
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 Economic Development Authority (IEDA) 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 eight chapters:

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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 3 contains forms and documents related to Chapter 3 of the guide (Environmental Review). A list of items contained in the applicable appendix is included at the end of each chapter

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 do not find addressed here. Do not hesitate to contact IEDA for additional assistance. IEDA staff members – particularly the project manager assigned to your project – are available to help you. A list of staff members and their contact information is included in the appendix to this Chapter.

Getting Started

You have 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 have not already – to get started.

- 1) **Determine who will handle project administration.** CDBG recipients should plan to contract with an experienced CDBG administrator for the day-to-day management of their project. Recipients must follow federal procurement requirements when selecting a grant administrator. Procurement instructions are outlined in Chapter 2.

Recipients choosing to contract for administrative services with Regional Planning Commissions or Councils of Governments do not have to complete the competitive procurement process.

- 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 applies to the CDBG program and its recipients. Many cities and counties have already obtained a number and will simply have to provide the number to IEDA 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, please provide the number to your project manager.

- 3) **Enter into a subrecipient agreement if necessary.** 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 the subrecipient. Before you distribute any CDBG funds, you must **execute a written agreement with your subrecipient** and provide IEDA with a copy of the signed agreement. The appendix to this Chapter includes a list of the minimum required provisions for and a sample of, a subrecipient agreement.
- 4) **Review contract documents from IEDA.** When contracts arrive, review them carefully. If there are changes that should be made, notify your IEDA project manager immediately. The contract should be signed by the Chief Elected Official (CEO) for the project. Return the original documents to IEDA. Once fully executed, a copy of the contract will be uploaded into lowagrants.gov.
- 5) **Adopt Policies.** The local government must adopt a Prohibition on the Use of Excessive Force policy, a Residential Anti-displacement and Relocation Assistance Plan (RARA), a Code of Conduct, a Fair Housing policy, and an Equal Opportunity Policy. These policies are required for local governments to accept CDBG funds. Copies of the policies must be provided to IEDA before funds will be released. Samples of these policies are included in the appendix to this Chapter.
- 6) **Complete signature authorization forms, if necessary.** The authorized signatory 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 are on your way, but there are still some major tasks to complete. Here are six 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. This process is described step-by-step in Chapter 3 and Appendix 3. **Remember: you cannot go out to bid, sign construction contracts, acquire property, and/or start construction until you have completed the environmental review and received a Release of Funds from IEDA.**
- 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 IEDA so construction can begin on schedule. If you have any questions about the conditions in your contract, contact your assigned project manager.
- 3) **Acquisition & relocation.** If you are acquiring any property or relocating any person(s), business or operations as a result of the CDBG project, refer to Chapter 2 to learn about acquisition and relocation requirements.
- 4) **Procure technical services, architectural and/or engineering services.** IEDA guidance instructs applicants to procure for architectural, engineering, grant administration and technical services prior to applying for CDBG funds. However, if there is a need to procure for additional services after an award is made, you must follow 2 CFR 200 requirements as outlined in the Procurement section of this chapter. Community facility and stormwater project design teams will consult with Iowa Department of Agriculture and Land Stewardship (IDALS) Urban Conservation Program Team on project stormwater management designs at 30, 60, 90 percent, and final design. The Recipient will secure and upload as a supporting document to the wage rate request in www.iowagrants the Milestones Checklist from IDALS confirming stormwater management designs meet the requirements of the Iowa Green Streets Criteria and the [Iowa Stormwater Management Manual](#).

The IEDA intends to make available to CDBG community facility and stormwater project recipients a design consultant team with expertise in stormwater, energy efficiency, building design, and construction best practices. This team will be available for a limited number of hours to assist your project's design professionals in delivering high performing projects designed to meet many of the Iowa Green Streets Criteria. Contact your assigned IEDA project manager to request design assistance. Specific procurement requirements are described in Chapter 2.

- 5) **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. Bid documents should include required Section 3 language (refer to Chapter 8 for more information on Section 3)
When applicable, the Iowa Green Streets project plan, checklist and criteria must be

included in or linked to the bid package provided to contractors. Stormwater projects must follow the specifications in the Iowa Stormwater Management Manual.

In most cases, a wage rate determination will be necessary.

You should request a wage rate determination from IEDA 30 days before advertising for bids. 10 days before the bid opening date, you should call IEDA to determine if the wage rate has been modified or superseded. Before awarding any contract, you must check to verify that the selected contractor is not on a federal or state debarred list. You should inform IEDA of the date construction will begin. Specific procurement and labor requirements are described in Chapter 2 and Appendix 2.

Do not go out to bid for your project until after you have received a release of funds letter from IEDA.

- 6) **Establish your financial management and reporting procedures.** There is a specific process for drawing down federal funds. Additionally, there are some important financial management and reporting requirements with which recipients must comply. Review Chapter 4 carefully for instructions on financial management and how to request CDBG funds.

Down the Road

As your CDBG project moves forward, it pays to think ahead. Here are more activities you will encounter as you move forward with your project:

- 1) **Project Monitoring.** It may be months, or even years away, but it is never too soon to think about project monitoring. Your IEDA project manager will perform a desk top review or on-site monitoring 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. The monitoring checklist is available on the IEDA website. Recipients and grant administrators should review the checklist prior to a monitoring visit to ensure information IEDA staff will need to review is available at the visit.

Remember- 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) **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 during the project; This hearing should not be held after project activities are complete. The status of funded activities hearing should be held when the project is at 50% completion. Once a project is reported at 50% complete, IEDA will not process any draw requests until documentation from the public hearing has been provided. A list of requirements for the public hearing is included in the appendix to this Chapter.
- 3) **Contract amendments.** If you encounter some unforeseen change to your project after contract execution, you must submit a contract amendment request through lowagrants.gov. 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) **Grantee Performance Report (Form 3-D), if applicable.** For Community Facilities and Services and Career Link Employment Transportation projects, you must submit Form 3-D to report project beneficiaries. Career Link Employment Transportation projects should submit this form annually; Community Facilities projects will submit this form at the end of the project. This report is available in lowagrants.gov. Please note that storm water projects funded under Community Facilities and Services do not require a Form 3-D.
- 5) **Green Street Criteria, if applicable.** For projects required to follow the Iowa Green Streets Criteria, upon completion of your project, submit through lowagrants.gov completed Iowa Green Streets Criteria Appendices D and E. Appendix E does NOT apply to Downtown Revitalization Fund façade projects.

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

- 6) **Updated Applicant/Recipient Disclosure/Update Report.** This report 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. However, if there are any changes in the information that was provided in the initial report, an updated report must be submitted to IEDA. The report form and instructions are included in the appendix to this Chapter.
- 7) **Audit and close out procedures.** The appendix to this Chapter includes guidelines on audit and closeout procedures. It is a good idea to understand these requirements early in your project as an audit may be required prior to project completion.

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
- 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)
- CDBG Application & Administration steps and references

Your Notes

Federal Requirements

This Chapter describes all the federal requirements, with the exception of the Environmental Review, that apply to the CDBG program. Recipients should review this Chapter carefully and refer to it as necessary to ensure compliance.

National Objective

The authorizing statute of the CDBG program requires that each activity funded, except for program administration and planning activities, meet one of three national objectives. The three national objectives are:

- 1) Benefit to low- and moderate- income (LMI) persons.** The LMI national objective is often referred to as the “primary” national objective because the statute requires that recipients expend 70 percent of their CDBG funds to meet the LMI national objective. There are four subcategories that can be used to meet the LMI national objective:

Area benefit activities (Low Mod Area or LMA): An area benefit activity is one that benefits all residents in a particular area (primarily residential), where at least 51 percent of the residents are LMI persons.

Programs that use this National Objective: Water and Sewer Fund, Community Facilities and Services Fund, and Opportunities and Threats fund

Limited clientele activities (low Mod Limited Clientele or LMC): Under this category, 51 percent of the beneficiaries of an activity have to be LMI persons. Activities in this category provide benefits to a specific group of persons rather than everyone in an area. Benefit a clientele that is generally presumed to be principally LMI such as:

- abused children,
- battered spouses,
- elderly persons,
- severely disabled adults,
- homeless persons,
- illiterate adults,
- persons living with AIDS and migrant farm workers;
- or have income eligibility requirements limiting the activity to LMI persons only; or be of such a nature and in such a location that it can be concluded that clients are primarily LMI.

Programs that use this National Objective: Community Facilities and Services Fund benefiting a certain clientele like Senior Centers and Child Care Centers.

Housing activities (Low Mod Housing Activities or LMH): The housing category of LMI benefit national objective qualifies activities that are undertaken for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by LMI households.

Programs that use this National Objective: Housing Fund

Job creation or retention activities (Low Mod Job creation or retention activities or LMJ): The job creation and retention LMI benefit national objective addresses activities designed to create or retain permanent jobs, at least 51 percent of which (computed on a full-time equivalent basis) will be made available to or held by LMI persons.

Programs that use this National Objective: Job creation, Retention, and Enhancement Fund

- 2) Aid in the prevention or elimination of slums or blight.** Activities under this national objective are carried out to address one or more of the conditions which have contributed to the deterioration of an area designated as a slum or blighted area. The focus of activities under this national objective is a change in the physical environment of a deteriorating area. Under the elimination of slum and blight national objective, determining the extent of and physical conditions that contribute to blight is central to qualifying an activity. There are two categories that can be used to qualify activities under this national objective:

Prevent or eliminate slums and blight on an area basis (SBA): This category covers activities that aid in the prevention or elimination of slums or blight in a designated area. The designated area in which the activity occurs must meet the definition of a slum, blighted, deteriorated or deteriorating area under state or local law. Additionally, the area must meet either *one* of the two conditions specified below:

- Public improvements throughout the area are in a general state of deterioration; or
- At least 25 percent of the properties throughout the area exhibit one or more of the following:
 - Physical deterioration of buildings/improvements;
 - Abandonment of properties;
 - Chronic high occupancy turnover rates or chronic high vacancy rates in commercial or industrial buildings;
 - Significant declines in property values or abnormally low property values relative to other areas in the community; or
 - Known or suspected environmental contamination.

Programs that use this National Objective: Downtown Revitalization Fund and/or Opportunities and Threats Fund

Prevent or eliminate slum and blight on a spot basis (SBS). These are activities that eliminate specific conditions of blight or physical decay on a spot basis and are not located in a slum or blighted area.

Programs that use this National Objective: Downtown Revitalization Fund and/or Opportunities and Threats Fund

- 3) Meet a need having a particular urgency (referred to as urgent need).** Use of the urgent need national objective category is rare. It is designed only for activities that alleviate emergency conditions. Urgent need qualified activities must meet the following criteria:
- The existing conditions must pose a serious and immediate threat to the health or welfare of the community;
 - The existing conditions are of recent origin or recently became urgent (generally, within the past 18 months);
 - The grantee is unable to finance the activity on its own; and
 - Other sources of funding are *not* available.

