be sure to document your activities and the results.

Affirmative Action in Soliciting Minority/Women Business Enterprises

Executive Orders 11625, 12432 and 12138 generally require recipients to make every effort to solicit the participation of minority and women business enterprises (MBE/WBE) in their projects. Recipients must specify the outreach actions they will take to ensure the inclusion, to the maximum extent possible, of minorities and women and entities owned by minorities and women, in all contracts.

You should include qualified MBEs and WBEs on your solicitation lists and solicit their participation whenever they are potential sources of goods or services you need. A list of clearinghouses for solicitation of MBEs and WBEs is included in the appendix to this Chapter, or you may go to the following website at: www.dia.iowa.gov/tsb/. When your project is monitored, your project manager will review the efforts you took to solicit MBE/WBE participation and the results. You will also be asked to report on your achievements in this area after your project is completed.

Section 3

Section 3 of the Housing and Urban Development Act of 1968 requires that recipients of CDBG funds provide, to the greatest extent feasible, job training, employment and contracting opportunities for low- or very low-income residents in connection with projects and activities in their neighborhoods. The intent of Section 3 is to foster local economic development, neighborhood economic improvement, and individual self-sufficiency.

Section 3 requirements apply to new hires only. It does not require the creation of economic opportunities for low-income persons simply for the sake of creating jobs, but

requires that when jobs are generated because a project necessitates the employment of additional workers, preference be given to Section 3 qualified individuals or businesses. If you or your contractors have no need for additional workers, then the Section 3 requirements do not apply, although you will have to report any existing workers that fall under Section 3 guidelines. Additionally, Section 3 applies to projects involving housing construction, housing rehabilitation or other public construction with a CDBG award of greater than \$100,000.

It is essential that recipients work closely with their contractors and subcontractors – early in the contracting process -- to ensure compliance with Section 3 requirements.

Section 3 residents are public housing residents or persons who live in the area where a CDBG project is located and who have a household income that falls below HUD's income limits.

A **Section 3 business** is a business that is 51% or more owned by Section 3 residents; employs Section 3 residents for at least 30% of its full-time, permanent staff; or provides evidence of a commitment to subcontract to Section 3 business concerns, 25% or more of the dollar amount of an awarded contract.

You must take affirmative actions to achieve the Section 3 goals. Actions include the following:

- Including Section 3 intent in all bid advertisements;
- Requiring contractors to advertise employment opportunities locally;
- Notifying residents and businesses of economic opportunities available;
- Keeping contractors informed of their responsibilities under Section 3;
- Including the Section 3 clause in every solicitation and contract and/or subcontract;
- Establishing a procedure to deal with Section 3 complaints; and
- Reporting Section 3 results.

A Section 3 report form and instructions are included in the appendix to this Chapter. The completed Section 3 report must be submitted to IDED within 60 days of project completion, even if there were no new hires for the project. The Certified Payroll Report (in the appendix to this Chapter) will identify employees that need to be included on the Section 3 report. Also in the appendix is a sample format that contractors can use to verify Section 3 status of employees, along with LMI guidelines to assess Section 3 status. The Section 3 clause that must be part of every contract and subcontract can be found in the appendix under "Required Contract Provisions."

Section 504 of the Rehabilitation Act of 1973 / Americans with Disabilities Act

Section 504 and the ADA require accessibility of CDBG projects to persons with disabilities. The law requires that new facilities assisted with federal funds be designed and constructed to be readily available to and usable by individuals with disabilities. Alterations to existing (non-housing) facilities shall, to the maximum extent feasible, be made to be readily accessible to and usable by individuals with disabilities. For existing (non-housing) facilities, recipients shall operate programs and activities receiving CDBG assistance so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities.

You should work closely with your architect/engineer to ensure plans comply with Section 504 and ADA.

Labor Standards

Federal laws and regulations relating to labor standards include the following:

- The Davis-Bacon Act
- The Copeland “Anti-Kickback” Act
- The Contract Work Hours and Safety Standards Act

As applicable, you must comply with these laws, and make sure your contractors and subcontractors comply as well. These laws apply to all construction contracts in excess of \$2000.

Davis-Bacon Act

Davis-Bacon requires that the wage paid to employees must be equal to or higher than the U.S. Department of Labor’s (DOL) determination of the prevailing wage rates for the project type and locality in which the work is being done.

Wage Rate Determinations

Recipients obtain wage rate determinations by mailing or faxing a request to IDED’s Labor Standards Officer. The Request for Wage Determination Form is included in Appendix Two. **The request should be submitted 30 days in advance of the bid advertisement date.**

Upon receipt of the request, IDED will review the information provided and issue the appropriate wage rate determination.

General wage rate determinations published by the DOL Employment Standards Administration, Wage and Hour Division, are effective until superseded or modified in a subsequent published wage rate determination. **You must contact IDED 10 days before the bid opening date** to verify that your wage rate is still current. Changes to wage rate determinations published less than 10 days before bid opening do not apply if your files include a statement of justification or other documentation establishing that there was not reasonable time available to notify all the contractors planning to submit bids. **You must also contact IDED for an update if you have not awarded a contract within 90 days after the bid opening.**

Wage rate determinations must be included in all bid solicitations and construction contracts. Contractors must post the wage rate determination in a prominent work site location that is accessible to all workers employed on the project.

