Administration Manual

Nebraska Community Development Block Grant Program

A program of the Community and Housing Development Division of the Nebraska Department of Economic Development
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CHAPTER 1 – INTRODUCTION

PURPOSE OF MANUAL
The Nebraska Department of Economic Development (Department or DED) provides this Manual as a valuable resource for local government officials and CDBG Certified Administrators who are implementing Community Development Block Grant (CDBG) funded projects and for those contemplating applying for CDBG funds.

The online version of the Manual contains the latest information provided by the Department to assist CDBG grantees in complying with state and federal requirements. Current website information can be found at www.neded.org and includes current forms and information.

MANUAL UPDATES
Users of this Manual are encouraged to check for monthly updates on the DED at www.neded.org. The website information will note which sections and forms have been updated. Manual users are encouraged to incorporate any revised information into their hard copy manuals.

This manual is intended as a guide, not as a substitute for a thorough knowledge of state and federal laws and regulations referenced in this manual. In the event of any discrepancy, applicable federal or state regulations will prevail. The Grantee is responsible for compliance with the most stringent of any applicable local, state or federal law or regulation. If additional guidance from HUD is received, DED will notify all applicants of any new requirements by Policy Memo.

THE CDBG PROGRAM
The CDBG Program is authorized under Title I of the Housing and Community Development Act of 1974 (HCDA), as amended, codified at 42 U.S.C. §5301 et seq.

The primary national CDBG objective is to develop viable urban communities by providing decent housing, suitable living environments, and expanding economic opportunities, principally for low- and moderate-income persons (LMI).

The United States Department of Housing and Urban Development (HUD) administers the CDBG Program. The regulations created by the Office of the Assistant Secretary of Community Planning and Development that pertain to Community Development Block Grants are contained within 24 CFR Part 570. This is the primary source for guidance on the CDBG program.

Beginning with amendments to the HCDA in 1981, Congress provided states with the authority to administer CDBG funds for non-entitlement areas. Non-entitlement areas include those units of general local government that do not receive CDBG funds directly from HUD as part of the entitlement program. There are currently four CDBG Entitlement communities in Nebraska that include: Omaha, Lincoln, Grand Island, and Bellevue.

States participating in the CDBG Program award grants only to units of general local government in order to carry out development activities. Annually each State develops funding priorities and criteria for selecting projects. HUD’s role under the State CDBG Program is to ensure state compliance with federal laws, regulations, and policies.
States participating in the CDBG Program have three major responsibilities that include:
- Formulate community development objectives;
- Decide how to distribute funds among communities in non-entitlement areas; and
- Ensure that recipient communities comply with applicable state and federal laws and requirements.

Local governments have the responsibility to consider local needs, prepare grant applications for submission to the State, and carry out the funded community development activities. Local governments must comply with federal and state requirements.

HUD distributes funds to each State based on a statutory formula that takes into account population, poverty, incidence of overcrowded housing, and age of housing. Neither HUD nor States distribute funds directly to citizens or private organizations; all funds (other than the 1% technical assistance set-aside) are distributed by States to units of general local government.

All activities funded with CDBG resources must meet one of the following CDBG National Objectives for the program that include:
- Benefit low- and moderate-income persons.
- Prevent or eliminate slums or blight.
- Fulfill community development needs that have a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community.

**CDBG IN NEBRASKA**

The State of Nebraska elected to administer the CDBG program in non-entitlement areas beginning in 1983. The Nebraska Department of Economic Development (the Department) administers the CDBG program for the State.

The Department utilizes various means to identify development objectives, the distribution of CDBG resources, and to provide administrative guidance. Primary sources for this information include:
- The current State of Nebraska Consolidated Plan – prepared in accordance with 24 CFR Part 91, which describes needs, resources, priorities and proposed activities to be undertaken with respect to HUD programs, including CDBG.
- The current Annual Action Plan
- CDBG Application Guidelines (specific to each CDBG Program area)
- CDBG Administration Manual
- CDBG Application Guidelines Workshops
- Department Staff
CHAPTER 2 – ADMINISTRATIVE OVERVIEW

ADMINISTRATIVE REQUIREMENTS
The Department fully expects recipients of CDBG funds from the State of Nebraska to comply with all administrative requirements. Recipients must become educated on all administrative components, elements and requirements of the CDBG Program. The Department recommends that grantees develop a project management plan to assist in compliance. The management plan should include a list of responsibilities for each project team member, a timeline of implementation steps, and a detailed outline of a filing system.

The requirements in this manual provide grantees with standards for administering the CDBG Program in a consistent manner. These requirements are in addition to the Federal Housing and Community Development Act (the Act), as amended. The federal requirements for the program are described in 24 CFR Part 570, 24 CFR Part 85, and the Super Circular [2 CFR 200, including 2 CFR 200 Subpart F-Audit Requirements, as was previously identified in OMB Circular A-87 (2 CFR, Part 225) and OMB A-133 but replaced by the Super Circular information].

The timing of contracts and contract start dates, will determine the specific regulations that a grantee will be responsible for complying with, 2 CFR 200 will only have applicability in specific situations. Per 24 CFR 85.1(b) “...Federal awards made prior to December 26, 2014 will continue to be governed by the regulations in effect and codified in 24 CFR part 85 (2013 edition) or as provided by the terms of the Federal award. Where the terms of a Federal award made prior to December 26, 2014, state that the award will be subject to regulations as may be amended, the Federal award shall be subject to 2 CFR part 200...”. Overall contracts, unless amended or extended, that were executed prior to December 26, 2014 remain in effect with compliance requirements under 24 CFR 85.