Programs that use this National Objective: Opportunities and Threats Fund

Procurement

CDBG recipients must comply with the procurement policy in Appendix 2 of this guide. 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 2 CFR 200 Part 318, recipients must adopt a written procurement policy and a code of conduct. Samples are included in the appendix to this Chapter.

Recipients will need to certify that CDBG project procurement was completed following the requirements. The Certification of Compliance form, available in Appendix 2, should be signed and uploaded into lowagrants.gov.

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 2.

Five Methods of Procurement

1. **Small:** Estimated annual value does not exceed \$5,000 and does not exceed \$15,000 for multiyear contracts: For supplies and services only. The subrecipient does not need to solicit competitive quotations if the subrecipient considers the price to be reasonable. To the extent practicable, the subrecipient must distribute such procurement equitably among qualified suppliers.
2. **Simple:** Estimated annual value exceeds \$5,000 but less than \$50,000 per year and does not exceed \$150,000 for multiyear contracts: For non-engineering and architectural services and supplies only. The subrecipient may use an informal competitive selection process to engage a service provider. Informal selection means price or rate quotations must be obtained from an

adequate number of qualified sources. The subrecipient may contact the prospective service providers in person, by telephone, fax, email or letter. The subrecipient should solicit at least three prospective service providers. The sub recipient must justify, to IEDA's satisfaction, contacting fewer than three service providers. The justification shall be included in the contract file.

3. **Professional:** Estimated annual value exceeds \$50,000 per year and exceeds \$150,000 for multiyear contracts: For supplies and services and ALL engineering and architectural services, a subrecipient shall use a formal *competitive selection* process to procure the goods or services.
4. **Sealed bids:** (formal advertising): The sealed bid method is the preferred method for procuring construction. Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price. A complete, adequate, and realistic specification or purchase description will be developed before bidding.

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 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.

Please note that competition clause in the procurement policy 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. IEDA provides templates for recipients to use when procuring a grant administrator, technical services provider (CDBG housing projects), and engineering/architectural services. Recipients must submit a certification to IEDA stating that the consultant selected for services did not assist the community with the procurement process in any manner.

Noncompetitive Proposals

A noncompetitive proposal means a procurement through either a "sole source," when the Recipient solicits an offer from one source, or a "single source," when the Recipient solicits offers from multiple sources but receives only one or the competition is determined inadequate.

Procurement by noncompetitive proposals (sole or single 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 multiple sources, competition is determined inadequate.

Sole or single source procurement is unusual and the circumstances and rationale for its use must be fully documented. Additionally, IEDA must approve in advance sole or single source procurement for contracts or purchases.

Exception for Administrative Contracts

Recipients wanting to contract for administrative services with regional or metropolitan planning commissions or councils of governments existing pursuant to Chapter 28H, Code of Iowa, may do so without regard to the provisions of 2 CFR 200.320, provided that such services are billed on an actual cost basis. IEDA has determined that a primary function of metropolitan and regional planning commissions and councils of governments existing under Chapters 28E and 28H, 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 320. However, nothing prevents any recipient from complying with the provisions of Subpart 320 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. 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.

Recipients considered to be “State”

200.317 Procurements by states.

24 CFR 570.489(g) supersede 200.317. (g) Procurement. When procuring property or services to be paid for in whole or in part with CDBG funds, the state shall follow its procurement policies and procedures. The state shall establish requirements for procurement policies and procedures for units of general local government, based on full and open competition. Methods of procurement (e.g., small purchase, sealed bids/formal advertising, competitive proposals, and noncompetitive proposals) and their applicability shall be specified by the state. Cost plus a percentage of cost and percentage of construction costs methods of contracting shall not be used. The policies and procedures shall also include standards of conduct governing employees engaged in the award or administration of contracts. (Other conflicts of interest are covered by §570.489(h).) The state shall ensure that all purchase orders and contracts include any clauses required by Federal statutes, executive orders and implementing regulations.

Entities that are considered “State” include state agencies such as Iowa Department of Natural Resources (DNR), Iowa Department of Agriculture and Land Stewardship (IDALS), and Iowa Homeland Security and Emergency Management (HSEMD), and the Iowa Civil Rights Commission (ICRC). These agencies should follow the state’s procurement policy as interpreted by their respective agencies.

Iowa State University (ISU), University of Iowa (UI), and University of Northern Iowa (UNI) are considered state agencies and are governed by the Board of Regents, State of Iowa. Purchasing

authority is delegated from the Board of Regents through the Universities in accordance with the statutes and administrative rules of the State of Iowa and the procedures of the Board of Regents. All University purchases are made in accordance with University Policy, regardless of source of funds.

If goods are procured by entities defined as "State" Iowa Code 8A.316 and 11.117 as interpreted by their respective state agencies will apply.

Civil Rights and Fair Housing

Your contract lists several federal regulations related to civil rights, equal opportunity and fair housing. 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 IEDA and consult with your project manager.

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 mandatory & optional affirmative fair housing actions is included in the appendix to this chapter. **All grantees receiving CDBG funds through the State must complete the two mandatory strategies and at least one elective strategy regardless of the CDBG funded project. This requirement is not limited to CDBG housing sustainability projects.** 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.

Per 2 CFR 200.321, recipients must take the following affirmative steps to solicit MBE/ WBEs:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in in the steps above.

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.

Recipients should also utilize the state of Iowa's Targeted Small Business (TSB) directory to help identify MBE/ WBEs that can provide services associated with your CDBG project. Iowa's TSB directory can be found at at <https://www.iowa.gov/tsb>. Recipients should share Section 3 information with those businesses on the State's TSB directory to see if they may also qualify as a Section 3 business.

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

The purpose of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (section 3) is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to businesses which provide economic opportunities to low- and very low-income persons.

Section 3 applies to CDBG funding and must be incorporated into your procurement documents. Section 3 requirements and documentation are covered in chapter 8 and Appendix 8 of the Management Guide

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.

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 IEDA 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.

Labor Standards Compliance Officer

The labor standards described in this section 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. If compliance signature is from a representative other than owner, an authorization for alternative signature must be provided.
- 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
 - List from the general contractor of all subcontractors and lower-tier subcontractors that will work on project
 - Scope of work statement for each contractor and subcontractor
 - 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
- Resource Documents
 - Federal Labor Standard Requirements in Housing and Urban Development Programs: HUD Handbook 1344.1 Rev. 2
 - A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects: Labor Relations Desk Guide LR01.DG

Requesting Wage Rate Determinations

Recipients obtain wage rate determinations by making a request in lowagrants.gov. The request should be submitted 30 days in advance of the bid advertisement date. Upon receipt of the request, IEDA 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 IEDA 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 IEDA 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. The construction bid solicitation should include language that the project is a federal project subject to the Davis-Bacon prevailing wage requirements. 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 IEDA. A sample form is included in the appendix to this Chapter for requesting approval of additional classifications. IEDA will review the request and forward it to the Department of Labor for approval. **You should allow six weeks for this process.**

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. This requirement also applies to engineers, architects, and grant administrators. 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.**

Recipients will need to check the federal SAM database (www.sam.gov) prior to awarding or entering into a contract to ensure contractors are not on the debarred list.

Recipients should enter the date that SAM was checked for contractor eligibility in lowagrants.gov. You can then request verification of contractor eligibility by submitting the request in lowagrants.gov. Upon receipt, IEDA will verify the listed contractors and email a verification of eligibility to the recipient.

Labor Standards Administration and Compliance

Other DOL administration and compliance activities which recipients and their contractors and subcontractors are responsible for 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 IEDA 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 2. Any subcontractor whose owner is working without any employees on a given work week must be listed on the general contractor's weekly certified payroll.
- 8)** You must examine payrolls and related records 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 IEDA. For further information on reporting requirements, contact IEDA's labor specialist.

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 IEDA, 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. IEDA 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 IEDA's Labor Standards Officer if the project employs apprentices under the WIA.

Required Contract Provisions

Recipients must certify that all federal requirements listed in their contracts with IEDA 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)
- Equal Employment Opportunity provisions
- 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)
- Required provisions for contracts in excess of the simplified acquisition threshold currently set at \$150,000 (included in the appendix)
- Clean Air Act and Federal Water Pollution Control Act for contracts in excess of \$150,000 (included in the appendix)
- Section 3 clause
- Debarment and Suspension
- Byrd Anti-Lobbying Amendment
- Mandatory standards and policies relating to energy efficiency
- Procurement of recovered materials
- Rights to Inventions Made Under a Contract or Agreement.

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 2. You should give these sign specifications to the project architect or engineer so they can be included 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 CDBG 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 subrecipient (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.

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 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 subrecipient 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 2)

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 2)

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 2 (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 IEDA. 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 2.

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 landowner 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 2 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.
- Tenant Assistance: The Recipient must provide advisory services, moving assistance and relocation payment 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 2).

Relocation Procedure

If the property that is acquired for the CDBG funded project has tenants (households, businesses, non-profit organizations or farm operations) the buyer must provide to each tenant one of the following Notifications: Notice of Relocation Eligibility (NOE) (49 CFR 24.203(b)) or Notice of Nondisplacement.

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.

Prohibited Activities

In accordance with 24 CFR 570.207 (a): The following activities may not be assisted with CDBG funds:

- (a) BUILDINGS OR PORTIONS THEREOF, USED FOR THE GENERAL CONDUCT OF GOVERNMENT AS DEFINED AT § 570.3(D) CANNOT BE ASSISTED WITH CDBG FUNDS. This does not include, however, the removal of architectural barriers under § 570.201(c) involving any such building. Also, where acquisition of real property includes an existing improvement which is to be used in the provision of a building for the general conduct of government, the portion of the acquisition cost attributable to the land is eligible, provided such acquisition meets a national objective described in § 570.208.
- (b) GENERAL GOVERNMENT EXPENSES. Except as otherwise specifically authorized in this subpart or under 2 CFR part 200, subpart E, expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance under this part.
- (c) POLITICAL ACTIVITIES. CDBG funds shall not be used to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration. However, a facility originally assisted with CDBG funds may be used on an incidental basis to hold political meetings, candidate forums, or voter registration campaigns, provided that all parties and organizations have access to the facility on an equal basis, and are assessed equal rent or use charges, if any.