Requesting Approval of Additional Classifications

If a contractor or subcontractor must use a craft or category of worker that is not listed on the wage rate determination, the contractor or subcontractor must submit to you, on the company’s letterhead, a description of the craft to be employed and the hourly basic rate and fringe benefits to be paid. The rate must fall within the range of other skilled classification rates in the wage determination. The description must also include a statement signed by the company’s CEO and affected employee(s) stating that the reported wage rate is believed to be prevailing for that work classification and geographic area.

You must forward the information described above to IDED. A sample form is included in the appendix to this Chapter for requesting approval of additional classifications. IDED will review the request and forward it to the Department of Labor for approval. **You should allow six weeks for this process.**

Wage Rate Applicability to Construction Contracts for Utility Extensions

Under certain circumstances, the requirements of the Davis-Bacon Act may not be applicable to all construction contracts related to your project. Based on the Department of Labor regulations, certain projects that are considered an extension of an existing utility may be exempt from the Davis-Bacon wage requirements. **This includes new construction only. Construction contracts on projects for the repair and/or replacement of existing facilities are covered by the Davis-Bacon wage requirements.**

To determine if your project meets the definition of a utility extension, a written request must be submitted to the Department. Based on the information provided, a determination will be made regarding the applicability of the Davis-Bacon wage requirements. The Department will issue a written response to approve or deny the request for an exemption of these requirements. This documentation must be maintained in your project's labor compliance files.

If the scope of the project changes from the initial request submitted to the Department or if it is determined at a later date that the project is not a utility extension, the construction contract and subcontracts will be subject to the Davis-Bacon requirements. The contractor is ultimately responsible for compliance with these regulations and will be required to pay restitution to all affected employees if the regulations are not properly followed.

Copeland "Anti-Kickback" Act

The basic requirements of the Copeland "Anti-Kickback" Act are as follows:

- 1) Payment to employees must be made at least once a week and without subsequent deductions or rebate on any account, except for "permissible" salary deductions.
- 2) You must obtain and review payroll forms, including the "Statement of Compliance" from contractors and subcontractors, on a weekly basis.
- 3) You must retain these documents for five years after work completion; each employer must maintain records supporting the payrolls for three years after work completion.

Contract Work Hours and Safety Standards Act

The basic requirements of the Contract Work Hours and Safety Standards Act are as follows:

- 1) Employees shall not work in excess of 40 hours in any workweek unless they receive overtime compensation at a rate not less than one and one-half times the basic rate of pay for those overtime hours worked. The contractor or subcontractor shall be liable to any affected employee for unpaid wages.
- 2) Contractors in violation of the Contract Work Hours and Safety Standards Act (overtime law) are liable to the United States government for liquidated damages, computed at \$10 per day for each employee who worked overtime and was not paid overtime wages. The contractor must submit a certified check for the total amount of liquidated damages to IDED upon request. Funds may be withheld from contractors and subcontractors to satisfy unpaid wages and liquidated damages only after the contractor or subcontractor receives written notification that funds will be withheld to satisfy labor standards provisions.

Other Department of Labor Regulations

Other DOL regulations which recipients and their contractors and subcontractors must comply with include the following:

- 1) The prime contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with all labor provisions.
- 2) You must hold a pre-construction conference with the prime contractor and available subcontractors before the start of construction. Participants must be advised of their responsibilities to abide by labor standards provisions and the wage determination contained in the contract documents. Minutes documenting each conference must contain the project name, location and description; wage determination number; name of contractor; contract amount; date and place of conference; conference participants and a summary of items discussed. You should retain minutes of each pre-construction conference in your labor standards file.
- 3) Contractors must make pertinent records available for review and permit on-the-job interviews of employees.
- 4) Contractors and subcontractors may be terminated for noncompliance with labor standards and will be liable for any excess cost involved in completing the work.
- 5) Contractors must be able to furnish certificates from the Bureau of Apprenticeship and Training for apprentices or trainees employed on a particular project. All apprentices must be identified in each payroll submission. The ratio of apprentices to journeymen must not exceed the approved ratio under their respective program and their wage rate must not be less than prescribed under those programs. A DOL Summer Youth Program allows contractors to hire 18-22 year old workers at lower than the prevailing wage. Contractors must secure IDED approval before using these workers and the lower pay scale.
- 6) All construction contracts covered by Davis-Bacon and subject to labor standards must contain standard provisions and certifications. A copy of the "Federal Labor Standards Provisions" is included in the appendix to this Chapter. All contracts entered into by the contractor with subcontractors must include the same provisions and certifications as those of the major contract with respect to federal laws.
- 7) Contractors and subcontractors may use DOL Form WH-347 ("Payroll") or any other alternate form which provides the same information. If an alternate payroll form is used, the certification language on the back of WH-347 must also be attached. Each contractor and subcontractor and any lower-tier subcontractor must submit weekly payrolls to your designated Labor Standards Compliance Officer for each workweek from the time work starts until it is completed. If no work is performed during a workweek, weekly payrolls need not be submitted. Weekly payrolls shall be numbered sequentially and the final payrolls marked "final." A sample payroll form with instructions is included in Appendix Two.
- 8) You must examine payrolls and related records as necessary to ensure compliance with DOL labor standards clauses and applicable federal statutes. You should examine payrolls, related records and employee interviews; verify that apprentices and trainees are registered or certified; ensure the wage rate determination was posted at the work-site; and check the handling of labor-related complaints.
- 9) Underpayments of \$1,000 or more per employer, contractor or subcontractor must be reported to DOL through IDED. For further information on reporting requirements, contact IDED's labor specialist.

Contractor Eligibility

Recipients 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. Recipients must also verify that all contractors are registered in the State of Iowa and have a valid registration number. This must be done before any contract is awarded. You can request verification of contractor eligibility by submitting the Request for Contractor Eligibility Form. A sample form is found in Appendix Two. Upon receipt, IDED will review the listed contractors and mail a verification of eligibility to the recipient.

Summer Youth Employment

Contractors employing workers aged 18-22 (who are bona fide high school, technical school or college students) on HUD-insured or assisted HUD construction projects during the summer (May 15 through September 30) may be exempt from Davis-Bacon and related labor acts. Requirements and stipulations that must be met before summer youth are employed at less than Davis-Bacon rates are as follows:

- 1)** Youth must be sponsored by a responsible employment, training and/or community outreach organization, such as the National Association of Home Builders, Associated Builders and Contractors, Urban Coalition, Private Industry Council, National Urban League, organized labor, a local school, or similar organization, as part of a bona fide Youth Opportunity Program.
- 2)** Youth must be bona fide students employed on a temporary basis for the summer.
- 3)** Where collective bargaining agreements covering workers performing similar or related activities at the work-site to which youth are stationed exist, the union or unions representing those workers must provide concurrence as to the design of the employment project and the use of the youth.
- 4)** The employment must be provided in accordance with state and federal statutory safety, child labor and minimum wage requirements.
- 5)** Competent supervision must be provided to all youth employed on the project work-sites. Ratios of youth to such supervisors should be no greater than four to one.

To ensure that the administration of summer youth employment complies with DOL policies and regulations, requests for exceptions to Davis-Bacon must be made to IDED, which will review the request for its appropriateness and forward it the HUD Field Office Labor Relations Staff for final disposition. Requests must meet the requirements listed above and include the number of youth to be employed and the name of the referring organization. IDED will advise the requesting contractor in writing of the HUD Labor Relations Office decision.

Programs sponsored by the Workforce Investment Act of 1998 (which replaced the Job Training Partnership Act) that are **registered** with the Bureau of Apprenticeship and Training would be recognized as bona fide training programs. Therefore, they could be exempt from complying with Davis-Bacon requirements. Check with IDED's Labor Standards Officer if the project employs apprentices under the WIA.

Labor Standards Compliance Officer

The labor standards described above are complicated and require thorough documentation. Therefore, you must designate a Labor Standards Compliance Officer. This person has overall responsibility for labor compliance and for maintaining the project's labor files. The Labor Standards Compliance Officer must do the following:

- 1)** Visit the construction site to confirm the required posters ("Notice to Employees," "Job Safety and Health Protection" and "Equal Employment Opportunity") and correct wage

determinations are posted in clear view of employees. Copies for your reference are included in the appendix to this Chapter; you may receive a complete packet upon request with your wage determination.

- 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 to verify the rate is at least equal to that required by the wage rate determination; overtime pay, if applicable; deductions; apprentice/trainee information and statement of compliance signature by owner or officer of contractor.
- 3)** Conduct employee interviews. The number of interviews must be sufficient to establish compliance 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
 - Wage rate determination
 - Construction bid package
 - Public advertisements for bids
 - Documentation of efforts to solicit minority/women contractor participation
 - Contract documents (with required federal language)
 - Pre-construction conference minutes
 - Indication of construction start date
 - Contractor/subcontractor employee payroll sheets/statement of compliance
 - Employee interview forms (including Section 3 interviews, if applicable)
 - Other related correspondence

Required Contract Provisions

Recipients must certify that all federal requirements listed in their contracts with IDED are satisfied. Further, the certifications must be part of every contract and subcontract the recipient executes. A full listing of required contract language is included in the appendix to this Chapter.