Monitoring Policy

Your CDBG program will be monitored by your IEDA project manager during the life of the project. Monitoring CDBG funded projects provides IEDA with the opportunity to provide technical assistance, determine the status of grant funded activities, review the recipient's grant

management system, and evaluate compliance with state and federal rules and regulations. It is IEDA policy to conduct at least one monitoring visit for every CDBG project. This includes both desk monitoring and on-site monitoring. IEDA staff will set-up an on-site monitoring date with the recipient's CEO and grant administrator.

Risk Based Monitoring:

IEDA will conduct a risk-based assessment annually for all contracts. While each of the activities will be monitored on-site at least once during the life of the grant, the risk-based assessment will assist project managers in determining the timing and frequency of documented monitoring.

The Risk based assessment will be conducted through iowagrants.gov as a component titled "Risk Assessment." This form will be filled out once a year by the project manager, and based on the outcome score, the project manager will determine when the next monitoring is required. Per 200.331(b), IEDA will evaluate each Recipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate level of monitoring, the risk-based assessment will include:

- Financial Risk – how large is the grant
- Submitted Draws – are claims on schedule as outlined in contract
- Program Management/Capacity – is administrator familiar with CDBG and attended training
- Compliance

Monitoring Thresholds

Regardless of the outcome of the risk-based assessment, projects will be at least be monitored in accordance with the following CDBG drawdown thresholds:

- Water & Sewer Fund: 50% CDBG funds drawn & 50% construction complete
- Community Facilities 50% CDBG funds drawn & 50% construction complete
- Opportunities & Threats 50% CDBG funds drawn & 50% construction complete
- Housing 50% CDBG funds drawn & 50% construction complete
- Downtown Revitalization 50% CDBG funds drawn & 50% construction complete

Once a project has met this threshold, the project manager should begin making plans to monitor the project. These thresholds were established to make certain the project was at a state of readiness so that a majority of the monitoring performance measure would be underway or completed.

Monitoring Procedures

Project managers will complete the relevant fields in the Site Visit component form in www.iowagrants.gov for each monitoring. Monitoring can be documented either in-person on-site with the subrecipient, or from the Project Manager's desk top. Each monitoring will be recorded in iowagrants.gov and dated to differentiate monitoring events. Monitoring can assess one, multiple or all of the areas of review. The final monitoring must make sure the following specific areas have been reviewed at least once during the project contract:

- National Objective / Project Progress
- Citizen Participation
- Environmental
- Financial Management
- Procurement
- Administration
- Contract Management (Architectural/Engineering)
- Contract Management (Professional Services)
- Contract Management (Construction)
- Labor Standards
- Housing Review
- Civil Rights (Section 3, EEO, Fair Housing, MBE/WBE)
- Acquisition and Relocation

While both On-site and Desk monitoring will look the same in iowagrants.gov, project managers will ensure the following policies are applied to the different types of reviews.

Desk Monitoring

Desk monitoring, or sometimes referred to as off-site monitoring, can be used as a substitute for on-site monitoring during the life of the grant. If desk monitoring will be used to replace onsite monitoring the project manager will discuss this decision with the team leader and get their approval. If a desk monitoring is decided upon all the criteria normally reviewed for an on-site visit will be conducted from the office. This process will entail a virtual meeting or uploading all required documents into IowaGrants for review. It will also involve an interview with City officials regarding grant management and financial review. Project managers will also schedule a virtual meeting following this comprehensive review to go over any deficiencies discovered during the monitoring visit with the City/County staff and grant administrator. The Project Manager shall provide advice for corrective action. The project manager will provide a final monitoring report outlining the findings of the visit and any corrective actions required by the city.

Desk monitoring can also be conducted on an ongoing basis and may include general review of project activities and communications to determine if the project is on track and the rules and regulations are being followed. Project managers may request from the Recipient or Grant Administrator supporting documentation to be emailed or uploaded into iowagrants.gov to allow for the review of items such as: draw requests to evaluate project progress, bid packet documents to review procurement compliance, samples of wage rates and time sheets for Davis Bacon review, etc. All desk monitoring should be sufficiently documented through iowagrants.gov as a site visit.

Monitoring Form

Monitoring forms are generated by IowaGrants and are program specific. However, example of a monitoring form called a site visit (regardless if it is on-site or desk-top) can be found here:

<https://www.iowaeconomicdevelopment.com/userdocs/documents/ieda/MonitoringChecklist.pdf>

On-Site Monitoring

On-site monitoring will be conducted at least once per activity prior to grant closeout unless the project manager and team leader decide a desk monitoring is sufficient. When conducting on-site monitoring visits, Project Managers shall make every attempt to monitor at the grant recipient's office, most often City Hall. The Chief Elected Official and the City Administrator/City Clerk shall be invited, along with the grant administrator. Project Managers shall reserve time following a comprehensive on-site review to go over any deficiencies discovered during the monitoring visit with the City/County staff and grant administrator. The Project Manager shall provide advice for corrective action. The project manager will provide a final monitoring report outlining the findings of the visit and any corrective actions required by the city. During the on-site review, the project manager will also visually inspect the project.

Monitoring Follow-Up

A follow-up correspondence shall be sent following every on-site monitoring visit. Project managers shall send this correspondence no later than two months following an on-site review. Included in the follow-up correspondence shall be a list of activities the recipient is doing well, areas for improvement, as well as corrective action needed. If the monitoring correspondence has significant findings, the letters will also go to the Division Coordinator and/or Division Administrator of the Community Development Division for review prior to being sent to the recipient. If the Findings also include a requirement for penalties or repayments, the letters will be reviewed by top Management (Director or Deputy Director) prior to being sent to the recipient. Any deficiencies included in the follow-up letter shall provide information on how to cure any such deficiencies. Typically, recipients shall have 30 calendar days to cure deficiencies or face non-compliance status.

Recipient Non-Compliance

If repeated attempts by the Project Manager to cure areas of non-compliance are unsuccessful, the Project Manager will work with the Division Coordinator to formally notify the grant recipient that corrective action is necessary, or face penalties, which could include, but not limited to, delay of payment of remaining funds, ability to secure future IEDA grants, or repayment of existing grant funds. If there is still no action taken on behalf of the grant recipient to cure the outstanding deficiencies, the Division Coordinator and Division Administrator shall determine the consequences for such inaction. The consequences shall be based on the severity of the deficiency, the state and federal rules and regulations governing the area(s) of non-compliance, the impacts to the community, and consequences to IEDA. The grant recipient shall be notified of the decision by the Division Administrator by official letter.

The grant recipient shall have the ability to appeal the decision by the Division Administrator to the Director of the Iowa Economic Development Authority. The Director shall have the authority to reverse any previous decision and make the final decision on the penalty, if any, to be enforced.

In the Appendix to Chapter 2

Procurement

- Sample Form of Resolution - Procurement Policy
- Instructions for Procurement for CDBG projects
- Sample Evaluation Criteria for Recipient Use in the Procurement of Professional Services
- 2 CFR 200 Frequently Asked Questions
- Sample Form of Resolution - Code of Conduct
- CDBG Procurement Regulations (2 CFR 200.318)
- Links to Sample Procurement Documents for Communities
- Certification of Compliance with CDBG Procurement Standards

Civil Rights and Fair Housing

- Civil Rights – Equal Opportunity Applicable Laws and Regulations
- Equal Housing Opportunity Logo
- Sample Public Notice - Affirmative Fair Housing Policy
- Clearinghouses for Solicitation of Minority-owned and Female-owned Businesses
- Mandatory and elective Fair Housing strategies for communities

Labor Standards

- Link to Project Construction Sign: Specifications
- 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
- Links to Job Site posters and Federal Labor Standards provisions

Required Contract Provisions

- Required contract language and provisions

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)
- HUD handbooks and forms for relocation activities

Prohibited Activities

- 24 CFR 570.207 (a)

Your Notes

Environmental Review

Overview

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 https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title24/24cfr58_main_02.tpl.

The recipients of CDBG funds 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, as specified in Sec. 58.5.

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

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

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 other non-HUD project funds for property acquisition or transfer, rehabilitation, conversion, lease, repair construction or demolition activities. Note: 24 CFR Part 58.22 has limitations on activities pending clearance. “(a) neither a recipient nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance under a program listed in 58.1(b) on an activity or project until HUD or the State has approved the recipient’s RROF (Request for Release of Funds) and the related certification from the responsible entity. In addition, until the RROF and the related certification has been approved, neither a recipient nor any participant in the development process may commit non-HUD funds on or undertake an activity or project under a program listed in 58.1(b) if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives.”

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 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 IEDA has released funds for the project. If any construction activities, including going out to bid, signing of the construction contract and/or acquiring property are started before IEDA’s 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

- 1) Create the Environmental Review Record
- 2) Define the project activities
- 3) Determine what level of review is required:
 - Exempt
 - Categorical Exclusions Not Subject to §58.5
 - Categorical Exclusions Subject to §58.5
 - Environmental Assessment
 - Environmental Impact Statement
- 4) Initiate contacts with outside sources, e.g. Tribes, IEDA’s Historic Preservation Specialist, etc.
- 5) Collect data

- 6) Complete applicable review format, i.e., Statutory Checklist or Environmental Assessment
- 7) Make environmental determination (i.e., compliance with NEPA-related laws and authorities), **or** finding of no significant impact, **or** finding of significant impact
- 8) Publish or disseminate public notices, when applicable
- 9) Submit ERR including the “Request for Release of Funds and Certification” form to IEDA via IowaGrants
- 10) Wait for release of funds letter to be uploaded to IowaGrants from IEDA
- 11) Start project – commit funds

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 and comment. The ERR must contain a description of the project and all of its activities (including non-HUD assisted activities); a map of the project area showing the project limits; 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 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 outlined below.

Recipients are required to upload the entire ERR into IowaGrants for IEDA review.

All projects will need to submit the ERR to IEDA prior to a release of funds being issued.

Defining the project activities

Defining the project activity 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 recipient to accomplish, in whole or in part, a specific objective. When determining the scope of the project one should be sure to include both HUD and non-HUD funds. For example, if non-HUD funds are proposed to acquire property for a community center and HUD funds are planned to 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 effect the building or site, all changes to the building and site are reviewed the same.

Project Aggregation (24 CFR Part 58.32)

Recipients must group together and evaluate as a single project all individual activities which are related on either a geographical or a functional basis, or are logical parts of a composite of contemplated actions. When grouping activities, the recipient should be aware that several sites, each requiring some degree of environmental review, actually might be considered for one project (e.g., 40 units being rehabilitated within a target area). The recipient is well served by grouping activities by projects, common locations and functions, and by activity phasing. Some factors can be considered on an activity-wide basis, while others require site-by-site analysis.