Recipients must ensure that all contracts include the following provisions, as applicable:

- Davis-Bacon Act
- Copeland “Anti-Kickback” Act
- Contract Work Hours and Safety Standards Act
- Access to records by government officials
- Maintenance of records for five years
- Termination clauses
- Federal Labor Standards Provisions – Form 4010 (included in the appendix)
- Required civil rights provisions (included in the appendix)
- Executive Order 11246, for Contracts in excess of \$10,000 (included in the appendix)
- Required provisions for contracts in excess of \$100,000 (included in the appendix)
- Section 3 clause

Project Construction Sign

- In order to increase awareness of the benefit that CDBG funds provide to communities, please have a sign placed at the construction site during construction. Specifications for the sign can be found in Appendix Two. You should give these sign specifications to the project architect or engineer so they can be placed in the construction specifications book that will be given to each contractor bidding on the project. If you have questions about the project construction sign, please call your project manager.

Site and Easement Acquisition and Relocation

The requirements in this section apply to acquisition of real property and/or permanent easements and/or temporary easements for CDBG projects. The primary source for HUD real estate acquisition and relocation policy is HUD Handbook 1378, available on the HUD website.

There are two laws that govern property acquisition when federal funds are involved: The Uniform Relocation and Real Property Acquisition Act of 1970 (URA) and Section 104(d) of the Housing and Community Development Act of 1974. This section provides a general summary of the most common requirements of CDBG recipients under these laws.

Acquisition and relocation requirements are applicable to the CDBG recipient (City or County government) or the sub-recipient (non-profit organization or Rural Water District). It does not matter if the property used for the CDBG project is purchased with federal funds or local funds, the purchase must still follow the acquisition and relocation requirements outlined in the following pages.

Tenant households, businesses, non-profit organizations, or farm operations that occupy the property and are “displaced persons” as defined in the regulations are eligible for all advisory services and financial benefits under either the URA or Section 104(d). The buyer must

provide all the required notifications in a timely manner. Property owners cannot waive these rights for tenants of their properties on a voluntary transaction.

The buyer must provide all the required notices to tenant households, businesses, non-profit organizations or farm operations that occupy the property and are “displaced persons” as defined in the regulations either at URA or 104d. The notices are in the appendices to Handbook 1378.

Section 104(d) requires local governments receiving CDBG assistance to provide a one-for-one replacement of all occupied and vacant occupiable lower-income dwelling units that are demolished or converted to another use in connection with a CDBG assisted activity, unless the State of Iowa determines that objective data indicates that there is an adequate supply of vacant lower-income dwellings in standard condition available.

Acquisitions Procedure

Does the purchaser of the property have the power of eminent domain?

NO: (for entities such as non-profit organizations and rural water districts)

Then, complete the following steps in order:

- 1) The sub-recipient notifies the property owner in writing by certified mail that it does not have the power of eminent domain and therefore, it will be unable to acquire the property in the event negotiations fail.
- 2) Inform the owner in writing by certified mail of the fair market value for the property; an appraisal is not necessary, but the offer must include an explanation of how the value was reached.

An example notice: The Guideform “*Voluntary Acquisition for Agencies without Eminent Domain Authority*” is in Appendix Two)

YES: (for entities such as Cities and Counties)

Will the purchase be voluntary or involuntary?

Voluntary:

Must meet all of the following criteria:

- 1) No specific property is needed but the search for alternative sites may be limited to a general geographic area.
- 2) The property is not part of a planned or designated area where all the property in the area will eventually be acquired.
- 3) The recipient agrees that it will not use its power of eminent domain even if negotiations fail.

If all of the above is true, the Recipient must inform the property owner in writing by way of certified mail:

- 1) The power of eminent domain will not be used if negotiations fail
- 2) Fair market value for the property; an appraisal is not necessary, but the offer must include an estimate of Fair Market Value. The offer does not have to equal the Fair Market Value.

An example notice: The Guideform *Voluntary Acquisition for Agencies with Eminent Domain Authority* is in Appendix Two)

Involuntary:

If all of the above criteria for voluntary acquisition are not met then the recipient will complete the following steps in order:

- 1) **Notice of Interest to the Property Owner:** This notice tells the owner of the recipient's interest in acquiring the property. It should be issued as soon as is feasible, following the recipient's identification of the real property in which it has an interest. The notice must outline the protection available to the owner and should include information on the recipient's process and obligation in conducting an appraisal. The HUD brochure "*When a Public Agency Acquires Your Property*" found in Appendix Two (Form HUD-1041-CPD) explains the URA policies. The text of this brochure is included in the appendix to this Chapter. Copies of the printed brochure are available upon request from IDED. This must be given to the property owners.
- 2) **Notice:** Recipient must provide as required to tenants throughout the process
- 3) **Appraisal:** After the owner has been notified of the recipient's interest in the property, an appraisal must be conducted. The appraisal should be done before negotiating the purchase price. The property owner or a representative must be given the opportunity to accompany the appraiser while on site.

Appraisals are defined as written statements setting forth the market value of a specific property on a specific date. This analysis must be conducted independently and impartially by a certified appraiser and must be supported by analysis of relevant market information. The market value of a partial acquisition is the value of the whole property less the value of the remaining property. To the extent possible under the law, the appraiser should disregard any enhanced or decreased value to the property to be caused by the project.