Project activities taking place in floodplains

When project activities take place in floodplains, the RE must go through the “Eight-Step Decision Making Process” and consider “practicable alternatives” to the proposed action (Executive Order 11988 / 24 CFR Part 55). Please refer to Appendix 3 for a step-by-step list of items that need to be addressed. Be sure to pay close attention to steps 2) and 7) for these call for two publications also located in Appendix 3. There is an early notice followed by a final notice that can be published with the RROF .

Determine the level of environmental review

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

- Exempt
- Categorical Exclusions Not Subject to §58.5
- Categorical Exclusions Subject to §58.5
- Environmental Assessment
- Environmental Impact Statement

Exempt Activities (24 CFR Part 58.34)

Few funded by the Authority are exempt from NEPA requirements and other environmental reviews. For exempt activities, a recipient does not have to submit a RROF and certification, and no further approval from IEDA will be needed by the recipient for the drawdown of funds to carry out exempt activities and projects. However, the responsible entity must document in writing its determination (i.e., “Environmental Determination of Level of Review” form) that each activity or project is exempt and meets the conditions specified for such exemption under this section. The following activities are Exempt under §58.34:

- 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;
- 11) Payment of principal and interest on loans made or obligations guaranteed by HUD;

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, **§58.35 (a)** Subject to §58.5 and **§58.35 (b)** Not Subject to §58.5:

§58.35 (b) Categorical exclusion not subject to Sec. 58.5

- 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 to purchase existing dwelling units or dwelling units under construction, including closing costs and down payment assistance, interest buydowns, 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.

- 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 and re-evaluation of the environmental findings is not required under Sec. 58.47. If your project is categorically excluded not subject to Sec. 58.5 using the above criteria you must complete these steps and include documentation in your ERR:
- Complete “Environmental Determination of Level of Review” form
 - Complete “Requirements listed at 24 CFR 58.6” form

§58.35 (a) Categorical exclusion subject to Sec. 58.5

- 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:
 - i. 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;
 - ii. In the case of multifamily residential buildings:
 - A. Unit density is not changed more than 20 percent;
 - B. The project does not involve changes in land use from residential to non-residential; and
 - C. The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.
 - iii. In the case of non-residential structures, including commercial, industrial, and public buildings:
 - A. The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
 - B. The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.
- 4) Demolition, New Construction or Both
 - i. 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
 - ii. 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.
 - iii. Paragraphs (a)(4)(i) and (ii) of this section do not apply to rehabilitation of a building for residential use (with one to four units) (see paragraph (a)(3)(i) of this section).

- 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.
- 6) Combinations of the above activities.

If your project is categorically excluded subject to Sec. 58.5 using the above criteria you must complete these steps and include documentation in your ERR:

- Complete “Environmental Determination of Level of Review” form
- Prepare a “Statutory Checklist” and include supporting source documentation
 - Site visit, maps, photographs
- Complete “Requirements listed at 24 CFR 58.6” form
- Publish or disseminate “Notice of Intent to Request a Release of Funds”
 - If any comments are received in writing, the local government must consider the comments, respond in writing, and provide copies of all correspondence to IEDA.
- Once the local comment period expires, submit a signed “Request for Release of Funds and Certification” form to IEDA.
 - Through the Request for Release of Funds, 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.
- IEDA will issue a Release of Funds letter after the state comment period expires, pending resolution of any conditions or concerns by environmental agencies, individuals and groups.

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

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

Day 1: RROF notice printed in newspaper (“Notice of Intent to Request a Release of Funds”, aka NOI-RROF)

Day 2: First day of 7-day Local comment period

Day 8: Last day of 7-day Local comment period

Day 9: RROF and Certification sent to IEDA, along with proof of publication of NOI-RROF

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 (24 CFR Part 58.36 & Subpart E)

If the activity is neither exempt nor categorically excluded, you must prepare an Environmental Assessment (EA). The EA examines and recommends feasible ways to eliminate or minimize adverse environmental impacts and examines alternatives to the project itself, if appropriate.

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

The Environmental Assessment Worksheet is included in the appendix to this Chapter. When properly completed, this form serves as the EA and complies with the environmental requirements in 24 CFR Part 58.40.

If your project requires an EA you must complete these steps and include documentation in your ERR:

- Complete “Environmental Determination of Level of Review” form
- Complete “Environmental Assessment Worksheet” and include supporting source documentation
- Publish or disseminate combined “Notice of Finding of No Significant Impact and Notice of Intent to Request a Release of Funds” (FONSI/NOI-RROF)
 - If any comments are received in writing, the local government must consider the comments, respond in writing, and provide copies of all correspondence to IEDA.
- Once the local comment period expires, submit a signed “Request for Release of Funds and Certification” form to IEDA.
 - Through the Request for Release of Funds, the recipient assumes the role of the 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. (24 CFR Part 58.4)
- IEDA will issue a Release of Funds letter after the state comment period expires, pending resolution of any conditions or concerns by environmental agencies, individuals and groups.

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

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

- 1) 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.
- 2) If the project site changes, a new EA must be completed for the new site.

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

- Day 1: FONSI/NOI-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 IEDA, along with proof of publication of FONSI/NOI-RROF
- 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 a Release of Funds Letter

In the Appendix to Chapter 3

Environmental Review

- Commonly Used Environmental Acronyms
- Environmental Process Flow Chart
- CDBG Recipient Guide to Lead Federal Agency Designation
- DNR and CDBG Section 106 and Environmental Review Lead Federal Agency Designation
- USDA-RD and CDBG Section 106 Lead Federal Agency Designation
- Environmental Determination of Level of Review
- Requirements listed at 24 CFR 58.6
- Statutory Checklist
- Sample Notice of Intent to Request a Release of Funds
- Environmental Assessment Worksheet
- Sample Notice of Finding of No Significant Impact and Notice of Intent to Request a Release of Funds
- List of Agencies to Whom Finding of No Significant Impact (FONSI) Should be Distributed
- Additional Information for EA and CEST Projects Section
- A - HUD Guide to Environmental Compliance: NEPA- Related Statutes, Authorities and Requirements
- C - Noise Assessment Guidelines
- D - Historic Preservation
- Section 106 Agreements-
When to Consult with Tribal Authorities
- Tribal Authorities List
- E - Procedures for Making Determinations on Floodplain and Wetland Management
- F - Iowa Protected Water Area Designation
- Early Notice and Public Review of a Proposed Activity in Floodplain
- Final Notice and Public Explanation of a Proposed Activity in Floodplain
- IEDA CDBG Request for Release of Funds and Certification Instructions
- Request for Release of Funds and Certification Form (HUD 7015.15)
- IEDA Environmental Review Checklist
- Tier 2 Review Form & Instructions
- IEDA/SHPO Programmatic Agreement

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.

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 IEDA and disbursement for project activities. You should make requests for funds – called “draws” – from IEDA as close as possible to the time of disbursement, through a procedure that ensures funds are expended within 10 working days of receipt.

Recipients must draw funds on CDBG project activities at least every 6 months. Every 6 months, funds should be drawn on both the CDBG activity AND grant administration. Failure to meet this requirement may result in a non-compliance finding at project monitoring.

You should inform your contractors there might be a 4- to 6-week delay between their submission of an invoice and receipt of payment. Best practice is for the recipient to establish a line of credit to pay invoices while waiting for reimbursement from the state.

You must have a procedure for determining the reasonableness and allowability of costs in accordance with OMB Circular 2 CRF PART 200, Principles for Determining Costs Applicable to Grants and Contracts (found in Appendix 5). 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 IEDA from 2 CFR part 200, 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 IEDA 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 IEDA and based on the project as defined in the application or otherwise approved as project modifications by IEDA.
- 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 IEDA. 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 IEDA prior to purchase (2 CFR 200.439(b)(2) & (5). 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 2 CFR Part 200 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, EFT's, 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. IEDA uses a guideline of \$500 maximum cash on hand following the 10-day limit in determining non-compliance. In cases of non-compliance, IEDA 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, report expenditures, and activity status using iowagrants.gov GAX form. A copy of this form and the instructions are included in the appendix to this Chapter. The GAX form is also available in iowagrants.gov.

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 which is found on the iowagrants.gov electronic claims form.

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

Requests must be signed 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 IEDA. See Chapter 1 for more information on designating alternate signatories. Alternate signature forms must be uploaded to electronic documents in iowagrants.gov

When requesting funds, you must submit the electronic claims form and upload the sign GAX form in iowagrants.gov.

Once a project is under construction, claims for only administrative costs will not be processed, unless approved by a project manager.

Claims for expenses must be made in the appropriate fiscal year. Recipients should submit claims for reimbursement for the fiscal year by June 30th of each year. Claims should not include expenses incurred over multiple fiscal years.

The request will be verified by IEDA staff for completeness, accuracy, proper signature, and reasonableness in relationship to the status of the project. Deficiencies may result in the request not being processed; Recipients may be asked to correct and resubmit the draw. If there is a minor deficiency, IEDA may correct it and notify you so you can correct your records. Recipients can anticipate a time lapse of 3-4 weeks between IEDA's receipt of a request and the direct deposit of funds in the recipient's designated account.

IEDA will send the recipient the state warrant or separate notification that a 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 of Iowa. If you need to change which account where CDBG funds should be deposited, please contact Tammy Agey at 515.348.6153 or tammy.agey@iowaeda.com.

Program Income & Recaptured funds

Definition of Program Income

Program income refers to income a recipient receives that is directly generated from 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 \$35,000 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)

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.

Recaptured funds

Recaptured funds are different from program income. Recaptured funds are those funds that are recouped by recipients when a CDBG assisted homeowner does not continue to be the principal residence of the assisted homebuyer for the full affordability period. Contact your project manager with questions regarding the use of recaptured funds.

Handling Program Income and Recaptured funds

Due to federal reporting requirements, **recipients must return all program income and recaptured funds to IEDA when received.**

Recipients should contact their project manager if their CDBG project generates program income or recaptured funds for more information on returning funds to IEDA.

In the Appendix to Chapter 4

- When documents are due to IEDA
- Request for GAX payment signature form and instructions
- Electronic Funds Transfer (EFT) Authorization Form
- lowagrants.gov claim instructions

Your Notes

Housing Programs

Overview

This Chapter describes the three (3) Housing Programs of the Iowa Economic Development Authority's CDBG program.

- ❖ **Upper Story Conversion Program** - This program is to rehabilitate un-occupiable units or to convert existing space of an upper story downtown building into new units.
- ❖ **Homebuyer Assistance Program** – This program is to facilitate and expand homeownership among low and moderate-income homebuyers.
- ❖ **Housing Sustainability Program** – This program offers three different types of owner-occupied rehabilitation activities that will assist homeowners with much needed or necessary improvements to their dwellings. PLEASE NOTE, a property may ONLY receive one type of assistance at a time.
 - **Architectural Barrier Removal Program** – This program is to assist low- and moderate-income homeowners, who themselves meets or has a member of the household that meets the definition of elderly (60+) or a “Severely Disabled” person, in removing physical architectural barriers which will allow them to remain in their home.
 - **Energy Efficiency Improvements Program** – This program is to assist low- and moderate-income homeowners to implement energy efficiency improvements in their home.
 - **Exterior Home Improvements Program** – This program is to assist low- and moderate-income homeowners to improve the outside envelope of their home.