Appraisals conducted for the acquisition of property for federal funded projects must follow the Uniform Standards of Professional Appraisal Practice (USPAP). These standards can be found at http://www.appraisalfoundation.org/s_appraisal/sec.asp?CID=3&DID=3. For a review of minimum appraisal standards reference *Helpful Acquisition Information* found in Appendix Two.

Appraisals are not required if the owner is donating the property and releases the recipient from its obligation after being informed in writing of the right to an appraisal.

Appraisals are also not necessary when the Agency determines that the property valuation problem will be uncomplicated and the available data indicate a market value of less than \$10,000 (up to \$25,000 if the Agency offers the land owner an appraisal and he refuses it in writing). If the above criteria are met then the Agency will prepare a waiver valuation drafted by a person having sufficient understanding of the local real estate market. If the property owner requests an appraisal one will be conducted.

Recipients must establish minimum qualifications for appraisers. These vary according to the difficulty of the review. Inexperienced appraisers should not be asked to examine complex properties. The Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) standards apply to URA. Fee appraisers making a detailed appraisal must be state certified. For a list of state certified appraisers, go to <http://www.asc.gov/default.aspx?id=11>.

Appraisers must not have any conflicts of interest with the owner or property they are to review. This includes direct and indirect ties. Payment for conducting the appraisal may not be tied to the resulting property value.

The appraiser shall disregard any decrease or increase in the market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner.

- 4) **Review of Appraisal:** After the initial appraisal is conducted, it must be checked by a qualified review appraiser. The review appraiser must examine all appraisals to check for accuracy, documentation and soundness of opinion. If the review appraiser does not accept an appraisal, a second full appraisal must be sought. If the review appraiser does not agree with the original appraisal and it is not practical to do a second appraisal, the review appraiser may present and analyze market value information to support a recommended value. The reasons for the change and the new value must be set out in a certified document.
- 5) **Purchase offer and Summary Statement of the Basis for Just Compensation:** After an appraisal determines the fair market value of the property and is approved by the review appraiser, the recipient should promptly deliver a Purchase Offer and a Summary Statement of the Basis for Just Compensation to the owners. The Purchase Offer should be at an amount not less than the approved appraisal. The Summary Statement of the Basis for Just Compensation is a written explanation of the purchase offer. Please review *Helpful Acquisition Information* found in Appendix Two for what it should contain.

If the acquisition will leave the owner with an “uneconomic remnant,” the recipient must offer to buy the full property (an uneconomic remnant is considered to be a parcel of property left after acquisition that has little or no value to the owner). If the owners retain or remove property improvements from the site, the salvage value of the improvements should be deducted from the offer of just compensation.

- 6) **Negotiation of Purchase Price:** When feasible, negotiations should be conducted in person. Owners have the right to suggest alternatives or additions to the offer of just compensation and to suggest changes in the appraisal. If the owner’s information or suggestions warrant a new appraisal, one must be conducted. A review appraisal also may be needed if significant time has passed since the original appraisal. If the second appraisal suggests an increase in the fair market value, this must be communicated to the owner and a new offer of just compensation must be made.

Recipients may not take any coercive action (e.g., advancing the time of condemnation or depositing just compensation funds with the court) to rush or influence the owner’s decision. Recipients may allow an owner or tenant to remain on the purchased site at a market rent for the property. However, recipients should ensure that this lease would enable them to legally and readily take possession of the property as required by the project plans. Recipients may authorize an administrative settlement that exceeds the amount of just compensation. The recipient should document such action with information such as court awards exceeding market value, estimated legal costs or valuation errors. Recipients must not pressure appraisers to change the value of their estimates.

Before taking possession of a property, the recipient must pay the owner the agreed upon price. In the case of a condemnation, money must be deposited with the court for the owner. This amount should be no less than the market value or court award of compensation. Only in exceptional circumstances and with the owner’s approval may the recipient enter the property before payment.

The owner of the real property shall be reimbursed for all reasonable expenses the owner necessarily incurred for the following:

- Recording fees, transfer taxes, documentary stamps, evidence of title, boundary survey and legal description of the real property (however, the recipient is not required to pay costs solely required to perfect the owner's title to the real property);
 - Penalty costs and other charges for prepayment of any pre-existing recorded mortgage entered into in good faith encumbering the real property; and
 - The pro rata portion of any prepaid real property taxes allocable to the period after the recipient obtains title to the property or effective possession of it, whichever is earlier.
 - Whenever feasible, the recipient shall pay for the incidental expenses directly so the owner will not have to pay such costs and then seek reimbursement from the recipient. To avoid duplicate expenditures, the property owner should be informed early in the acquisition process of the recipient's intent to make such arrangements.
- 7) **Tenant Assistance:** The Recipient must provide advisory services, moving assistance, and relocation payments as applicable.

Condemnation Proceedings

If a property is to be taken by eminent domain, the recipient must initiate formal condemnation proceedings. Recipients may not require the owner to prove the taking of his/her property. Inverse condemnations are takings in fact, but not through legal means. For example, an airport is placed next to a property and the noise from planes makes the property unusable. Even though this property has not been taken through legal means, the use of it has been lost and the owner is entitled to compensation.

The owner of the real property shall be reimbursed for any reasonable expenses, including reasonable attorney, appraisal and engineering fees, which the owner actually incurred because of a condemnation proceeding if:

- The final judgment of the court is that the recipient cannot acquire the real property by condemnation; or
- The condemnation is abandoned by the recipient other than under an agreed upon settlement; or
- The court having jurisdiction renders a judgment in favor of the owner in an inverse condemnation proceeding or the recipient affects a settlement of such proceeding.

Property Donation

If a property owner wishes to donate their property no appraisal is necessary. The property owner must release the recipient from the obligation to conduct an appraisal in writing. The property owner must also be informed of their rights and be sent a copy of *"When a Public Agency Acquires Your Property"* (found in Appendix Two).

In the Appendix to Chapter 2

The Appendix to Chapter 2 contains the following:

Environmental Review

- Environmental Process Flow Chart
- CDBG Recipient Guide to Lead Federal Agency Designation
- DNR and CDBG Recipient Lead Federal Agency Designation
- USDA-RD and CDBG Recipient Lead Federal Agency Designation
- USDA-RD, DNR and CDBG Recipient Lead Federal Agency Designation
- Finding of Exemption/Request for Release of Funds Form
- Finding of Categorical Exclusion Not Subject to: Request for Release of Funds Form
- Exempt Projects and Categorically Excluded Not Subject to the Related Laws and Authorities
- Categorically Excluded Subject to Related Laws Environmental Worksheet
- Categorically Excluded Subject to Related Laws: Notice to Request Release of Funds
- Environmental Assessment Worksheet
- Informational Sheet Section
 - A - Noise Assessment Guidelines
 - B - Historic Preservation
 - C - Procedures for Making Determinations on Floodplain and Wetland Management
 - D - Habitat Description for Federally Listed Threatened, Endangered and Proposed Species in Iowa
 - E - Iowa Protected Water Area Designation
- Forms Section
- Farmland Conversion Impact Rating
- Farmland Conversion Impact rating for Corridor Type Projects
- Civil Rights Impact Analysis Certification
- Notices Section (Floodplain and Wetland Only)
 - Notice of Proposed Project to be Located in a Floodplain or Wetlands
 - Notice of a Decision Regarding Project to be Located in a Floodplain or Wetlands
- Programmatic Memorandum of Understanding
- Exempt from SHPO Review, Project Documentation Form
- Request for Iowa Site File Search
- Section 106 Archaeology Flowchart
- Section 106 Architectural Flowchart

- Authorization for alternative Signatories for the SHPO Comment Form
- Request for SHPO Comment on a Project - Form and Instructions
- Site Inventory Form and Instructions
- Sample Concurrent Notice to Public of Finding of No Significant Impact/
- Notice of Public Intent to Request Release of Funds
- List of Agencies to Whom Finding of No Significant Impact (FONSI) Should be Distributed
- Request for Release of Funds and Certification

Procurement

- Sample Form of Resolution - Procurement Policy
- Sample Evaluation Criteria for Recipient Use in the Procurement of Professional Services
- Sample Form of Resolution - Code of Conduct
- CDBG Procurement Regulations (24 CFR 85.36)

Civil Rights and Fair Housing

- Civil Rights – Equal Opportunity Applicable Laws and Regulations
- Suggested Actions to Affirmatively Further Fair Housing
- Equal Housing Opportunity Logo
- Sample Public Notice - Affirmative Fair Housing Policy
- Clearinghouses for Solicitation of Minority-owned and Female-owned Businesses
- Section 3 Report Form and Instructions
- Sample Format for Section 3 Employee Interviews
- HUD Median Income Levels by County (for Section 3 Interviews)

Labor Standards

- Request for Wage Determination Form
- Request for Approval of Additional Classification Form and Instructions
- Request for Contractor Eligibility Form
- Sample Payroll Form and Instructions
- Record of Employee Interview Forms (English and Spanish)
- Federal Labor Standards Questionnaire (English and Spanish)
- On-line Employee Questionnaire
- Federal Labor Standards Complaint Intake Form
- Job Site Poster Samples

Required Contract Provisions

- Project Construction Sign: Specifications
- Temporary Construction Sign for Jointly Funded Projects
- Federal Labor Standards Provisions
- Required contract language and provisions
- Section 3 Clause

Acquisition

- “When A Public Agency Acquires Your Property”
- General URA Acquisition Process
- Helpful Acquisition Information
- Guideform Notice to Owner – Involuntary Acquisition (Threat/Use of Eminent Domain)
- Guideform Notice to Owner – Voluntary Acquisition – Informational Notice (Agencies Without Eminent Domain Authority)
- Guideform Notice to Owner – Voluntary Acquisition – Informational Notice (Agencies With Eminent Domain Authority)

Your Notes

Financial Management

Issues Related to Requesting and Using CDBG Funds

Financial Management

Your financial management system must provide for accurate, current and complete disclosure of the financial activities related to the CDBG project.