Recipients should review this chapter carefully, as well as the guidance and sample documents in Appendix 5 to ensure program compliance.

Homebuyer Assistance Program

Eligible Homebuyer

Homebuyers receiving assistance must be low to moderate income persons. An assisted Homebuyer must have a gross annual income that does not exceed 80 percent of the area median income (AMI) by household size as established by HUD for the County jurisdiction in which the home is located. Initial verification of income eligibility (based on annual gross household income per 24 CFR 5.609) is valid for twelve (12) months. To ensure a prospective Homebuyer is eligible, the income needs to be verified early in the process. The verification must be updated if more than twelve (12) months transpires OR if the household income changes from the date of initial verification to the commitment of funds.

The Homebuyer does not need to be a first-time homebuyer; However, the property they are purchasing must be their principal place of residence once the purchase is finalized

Eligible Property Types

Homes to be purchased must meet local/state building codes. Homes may be new; however, they must be constructed and complete at the time the property is purchased. IEDA will consider the unit complete if a certificate of occupancy has been issued for the unit.

Residential properties containing businesses may only be included in the program when it can be clearly shown that CDBG funds will not benefit the business on the property. The program file must document how the costs were allocated between the residential portion and business portion of the unit.

CDBG assistance may be provided to Homebuyers purchasing manufactured homes ONLY if ALL the following criteria are met:

- The manufactured home was constructed after 1976.
- The manufactured home is permanently affixed to a site-built permanent foundation and has had its towing hitch and running gear removed.
- The homeowner will own the land on which the manufactured home is installed.
- The manufactured home is taxed as real estate (real property) by the community.

Properties included in the 100-year flood plain are not eligible for the program.

Properties must be on city owned, or other owned and regulated, water and sewer services.
Properties with septic systems and wells are not eligible for program assistance.

Property Standard

A Homebuyer may choose to have a professional Home Inspection conducted by a certified Home Inspector prior to closing. The cost must not exceed \$300.

The CDBG program is impacted by HUD's Lead Safe Housing Regulations. This legislation is formally known as the "Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance; Final Rule" (24 CFR, Part 35, et. al.).

If the home being purchased with funds from the CDBG Homebuyer Assistance Program is built prior to 1978, a Lead Inspection/Risk Assessment must be conducted to determine where surfaces are positive for lead-based paint and are a hazard. A scope of work will be written so that Lead SafeWork Practices prior to occupancy. HUD has also issued interpretive guidance for lead safe housing regulations which is included in the appendix to this chapter. See the Lead Summary and other sample documents in Appendix 5.

Eligible Assistance

The Homebuyer will seek a realtor and lending institution to work with. The recipient may help facilitate this activity depending on how they have established their program in their Administrative Plan. The Homebuyer may receive hard costs of assistance up to \$24,999, to include, 50% of the Lender's required down payment, closing costs not to exceed \$3,500 and the home inspection not to exceed \$300.

All Homebuyers must enter in to a 5-year receding, forgivable loan. The property must remain the Homebuyer's principal residence for five years following the project acceptance date for the loan to be forgiven. The community must file a lien/security interest against the property in the amount of the CDBG assistance received.

If a Homeowner were to refinance the property within the first five (5) year period, they may only do so for the purpose of lowering their interest rate and not for the purpose of receiving cash out. Verification of such will be required from the lender. The Homeowner must seek the recipient's approval prior to refinancing in the form of a sub-ordination agreement.

A recipient may recapture funds when a housing unit assisted by CDBG funds does not continue to be the principal residence of the assisted homebuyer/homeowner (i.e. is sold or transferred) for the full affordability period. If funds recaptured are above the program income threshold of \$35,000 in a year, all proceeds shall be returned to IEDA.

Environmental Review

Homebuyer assistance is categorical excluded not subject to § 58.5. (24 CFR 58.35 (b)(5)). The activity is considered by HUD to not alter any conditions that would require a review or compliance determination under the Federal laws and authorities cited in § 58.5. When homebuyer activities are undertaken, the responsible entity does not have to publish a NOI/RROF or execute a certification and the recipient does not have to submit a RROF to the State. Following the award of the assistance, no further approval from the State will be needed with respect to environmental requirements.

An environmental form will need to be created in IowaGrants. You will upload your "level of review" form appropriately marked and signed by the RE. The form can be found in the Environmental Review appendix.

A Release of Funds letter will not be issued. After the level of review form is uploaded, you may proceed to implementing your activity.

Upper Story Conversion Program

Overview

The property must be an existing building in a downtown that requires rehabilitation of upper story un-occupiable units or the conversion of existing upper story space into new units. The maximum number of new units allowed is seven (7).

All projects must:

- Meet the CDBG national objective of benefiting persons of low to moderate income (LMI).
- At least 51% of all rental units in the project, rounded up to the nearest whole number, shall be made available to and occupied by LMI tenants and be proportionate in bedroom sizes.
- Funding must be proportional to the number of LMI units in the project.
- Enter into a Development Agreement between the Recipient and the Developer/Owner.
- Competitively bid all construction contracts through standard federal procurement procedures (2 CFR 200).
- Finalize the securing of all other financial resources above the CDBG funding limitation if awarded.
- Prior to the first construction payment, each property receiving CDBG funds will be required to enter into a five (5) year non-receding forgivable loan/mortgage and agreement for covenants and restrictions in the form of a recorded lien in order to ensure sufficient insurance and project compliance from the onset of construction.
- Maximum rent limits on the CDBG funded rental units shall not exceed the most current Home Program 65% rent limits. See sample form in Appendix 5.

- When calculating income for tenant, verifications must be completed in accordance to 24 CFR 5.609 (Part 5). Income verifications are valid for twelve months from the date verification was completed.
- During the Period of Affordability, which is defined as five years from the issuance of the Certificate of Occupancy or the date the first lease is signed, the Recipient or Grant Administrator must verify the tenant's income. During the initial lease up, income verification must be completed by the administrator. For the following four years, the Owner/Developer will recertify the tenant's income annually and provide completed certification forms to IEDA. See Appendix 5 for sample certification.
- Units shall be designed and constructed in accordance with all locally adopted and enforced building codes and standards. In their absence, the requirements of the Iowa State Building Code shall apply.
- Units must meet the requirements of the Iowa Green Streets Criteria.
- CDBG funding requires that the Federal Lead-Safe Housing regulations, impacting dwelling units built prior to 1978 must be adhered to. See Lead Summary in Appendix 5.

Housing Sustainability Program

Eligible Homebuyer

Homeowners receiving assistance must be low to moderate income persons. An assisted Homeowner must have a gross annual income that does not exceed 80 percent of the area median income (AMI) by household size as established by HUD for the County jurisdiction in which the home is located. Initial verification of income eligibility (based on annual gross household income per 24 CFR 5.609) is valid for twelve (12) months. The verification must be updated if more than twelve (12) months transpires OR if the household income changes from the date of initial verification to the commitment of funds.

The recipient must have ALL eligible homeowners under contract within the first six (6) months of being awarded funds.

Eligible Property Types

A single-family property occupied as the principal place of residence by the qualified homeowner is eligible for rehabilitation assistance. Ownership may be established by holding simple title to the property or maintaining a 99-year leasehold interest in the property.

Residential properties containing businesses may only be included in the program when it can be clearly shown that CDBG funds will not benefit the business on the property. The program file must document how the costs were allocated between the residential portion and business portion of the unit.

CDBG assistance may be provided to manufactured homes ONLY if ALL the following criteria are met:

- The manufactured home was constructed after 1976.
- The manufactured home is permanently affixed to a site-built permanent foundation and has had its towing hitch and running gear removed.
- The homeowner will own the land on which the manufactured home is installed.
- The manufactured home is taxed as real estate (real property) by the community.

Properties included in the 100-year flood plain are not eligible for the program.

Properties must be on city owned, or other owned and regulated, water and sewer services. Properties with septic systems and wells are not eligible for program assistance.

Property Standard

Recipients must adopt a method for addressing properties infeasible for rehabilitation (e.g., enforcement of an optional relocation plan or exclusion of such properties from the owner-occupied rehabilitation activity – a so-called “walk-away policy”). The method you selected should have been addressed in the Residential Sustainability application and must be specified in your Administrative Plan. Relocation plans must also be approved by IEDA as part of your Administrative Plan.

The CDBG program is impacted by HUD’s Lead Safe Housing Regulations. This legislation is formally known as the “Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance; Final Rule” (24 CFR, Part 35, et. al.).

HUD has also issued interpretive guidance for lead safe housing regulations which is included in the appendix to this chapter. See the Lead Summary and other sample documents in Appendix 5.

Radon testing is required as part of the Tier II Environmental Review. If the test results are above 4 picocuries per liter, the Homeowner must sign off that they have received the radon test results and that they have had a discussion with a Recipient representative about mitigation. Mitigation is strongly encouraged if funding is available.

Eligible Assistance

All Homeowners must enter in to a 5-year receding, forgivable loan. The property must remain the Homeowner’s principal residence for five years following the project acceptance date for the loan to be forgiven. The community must file a lien/security interest against the property in the amount of the CDBG assistance received.

A recipient may recapture funds when a housing unit assisted by CDBG funds does not continue to be the principal residence of the assisted homebuyer/homeowner (i.e. is sold or transferred) for the full affordability period. If funds recaptured are above the program income threshold of \$35,000 in a year, all proceeds shall be returned to IEDA.

Architectural Barrier Removal Program

- Eligible Homeowners must be elderly (60+) or severely disabled or have a member residing in the home that meets this definition.
- A Needs Assessment must be completed to determine what the elderly (60+) or severely disabled member needs to remain in the home.
- A scope of work will be completed based on the Needs Assessment outcome.
- Because this is a rehabilitation program, a Lead Inspection will also need to be conducted on all surfaces, both interior and exterior.

Energy Efficiency Improvements Program

- All projects must comply with the CDBG Home Energy Efficiency Project sheet. See Appendix 5
- All window and door replacements must be compliant with the Window and Exterior Door Selection Guide. See Appendix 5
- Because this is a rehabilitation program, a Lead Inspection will also need to be conducted on all surfaces, both interior and exterior.

Exterior Home Improvements Program

- An exterior property inspection must be conducted to determine what repairs are necessary.
- All window and door replacements must be compliant with the Window and Exterior Door Selection Guide. See Appendix 5
- Because this is a rehabilitation program, a Lead Inspection will also need to be conducted on all surfaces, both interior and exterior.

Administrative/Technical Services Costs

The following breakdown should assist in your efforts to distinguish costs (all of which are administrative in nature) between general administration” and “technical services (direct administration; soft costs; and/or carrying costs). General administration is a separate activity contained in the recipient’s approved budget and as shown on Attachment A (CDBG) of your contract with IEDA. General administrative costs are paid for out of the general administration line item of the budget. Not all awards have an approved general administration budget.

Technical Services is a part of the rehabilitation line item. Technical Services costs are billed to the activity line item, not the General Administration line item.

The following breakdown is not all-inclusive. All costs must be allowable costs per Federal requirements.

General Administration

- 1) Overall program coordination (e.g., establishing financial accounting documents and systems, management, internal controls, and oversight responsibilities, etc.)
- 2) General administrative services (i.e., 3rd party contracts, accounting, legal, etc.)
- 3) Reporting to the IEDA (i.e., requests for funds, quarterly performance reports, etc.)
- 4) Advertising and marketing (general information, public outreach) about the activity or project
- 5) Direct costs and salaries of the recipient’s staff directly involved in the administration of the activity or project
- 6) Indirect costs, such as office space rent, utilities, insurance, supplies, etc.
- 7) Costs incurred in the procurement of 3rd party administrative services, technical services or in the procurement / purchase of any indirect costs noted in #6 above
- 8) Internal monitoring and oversight of funded program activities
- 9) Coordination and resolution of monitoring and/or audit issues
- 10) Audit costs
- 11) Environmental Review (For Housing Program, this would be for publications costs ONLY)
- 12) Activities to affirmatively further fair housing (in a general way)
- 13) Preparation and adoption of Administrative Plans

Technical Services

(Project Specific/Not Applicable to Upper Story Conversion)

- 14) All technical services necessary for individual, scattered site types of activities, whether accomplished internally with staff or contracted for (e.g., initial inspections, work write-ups, cost estimates, construction supervision, etc.)
- 15) Project specific A/E or design services (plans and specifications)
- 16) Financing costs (e.g., security agreements, filing / recording fees, appraisals, etc.)
- 17) Processing of individual applications for assistance *
- 18) Third party verification of applicant's incomes *
- 19) Income eligibility determination and verification of applicants *
- 20) After-rehabilitation value determination
- 21) Activities to affirmatively further fair housing (project specific)
- 22) Underwriting costs and related fees associated with your financial assistance to individual projects
- 23) Project specific forms and documentation
- 24) Project specific environmental (i.e., SHPO clearance)
- 25) Costs of procuring construction services
- 26) Relocation services (advisory services, notices, locating replacement units, inspections, negotiations, counseling, etc.)
- 14) Radon testing (IEDA method)

* These could be performed as a general administrative expense

Subrecipient Agreements

If a recipient intends to enter in to a subrecipient agreement, the recipient must seek and obtain IEDA's review and approval of the proposed subrecipient agreement prior to entering in to said agreement. A subrecipient agreement under the CDBG Program is limited to Regional Planning Commissions OR Councils of Governments ONLY. No non-profit or for-profit entities will be allowed to enter in to subrecipient agreements with any of the IEDA's recipients.

- The language of all subrecipient agreements must include a clause(s) that clearly states that the recipient remains the responsible entity regarding the federal funds awarded to them. This includes financial accountability and oversight, monitoring, audits, etc.
- Where the subrecipient is also the contractual administrative agent (general administration) for the recipient, the funds budgeted for general administration (federal and/or other funds) will not be allowed to be included in (governed by) the sub-recipient agreement.
- Where the subrecipient is also the procured and contractual technical services provider and/or the lead hazard reduction oversight services provider for the recipient, the funds budgeted for these services (federal and/or other funds) will not be allowed to be included in (governed by) the subrecipient agreement.
- All general administration and technical service (and/or lead hazard reduction oversight) related costs will need to be handled directly by the recipient through their otherwise normal internal approval and payment processes, separate from all costs allowed to be included under or

governed by sub-recipient agreements, which are hard costs, Lead Hazard Reduction and Temporary Relocation costs.

- Where sub-recipient agreements are used, all IEDA required security agreements, depending on the type of activity awarded to the recipient, such as forgivable loan documents, covenants, etc., will be required to be recorded (filed) in the recipient's name, not the sub-recipient's name. The recipient must remain the responsible entity for all applicable long-term compliance requirements associated with their Housing Fund awards.
- If the recipient requests and the IEDA approves the re-use of any return on investment funds such as, recaptured funds, the re-use of funds must be by the recipient, not the subrecipient. Subrecipient agreements will not be allowed to include the re-use of funds by the subrecipient.
- All requests for funds from the subrecipient, sought as reimbursement from (through) the recipient, must include copies of all supporting documentation applicable to each reimbursement request. The recipient must review and approve all subrecipient requests for funds prior to making reimbursement payment to the subrecipient. The recipient must retain all supporting documentation (i.e., billings and invoices from vendors; copies of checks that had been written by the subrecipient to all vendors; documentation supporting the subrecipient's approval processes; etc.) for their own program records retention requirements.
- Subrecipients must ensure that amounts drawn from recipients are to be for funds expended (as a reimbursement) or for bills on hand only.
- Funds received from the IEDA by the recipient must be expended (either reimbursing the subrecipient's line of credit or for the payment of bills on hand) within ten days of receipt from the IEDA.
- Interest costs incurred on all subrecipient's lines of credit used to cover the recipient's award-related costs must be kept to a minimum and must be reasonable. Funds drawn from the IEDA by the recipient (used to reimburse the subrecipient) must be requested frequently enough to reduce, or limit, the amount of interest charged on funds disbursed from the subrecipient's line of credit. All requests for funds from the recipient must detail the following information as follows:

Interest costs for the reporting period	\$ _____
Total interest costs to date	\$ _____
Date of last principal and interest payment	_____
	Month Day Year
Date of receipt of funds (previous request) by the recipient	_____
	Month Day Year
Date of receipt of funds (previous request) by the subrecipient	_____
	Month Day Year

Procurement

CDBG recipients must comply with procurement requirements described in this Guide. These regulations direct that all supplies, equipment, construction, and services be acquired efficiently and economically, through open and fair competition. Refer to Chapter 2 and Appendix 2 of the Management Guide for procurement information.

Reporting

Recipients are required to report on their expenditure of funds and activity status. These reports help keep IEDA and your IEDA Project Manager informed about the progress of your activity and provide the state with information needed for reports submitted to HUD.

Recipients will submit project status information when submitting claims for CDBG funds.

Monitoring Your Project

Your CDBG program will be monitored by your project manager from IEDA during the life of the program. This includes both desk monitoring and on-site monitoring by IEDA staff. The IEDA has a formally established process for conducting oversight and on-site monitoring. Please refer to Chapter 2 of this Guide for more information regarding project monitoring.

In the Appendix to Chapter 5

Home Buyer Assistance Program

- Record Keeping Checklist

Housing Sustainability Programs

- Record Keeping Checklist
- Window/Door Selection Guide (Links Page)

Architectural Barrier Removal Program

- Eligible/Non-Eligible Activities (Links Page)

Energy Efficiency Improvements Program

- Energy Efficiency Eligible Activities (Link Page)

Home Buyer Assistance and Housing Sustainability Program (Shared Documents)

- IEDA Radon Guidance Memo
- Income Verification Guidance
- Sample Income Verification Form
- Sample Forgivable Mortgage

Upper Story Conversion Program

- Record Keeping Checklist
- Income Calculator Sheet

All Housing Programs

- Lead Summaries
- Lead Regulations (Also on Links Page)

Your Notes

Chapter 6

Iowa Green Streets Criteria

Overview

This chapter describes the Iowa Green Streets Criteria requirements that apply to the CDBG program. Recipients should review the chapter carefully and the full Iowa Green Streets Criteria in Appendix 6 or online at <http://iowaeconomicdevelopment.com/CommunityDevelopment/Green> and refer to it as necessary to ensure compliance. The Iowa Green Streets Criteria does not apply to CDBG stormwater projects. CDBG Downtown Revitalization Fund façade projects have a separate Iowa Green Streets Criteria for façade projects only, <https://www.iowaeconomicdevelopment.com/Community/DowntownFund>.

The Iowa Green Streets Criteria promote public health, energy efficiency, water conservation, smart locations, operational savings and sustainable building practices. The Iowa Green Streets Criteria apply to CDBG Community Facilities and Services Fund, some CDBG Opportunities and Threats projects and CDBG Disaster Recovery Housing projects. A separate version, Iowa Green Streets Criteria for Downtown Revitalization Projects applies to CDBG funded downtown revitalization projects and can be found at <http://iowaeconomicdevelopment.com/CDBG/DowntownFund>.

In addition to increasing resource efficiency and reducing environmental impacts, green building strategies can yield cost savings through long-term reduction in operating expenses. The benefits include improved energy performance and comfort, a healthier indoor environment, increased durability of building components, and simplified maintenance requirements that can lead to financial efficiencies for property managers and owners. Green building practices improve the economics of managing affordable housing and community facilities while enhancing quality of life for residents, visitors and employees.

Guiding principles behind the Iowa Green Streets Criteria ensure that buildings must be cost effective to build, and durable and practical to maintain. In addition, the principles work together to help produce green buildings that:

- Result in a high-quality, healthy living and working environment
- Lower utility costs
- Enhance connections to nature
- Protect the environment by conserving energy, water, materials and other resources
- Advance the health of local and regional ecosystems

How to Use This Document

The Iowa Green Streets Criteria is based on the national Green Communities Criteria available online at <https://www.greencommunitiesonline.org/>. The Iowa Economic Development Authority thanks Enterprise and its partners for development of the national Green Communities Criteria and the use of those criteria in development of the Iowa Green Streets Criteria.

All of the mandatory Iowa Green Streets Criteria are required for both residential and non-residential applications. However, there are certain criteria that are not applicable to or are different for non-residential applications. Therefore, certain criterion include different requirements for residential versus non-residential projects.

Please be aware that this Iowa Green Streets Criteria document is subject to periodic revision and update. Refer to the Iowa Economic Development Authority's Community Development Division website, <https://www.iowaeconomicdevelopment.com/Community/green> for the most current version.

Activities and Projects Covered by the Iowa Green Streets Criteria

The Iowa Green Streets Criteria include mandatory and optional components in the criteria for the following types of activities or projects.