General Guidelines

If you use a cash basis accounting system, you are not required to use an accrual system under the CDBG Program. However, financial status is reported to IDED on an accrual basis. To simplify reporting and verification of data, you might find it necessary to develop accrual data for reporting purposes.

Your records must adequately identify the sources and uses of funds for CDBG projects. The records must contain information pertaining to the CDBG award and authorization, obligations, unobligated balances, assets, liabilities, outlays and income. All local effort (or other funds) must be documented in the same manner as CDBG funds and be incorporated into the project financial records. You must maintain separate records that readily identify the revenues and expenditures of CDBG and local funds.

You must adequately safeguard all funds, property and other assets through effective internal control and accountability and ensure that they are used solely for the purposes authorized. Your financial management system must provide for a comparison of actual outlays with budgeted amounts and show the relationship of financial information to program performance.

You must adopt procedures to minimize the amount of cash on hand (guideline is \$500 maximum if held for 10 working days or longer) and the time elapsing between receipt of funds from IDED and disbursement for project activities. You should make requests for funds – called “draws” – from IDED as close as possible to the time of disbursement, through a procedure that ensures funds are expended within 10 working days of receipt.

You should inform your contractors there might be a 3- to 4-week delay between their submission of an invoice and receipt of payment.

You must have a procedure for determining the reasonableness and allowability of costs in accordance with OMB Circular A-87, *Principles for Determining Costs Applicable to Grants and Contracts* (available upon request from IDED). This circular provides the principles under which costs are allowable and makes the recipient responsible for grant administration through

sound management practices and expenditures in compliance with the contract. You must ensure all costs are reviewed for allowability under the principles adopted by IDED from OMB Circular A-87 and 24 CFR Part 85, the Housing and Community Development Act of 1974 as amended, State administrative rules and your CDBG contract.

Allowable Costs

Costs incurred in CDBG projects are allowable only under the following conditions:

- The CDBG contract with IDED has been properly executed.
- Administrative and exempt activity costs are incurred on or after the date of receipt of a letter authorizing such costs or after the effective date of the CDBG contract.
- All other costs are incurred only after all necessary environmental requirements have been completed, and all applicable special conditions have been satisfied.
- Costs are accounted for in accordance with generally accepted accounting principles and are not prohibited by federal, state or local laws.
- Costs are authorized in the award made by IDED.
- Costs are incurred for activities eligible under the CDBG Program.

Costs must be documented in your accounting records (e.g., by invoices, vouchers, etc.).

Employees paid in whole or in part from CDBG funds or whose time is to be credited to the project as community financial support must prepare timesheets showing the time they worked on the assisted activity each pay period. The recipient must maintain a payroll analysis showing the time and pay associated with CDBG funds.

Property Management

Expendable personal property costing less than \$5,000 in the aggregate may be purchased without prior approval from IDED. Such purchases must meet all other tests of allowability. Equipment with a purchase price of \$5,000 or more in the aggregate (“non-expendable personal property”) requires the written approval of IDED prior to purchase. This condition is considered satisfied when such equipment is specifically referenced in the contract (in the project description or budget). For the use of equipment not purchased with federal funds, allowable use or depreciation charges may be allowed. See OMB Circular A-87 for guidance on determining “allowable” charges.

Payment of Interest Costs

Interest costs that can be construed as reasonable and necessary for the delivery of CDBG activities and projects are considered project related and eligible. Interest costs are considered reasonable and necessary if the eligible project could not be implemented without incurring the interest costs. Related legal fees and bonding costs are also eligible.

General Accounting Procedures

Recipients must use a financial management system that assures proper and efficient administration of CDBG funds. Three basic principles should guide the development of your financial management system:

- 1)** Procedures should be formalized so they can be applied consistently.
- 2)** Procedures should be designed to ensure adequate internal control of funds.
- 3)** Financial transactions should be documented so they can be clearly tracked in an audit.

Regardless of the financial management system used, separate accounting records must be maintained for CDBG funds to distinguish them from all other funds. CDBG revenues and expenditures must be readily identifiable in your accounting records.

Recommended Accounting Documents

Your financial management system should include the following accounting documents (or their equivalent):

- 1)** Cash Receipts Journal: A journal to record the receipt of all funds applied to the project. The journal should include the date funds were received, the amount of funds received, the source of funds and the accounts into which funds were assigned. Each receipt should be listed separately.
- 2)** Cash Disbursement Journal: A journal to record all checks issued for payment of program costs, including the date of payment, the payee, the check number, the amount and the program and expense account to which the charge was made.
- 3)** General Ledger: A ledger maintained to summarize monthly cash receipts and disbursements for each activity included in the project.
- 4)** Journal Entry Vouchers or General Journal: Records showing explanations and amounts of adjustments to the general ledger accounts.
- 5)** Fixed Assets Ledger: A listing of all fixed assets acquired with CDBG funds.
- 6)** CDBG Federal Cash Register: A record of draws (requests for funds), federal checks received and balance of CDBG funds.