- Community Facilities
- Downtown Revitalization (See specific criteria for downtown revitalization projects)
- Sustainable Community Demonstration
- Multifamily
- Upper-Story Housing
- Any other projects involving new construction or rehabilitation of an existing building

Getting Started

Remember that in submitting the Iowa Green Streets Criteria Green Development Plan and Checklist with your project proposal that your project committed to and is contractually required to meet the performance requirements of the Iowa Green Streets Criteria.

To ensure compliance with the Iowa Green Streets Criteria in a manner that will result in the highest performing project within your project budget here are eight steps you should take.

- 1) When procuring technical services, architectural and/or engineering services, remember to also procure the applicable third-party energy system design and rating expertise for your project.
- 2) Host an integrated design workshop with your design professionals and energy expertise contractor and as many other people involved with your project as possible. An integrative design process facilitates the design and development team's achievement of green objectives throughout the project life cycle. The outcomes of an integrative design process can include substantially lower development costs and greater health, economic, and environmental benefits for residents, property owners, and communities. Contact the IEDA to identify design expertise IEDA can make available to assist your project's design team in identifying best practices in design and construction for your project.
- 3) Develop construction documents that include Appendix F, Project Plan and Spec Book Checklist, and language notifying potential bidders that the project is following the Iowa Green Streets Criteria and that construction performance meeting the criteria is required. Do not forget this includes language requiring a construction waste management plan that will result in construction and demolition materials being diverted from the landfill via reduction, reuse or recycling.
- 4) Submit through www.iowagrants.gov construction plans/specifications and a completed Appendix C, Certification of Construction Contract Document Compliance, prior to issuing construction bids.

- 5) Following award of the construction contract, work with IEDA CDBG Design Technical Assistance consulting team to arrange a meeting with the general contractor and subcontractors to review the Iowa Green Streets Criteria and the sustainable design practices integrated into the construction documents, the intent of those practices and best practices for installation.
- 6) Prior to drywall installation, notify the third-party energy professional to complete a thermal bypass checklist inspection to ensure proper construction techniques were utilized in constructing the building's thermal envelope.
- 7) Upon project completion work with the third-party energy professional to conduct any final testing protocols to verify attainment of the Iowa Green Streets Criteria energy performance requirements.
- 8) Upon project completion, submit through www.iowagrants.gov a completed Iowa Green Streets Criteria Appendix D, Certification of Compliance at End of Construction, and a completed Iowa Green Streets Criteria Appendix E, Energy Performance Certification.

The appendix to this chapter includes the complete Iowa Green Streets Criteria. It is very important to fully understand the Iowa Green Streets Criteria early on in the project design process.

If you have any questions, please contact your project manager or Jeff Geerts, jeff.geerts@iowaeda.com or 515.348.6211.

In the Appendix to Chapter 6

- Green Streets Criteria
- Appendices A – G

Your Notes

Downtown Revitalization Program

Overview

This chapter describes the Downtown Revitalization (DTR) program component of the Iowa CDBG program. Recipients should review this chapter carefully, as well as the sample documents in Appendix 7 to ensure program compliance.

The CDBG Downtown Revitalization Fund provides grants to communities for activities contributing to comprehensive preservation/revitalization in historic city centers. To date, the program has funded building façade improvements to privately owned buildings that are often part of a larger downtown revitalization initiative.

All projects must:

- Meet a CDBG national objective
- Be eligible under the CDBG program
- Positively impact the community
- Be ready to proceed and be completed in a timely fashion
- Include community support for a downtown revitalization effort
- Include other funding sources and documentation of applicant efforts to secure the maximum amount of local support for the activity
- Meet or exceed the minimum building and site design criteria established by IEDA including Green Streets
- Achieve a level of planning for comprehensive downtown revitalization efforts.

The national objective most applicable to Downtown Revitalization Fund projects is the slum and blight national objective. To address the slum and blight national objective, the applicant must address the documented deterioration in the area to be assisted, illustrating that the proposed activity will alleviate or eliminate the conditions causing the deterioration.

Administrative Plan

A program administrative plan needs to be submitted and approved by IEDA prior to the first program draw. An administrative plan is an outline that describes what person or organization is responsible for all key management and communication functions associated with the operations of a Downtown Revitalization Fund project. General operational policies and procedures should also be included in the plan. A model administrative plan outline can be found in Appendix 7. All items cited in the outline must be addressed.

Grant Administration / Project Management

Recipients must work with a grant administrator with experience and prior training in the CDBG program. DTR recipients should, in most cases, plan to contract for grant administration services. Grant administrators should select an administrator in accordance with procurement requirements outlined in this Guide. Please note that there is no competitive procurement process required if the recipient chooses to contract for general administrative services with their applicable Regional Planning Commission/Council of Government.

It is also common for Downtown Revitalization Fund recipients to contract with a third party to handle a portion of the day-to-day management of their project. Recipients must follow federal procurement requirements when selecting a project manager. The only exception to this requirement is when the management position is filled by someone in an existing position who is assigned the DTR management task without receiving any corresponding increase in salary or wages.

Lead Based Paint

Buildings participating in a CDBG funded Downtown Revitalization that include a residential component must comply with the Lead Safe Housing regulations (24 CFR 35). A copy of the full regulations can be found in Appendix 5 of this guide. This includes any occupied or currently unoccupied residential space. Currently unoccupied residential space will be considered as residential, if the residential unit is ready, or nearly ready for occupancy (it has an operable kitchen, functioning bath, code required egress, etc.). For more information on these regulations and the use of interim controls please reference Chapter 5 and Appendix 5 of this guide. Please note that any building that contains any space utilized for residential purposes on the first or ground floor is not eligible to receive CDBG DTR funds.

In order to document lead compliance, assess each property on the following question:

Does the building have a residential use?

If no – this is a non-residential building and is exempt from the lead safe housing regs.

If yes, lead safe work practices (interim controls) are required for all areas where painted surfaces will be disturbed. Projects will be capped at \$24,999 per residential unit, **for all construction hard costs** attributed to that component of the building, unless the building has been determined eligible for or is listed in the National Register of Historic Places either individually or as contributing to an historic district. If historic, the property is still required to comply with lead safe work practices and interim controls, but is not limited to the \$24,999 per unit cap.

For Example: a non-historic 2-story mixed-use building is participating in a façade project. The first floor is a commercial retail space and the upper story has two occupied residential units. The scope of work calls for replacement of the commercial storefront and entrance \$20,000, commercial awning \$2,000, tuck-pointing the upper story brick \$15,000, parapet repair \$8,000 and repair of the upper-story windows \$10,000 for a total building rehab of \$55,000. If the commercial storefront and awning along with ½ the cost of the parapet repair are removed, the residential rehabilitation costs is \$29,000 divided by 2 units = \$14,500 and therefore under \$24,999 and in compliance with the use of interim controls. All necessary testing, treatment and cleaning must be conducted in accordance with 24 CFR 35.900.

It is acceptable to subtract out costs that are specifically for commercial improvements such as storefronts and awning, and a proportionate amount of roof/parapet; however, any entryways, doors, common spaces, stairwells that are shared use or for the residential use must be included in the calculation of hard costs.

Easement Agreement

An easement agreement between the recipient and the respective property owners is a required document in the DTR Program. The agreement provides the legal means for city officials or parties authorized by the city to enter the property and to perform work. Furthermore, it may spell out the process involved in the owner making changes to the facade following project completion. Finally, it requires the owner to maintain the property improvements funded through the DTR Program. The agreement must be signed by both the city and the owner with both signatures notarized. The easement must then be recorded at the county. A sample easement agreement document can be found in Appendix 7. The recipient's legal counsel should review the document and may, with IEDA consent, edit or add provisions to suit local preferences. An easement agreement needs to be submitted and approved as a grant condition by IEDA prior to the first program construction draw.

Construction Terms

IEDA believes it is crucial that there be complete understanding and disclosure between the recipient and property owners receiving façade improvement funds. Accordingly, the relationship between the two parties during construction should be clearly defined to prevent problems from arising during the project. The recipient will enter into a construction terms agreement with each property owner participating in the DTR program. The construction terms agreement can also provide for a lien to be placed against the improved property by the recipient if necessary, to recover costs. A sample Construction Terms Agreement form can be found in Appendix 7. A construction terms agreement needs to be submitted and approved by IEDA prior to the first construction draw.

Please note- **The contract between the recipient and IEDA stipulates that projects must be out for public bid within one year of the contract effective date.**

Reporting

DTR recipients are required to periodically report on their expenditure of funds and activity status. These reports help keep IEDA and your IEDA Project Manager informed about the progress of your activity and provide the state with information needed for reports submitted to HUD.

Project Monitoring

Your CDBG program will be monitored by your project manager from IEDA during the life of the program. This includes both desk monitoring and on-site monitoring. The IEDA has a formally established process for conducting oversight and on-site monitoring. See Chapter 2 of this Guide for more information about monitoring.

In the Appendix to Chapter 7

- Sample Downtown Revitalization Administration Plan
- Sample Easement Agreement
- Sample Construction Terms Agreement
- Green Streets Criteria for Downtown Revitalization Projects (Appendices A-E apply)

Your Notes

Section 3 Requirements

Overview

This chapter describes Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701u and 24 CFR Part 135] and its applicability to CDBG projects.

Section 3 is HUD's legislative directive for providing preference to public housing residents and low-income residents of the local community (regardless of race or gender), and the businesses that substantially employ these persons, for new employment, training and contracting opportunities resulting from HUD-funded projects. The regulations seek to ensure that public housing residents and low- and very low- income persons, and the businesses that employ these individuals, are notified about the expenditure of HUD funds in their community and encouraged to seek opportunities, if created.

A Section 3 resident is:

- 1) a public housing resident OR
- 2) a low- or very low-income person residing in the metropolitan area or non-metropolitan county where the Section 3 covered assistance is expended.

A Section 3 business is defined as a business that is:

- (1) That is 51 percent or more owned by section 3 residents; or
- (2) Whose permanent, full-time employees include persons, at least 30 percent of whom are currently section 3 residents, or within three years of the date of first employment with the [business concern](#) were section 3 residents; or
- (3) That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to [business concerns](#) that meet the qualifications set forth in paragraphs (1) or (2) in this definition of "section 3 [business concern](#)."

The Section 3 program requires that recipients of certain HUD financial assistance, to the greatest extent feasible, provide job training, employment, and contracting opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods. However, recipients are not required to hire or enter into contracts with Section 3 residents or businesses simply to meet the Section 3 goals—anyone selected for contracting or employment opportunities must meet the qualifications for the job/contract being sought.

When Section 3 Applies

Section 3 applies to projects/activities involving housing (construction, demolition, rehabilitation) or other public construction—i.e. roads, sewers, community centers, etc. Section 3 applies to CDBG projects when:

- The recipient's CDBG contract with the State of Iowa exceeds \$200,000 and involves housing and/or public construction.
- The recipient has contracted with subcontractors for services and the contract amount is over \$100,000.