Receipt and Disbursement of Funds

A critical factor in requesting and expending federal funds is the timing of receipt and disbursement of funds. Funds may be drawn down only for immediate cash needs and no more than 10 working days may elapse between receipt of funds and disbursement by the recipient. IDED uses a guideline of \$500 maximum cash on hand following the 10-day limit in determining non-compliance. If non-compliance is determined, IDED reserves the right to convert the recipient to a mandatory reimbursement system, where the recipient expends its own funds and then requests federal funds to cover the expenditure.

Requesting CDBG Funds and Reporting on Activity Status

Recipients draw down CDBG funds and report expenditures and activity status using the “Request for Payment/Activity Status” Form. A copy of this form and the instructions are included in the appendix to this Chapter.

You should not automatically request CDBG funds in the amount needed to cover all expenses when portions of those expenses will be paid with local or other funds. Requests for funds are to be made on an accrual basis. You should request funds only as they are needed.

When requesting funds you must complete the Contract Activity Status section of the report including the status of special conditions.

Funds must be drawn down for each activity in whole dollar amounts. Requests should be in amounts of no less than \$500.

Requests must be signed in ink (**in a color other than black**) by the contract signatory, or by an officer or employee of the recipient designated by the contract signatory and whose attested signature and designation letter are on file at IDED. See Chapter 1 for more information on designating alternate signatories.

When requesting funds, you must submit the **original** and **three copies** of the 2-sided “Request for Payment/Activity Status” form. Requests should be directed to the attention of Data Analyst; Community Development Division; IDED; 200 East Grand Avenue; Des Moines, Iowa; 50309.

The request will be verified by IDED staff for completeness, accuracy, proper signature, and reasonableness in relationship to the status of the project. Major deficiencies may result in the request not being processed. You will be notified either in writing or by telephone in such cases, and likely will be asked to resubmit the request. If there is a minor deficiency, IDED may correct it and notify you so you can correct your records. Recipients can anticipate a time lapse of 3 weeks between IDED’s receipt of a request and the direct deposit of funds in the recipient’s designated account. IDED will send the recipient separate notification that the direct deposit is occurring. Please note the date of deposit to verify the availability of your funds, which are normally in your account three business days from the date shown on the slip. CDBG funds will be transferred to the account your City or County has previously set up with the State for this purpose. If you need to change which account is to receive money, please complete the Electronic Funds Transfer Authorization Form in Appendix 3.

Program Income

Definition of Program Income

Program income refers to income a recipient receives that is directly generated by the use of CDBG funds. Program income also includes funds generated by the use of other program income. Examples of program income include the following:

- Payments of principal and/or interest on loans made using CDBG funds (or program income funds);
- Proceeds from the disposition by sale or long-term lease of real property acquired, rehabilitated or constructed with CDBG funds (or program income funds);

- Interest earned on funds held in a revolving loan account; and
- Interest earned on program income pending its disposition.
- If you receive less than \$25,000 of program income (cumulative of all CDBG grants) in a program year, it is considered “miscellaneous revenue” and may be used for any purpose. Otherwise, program income must be used for the same activity from which it was generated, and all CDBG requirements remain in effect. (An exception to this rule occurs when dealing with Revolving Loan Funds - all repayments to the RLF are program income – there is no \$25,000 “exemption.”)

When program income is generated by projects that are only partially assisted with CDBG funds, the program income amount is pro-rated to reflect the percentage of CDBG funds used.

Program Income Received before the Contract End Date

If you receive program income before your contract end date, you must expend it before requesting additional funds. The Request for Payment form you use to draw down CDBG funds includes a space for you to record the amount of program income generated; your request for funds must be reduced by that amount. The Request for Payment form and instructions are included in the appendix to this Chapter.

Program Income Received on or after the Contract End Date

If you receive program income on or after the contract end date, you have two options:

- 1) You may use the program income according to a reuse plan approved by IDED; or
- 2) You may return the program income to IDED.

If you have another open CDBG contract at or after the time of closeout of the original contract, program income is treated the same as that received before the end date of the original contract. In other words, the program income from the original project must be expended before requesting additional CDBG funds for the other project. As an exception, IDED may choose to allow the funds to be held in a revolving loan fund. Such use must be outlined in an approved reuse plan.

Reuse Plan

If you plan to reuse program income, you must have an IDED-approved reuse plan. The reuse plan must include the following elements:

- A forecast of the amount of program income expected to be received;
- A description of the activities for which the program income will be used;
- The location where the activities will occur;
- A description of the persons who will benefit from use of the program income;

- A proposed timetable for receipt and expenditure of program income; and
- Certification that the program income will be used in full compliance with all state and federal requirements.

Reporting and Monitoring

If you are reusing program income, you may be asked to report periodically on its use. IDED will provide you with the forms and instructions for reporting on program income. All program income use is subject to monitoring by IDED.

In the Appendix to Chapter 3

- Request for Payment/Activity Status Form and Instructions
- Electronic Funds Transfer (EFT) Authorization Form

Your Notes