If no individual subcontract for activities exceeds \$100,000, responsibility for complying with Section 3 only applies to the recipient (City/County and the State).

Please note that while Section 3 applies to projects and contracts described above, the Section 3 requirements are only triggered when the normal completion of construction and rehabilitation projects creates the need for **new** employment, contracting or training opportunities. Section 3 regulations should not be construed to mean that recipients are required to hire Section 3 residents or award contracts to Section 3 businesses other than what is needed to complete covered projects/activities.

Compliance with Section 3

Each recipient has the responsibility to comply with Section 3 in its own operations, and ensure compliance in the operations of its contractors/ subcontractors. This responsibility includes but may not be necessarily limited to:

- (a) Implementing procedures designed to notify section 3 residents about training and employment opportunities
- (b) Notifying potential contractors for section 3 covered projects of the requirements of this part, and incorporating the section 3 clause set forth in § 135.38 in all solicitations and contracts.
- (c) Facilitating the training and employment of section 3 residents and the award of contracts to section 3 businesses
- (d) Assisting and actively cooperating with HUD in obtaining the compliance of contractors and subcontractors with the requirements of this part, and refraining from entering into any contract with any contractor where the recipient has notice or knowledge that the contractor has been found in violation of the regulations in 24 CFR part 135.
- (e) Documenting actions taken to comply with the requirements of this part, the results of actions taken and impediments, if any.

Procurement & Bid Documents

CDBG recipients must include Section 3 language in all procurement and bid documents. The required language to be included in these documents can be found in the appendix to this chapter of the CDBG Management Guide. In addition to the required language, recipients must include the "Intent to Comply with Section 3" form with all RFPs.

Contractors responding to bids must submit with their bid documents a signed copy of the “Intent to Comply with Section 3” form. This form will be used to collect information that recipients should use when reviewing responses to ensure compliance with Section 3 requirements.

Selecting Contractors with Section 3

In addition to certifying new employees’ level of income, Section 3 requires recipients make an effort to the “greatest extent feasible” to facilitate contracts to Section 3 businesses. By “greatest extent feasible,” HUD means that recipients of Section 3 covered financial assistance should make every effort within their disposal to meet the regulatory requirements. This may mean going a step beyond normal notification procedures for employment and contracting procedures by developing strategies that will specifically target Section 3 residents and businesses for these types of economic opportunities. Suggestions on strategies for reaching Section 3 businesses is provided later in Appendix 8 of the CDBG Management Guide.

While Iowa procurement procedures require recipients select the lowest responsible bidder when under a competitive sealed bid process, recipients may give preference to Section 3 businesses as a means of evaluation criteria for professional services contracts where proposals are solicited.

In order to give preference to Section 3 businesses during the contract awarding process, recipients must ask the contractor to certify whether or not they are a Section 3 business when soliciting for proposals. The “Intent to Comply With Section 3” form that will be provided with procurement documents and submitted by bidders will capture this information.

Remember, to be considered a Section 3 business the business must meet the definition by satisfying one of the following requirements:

- (1) That is 51 percent or more owned by section 3 residents; or
- (2) Whose permanent, full-time employees include persons, at least 30 percent of whom are currently section 3 residents, or within three years of the date of first employment with the business concern were section 3 residents; or
- (3) That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs (1) or (2) in this definition of “section 3 business concern.”

Section 3 businesses must be given priority in contracting for work, to the greatest extent feasible. Recipients should use the following order of priority:

- 1st: Section 3 business concerns that provide economic opportunities for section 3 residents in the service area or neighborhood in which the section 3 covered project is located (category 1 businesses); and
- 2nd: Applicants (as this term is defined in 42 U.S.C. 12899) selected to carry out HUD Youthbuild programs (category 2 businesses);
- 3rd: Other section 3 business concerns.

It is important to note that Section 3 requirements at 24 CFR 135, provides only preference for contracts and subcontracts to Section 3 businesses; Eligible businesses must demonstrate that they are responsible and are able to perform successfully under the terms and conditions of proposed contracts.

Hiring & Training with Section 3

Recipients and their contractors/subcontractors are required to give hiring and training preference to Section 3 residents, to the greatest extent feasible, when new employment opportunities result from a CDBG funded project.

When a recipient or contractor/subcontractor has identified that new employment or training opportunity will result from the normal completion of the CDBG construction and/or rehabilitation projects, the CDBG grant administrator should work with that entity to assist with advertising the opportunity to Section 3 residents.

Notices of employment/training opportunities must be sent to the Iowa Chapter of the National Association of Housing and Redevelopment Officials (NAHRO). Notices should be sent to the NAHRO Chapter President. Contact information can be found here:

<http://www.ianahro.org/contactus.cfm> NAHRO will share the notice with public housing authorities, in an effort to help reach Section 3 businesses. A sample notice for employment/training opportunities is provided in the attachments to this section of the Management Guide.

Additional suggestions on strategies for reaching Section 3 residents is provided later in this section of the CDBG Management Guide. Remember, recipients are required to document affirmative steps made to meet Section 3 goals when Section 3 requirements are triggered.

When giving hiring and training preference to Section 3 residents, recipients and contractor/subcontractors should use the following order of priority:

- 1st: Section 3 residents residing in the service area or neighborhood in which the section 3 covered project is located (collectively, referred to as category 1 residents).
- 2nd: Participants in HUD Youthbuild programs (category 2 residents).
- 3rd: Where the section 3 project is assisted under the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.), homeless persons residing in the service area or neighborhood in which the section 3 covered project is located shall be given the highest priority.
- 4th: Other section 3 residents.

Goals under Section 3

Federal regulations establish numerical goals for employment/training for Section 3 residents and contracts to Section 3 businesses.

Recipients, their contractors and subcontractors may show compliance with Section 3 requirements by:

1. Employing Section 3 residents as 30 percent of the new hires each year (24 CFR 153.30(b)(3).
2. Awarding 10 percent of the total dollar amount of all covered construction contracts to Section 3 businesses; and
3. At least 3% of the amount of all other Section 3 covered contracts (non-construction or professional services contracts)

A recipient that has not met the numerical goals must explain why it was not feasible to meet the established numerical goals set forth in this section. Please refer to “Reporting requirements/ reporting forms” for more information.

Note: It is important to document efforts made to comply with Section 3. Recipient files should contain any memos, correspondence, advertisements, etc. illustrating attempts to meet Section 3 goals (e.g., to reach out to eligible persons regarding employment or training and/or business concerns). IEDA staff will review this documentation during the project on-site monitoring visit.

Penalties for Non-Compliance

Recipients of CDBG funding have the responsibility of complying with Section 3 regulations and ensuring compliance among its contractors and subcontractors. Federal code established penalties for Section 3 violations and non-compliance. (See 135.38(f))

Communities and contractors found in violation of Section 3 requirements may result in:

- Sanctions from HUD
- Termination of contract for CDBG funds
- Debarment or suspension from future HUD assisted (CDBG) contracts

Non-compliance with Section 3 can impact a community’s ability to receive CDBG funding in the future. Under federal code, the state of Iowa may not enter into a contract with any entity when the state has knowledge that the entity has been found in violation of the Section 3 regulations. (See 24 CFR 135.32(d) and 24 CFR 135.72(b)).

Reporting Requirements & Forms

To report Section 3 data, recipients must analyze whether or not the Section 3 covered contract hired any new employees (temporary or permanent) to complete the activity/project. If the expenditure of CDBG funds does not result in new employment, contracting, or training opportunities, the requirements of Section 3 have not been triggered. However, even if the CDBG-funded/ Section 3 covered project did not create new employment opportunities, this information must be reported to IEDA.

If the contract is covered by Section 3, based on the criteria above, and the recipient/contractor did hire new employees (temporary or permanent), it is required that they report the new employees’ level of income. If the new employee’s household income is less than 80% of area median income prior to their hiring, they are considered a new hire that is Section 3 eligible. If they are above the 80% level of area median income, they are considered a new hire that is not Section 3 eligible. Income limits by County are available on IEDA’s website:

<https://www.iowaeconomicdevelopment.com/Community/downloads>

To certify if the contractor hired any new employees for the project, please use the “Section 3 New Hire Compliance Report”, found in the appendix to this chapter. Please note this form will also have the employer certify whether or not the new employee is a Section 3 resident.

To report Section 3 data to IEDA, recipients will report annually to IEDA. This report will be submitted through lowagrants.gov and will be due by December 31st of each year. As part of this report, recipients will need to report Section 3 accomplishments and/or provide a detailed explanation of why Section 3 goals were not met. Such an explanation should discuss efforts taken to comply with Section 3 and any impediments the recipient experienced in meeting Section 3 goals.

Section 3 Business Registry

The Section 3 Business Registry is a registry of firms that have self-certified their status as Section 3 Businesses. Businesses who self-certify that they meet one of the regulatory definitions of a Section 3 business will be included in a searchable online database. The database can be used by agencies that receive HUD funds, developers, contractors, and others to facilitate the award of covered construction and non-construction contracts to Section 3 businesses. Section 3 residents are also encouraged to use the registry to identify businesses that may have HUD-funded employment opportunities.

CDBG recipients should utilize HUD's Section 3 Business Registry to find Section 3 businesses that may be able to participate in the CDBG project. Recipients can search through HUD's Section 3 registry here:

<https://portalapps.hud.gov/Sec3BusReg/BRegistry/What>

Businesses may register as a Section 3 Business through HUD's website here:

<https://portalapps.hud.gov/Sec3BusReg/BRegistry/RegisterBusiness>

It is important to note that Section 3 businesses are not entitled to receive contracts simply by being listed in HUD's Section 3 Business Registry database.

Additional Section 3 Resources

More information and resources on Section 3 can be found on HUD's Section 3 website here:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/section3/section3

In the Appendix to Chapter 8

- Section 3 regulations (24 CFR Part 135)
- Appendix to Part 135: Examples of Efforts to Offer Training and Employment Opportunities to Section 3 Residents
- Appendix to Part 135: Examples of Efforts to Award Contract to Section 3 Business Concerns
- Appendix to Part 135: Examples of Procurement Procedures that Provide for Preference for Section 3 Business Concerns
- Steps for Section 3 Compliance
- Section 3 Clause (to be included in all CDBG related contracts)
- Sample Section 3 Employment Notice
- Intent to Comply with Section 3 Requirements Form (to be included with all procurement materials)
- Section 3 Business Certification form
- Section 3 New Hire Compliance report form
- Sample format for Section 3 Employee Interview form
- Frequently Asked Questions on Section 3 (from HUD Section 3 website)