ELIGIBILITY
Eligibility requirements for participation in the CDBG Program are specified in the Application Guidelines that are published annually and are consistent with the Annual Action Plan for the CDBG Program. The Department will approve only those activities that meet one of the CDBG National Objectives set forth in Section 104(b)(3) of the Act, and are otherwise eligible within the particular project funding category.

ADMINISTRATIVE TRAINING
The Department provides training on administering CDBG through the Certified Administrators Training Program. Find information and registration forms on upcoming workshops at the Department’s website, www.neded.org.

The principal contact at the Department for information on a particular CDBG project the grantee may be working on is the Program Representative assigned to the project. The Program Representative is familiar with the project and assists the local government and the Certified Administrator with implementation.

BASIC INFORMATION FOR ADMINISTRATION OF A CDBG PROJECT

Application
Most funding within the CDBG Program is available to local governments on a competitive basis. The Department notifies potential applicants when CDBG application guidelines are available for an
upcoming application cycle. The guidelines describe eligible applicants, eligible activities, the application process, and application deadlines.

The Department also conducts CDBG Application Workshops annually. Prior to completing an application it is helpful to contact Department staff. Additional information is also available on the Department’s website, www.neded.org.

Notice of Approval or Denial
Following the Department’s application review period, letters will be sent to all applicants informing them whether or not their application was funded. Those applicants that are not funded in an application cycle are encouraged to contact Department staff in order to determine ways in which project design and application development can be improved for future applications.

The Notice of Approval notifies each grantee that had an approved application of the amount and type of funds awarded and the activities that the grantee will undertake with the funds. Once a Notice of Approval Letter is received the grantee may only incur costs related to general administration and the preparation of the Special Conditions related to the Contract.

Administrative Costs
Administrative costs are the reasonable costs of overall program management, coordination, monitoring and evaluation. Project or activity costs are those related to the implementation and execution of the activity and can be classified as delivery costs.

A Grantee may be reimbursed for approved administrative costs provided:

- the costs are reasonable for the services provided and are in accordance with 2 CFR 200 subpart E, 24 CFR Part 85, or 24 CFR Part 570, and the rules and regulations of the program and do not exceed the amount authorized, as amended, in the contract, unless the Department has provided prior written approval;
- the costs are incurred following written Notice of Approval
- the amount of compensation charged to the program is based on payrolls documented and provided in accordance with generally accepted practices of state and local governments; and
- if applicable, the Grantee has followed Super Circular guidance under 2 CFR 200; 24 CFR Part 85 for contracts entered prior to December 26, 2014 as noted above; or 24 CFR Part 570 when contracting with consultants.

If the grantee withdraws from the program at any time, the Department reserves the right to determine the amount of funds to reimburse to, or recapture from the grantee for incurred administrative costs.

The Department may reduce the amount of administrative funds requested if it is deemed excessive.

CDBG Contract
The Department will send the grantee a CDBG Contract after the Notice of Approval. Any items that needed revision within the application related to project activities, etc. would have to be received by the Department prior to a Contract being finalized. The Department must have the necessary information in order to draft the Contract.
The contract contains several items that include: a project description, time of performance, sources and uses of funds, conditions governing the use of CDBG funds, and the Special Conditions for Release of Funds. The contract must be signed by the recipient and returned to the Department within 30 days. In general, the Special Conditions of the Contract must be satisfied within three months after the Notice of Approval Letter and projects are generally completed within two years. (Refer to Chapter 5 – CDBG Contract for more information).

The Contract between the Department and the grantee also provides information for termination for cause and/or for convenience. In the event the Department suffers a loss of funding or termination of the federal grant that permits it to fund in full or in part a CDBG grant, the Contract will terminate in full or in part.

**Special Conditions for Release of Funds**

Recipients of CDBG funds are advised to carefully review their CDBG Contract before implementing the funded project.

Each Contract has a section titled “Special Conditions for Release of Funds that includes information on the various items that the grantee must provide to the Department in order to obtain a Release of Funds Letter and have the ability to expend CDBG resources on implementation activities. These Special Conditions must be satisfactorily completed by an identified date, or the Department reserves the right to cancel the Contract if the special conditions are not met within a specified time frame.

**Project costs cannot be obligated or incurred prior to the Department issuing a written Notice of Release of Funds Letter to the Grantee.**

In general there are number of Special Conditions found in each Contract that include:

- Grantee Information Sheet
- Environmental Review
- Language Assistance Plan
- Authorization to Request Funds
- Financial Management
- Procurement Standards and Code of Conduct
- Excessive Force Certification
- Fair Housing
- Implementation Schedule
- CDBG Certified Administrator

**Note:** The above list represents a list of typical standard special conditions, however all CDBG Contracts are tailored to a specific project with unique standard conditions. The Special Conditions for Release of Funds in the CDBG Contract must be satisfied before the Notice of Release of Funds will be issued for that project.

Additional guidance on fulfilling contract conditions is available in Chapter 5 – CDBG Contract of the manual. The Department’s website, www.neded.org, also contains the forms needed to complete Special Condition requirements.

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**Release of Funds**

Upon receiving a Notice of Release of Funds letter, the grantee may obligate non-administrative costs and draw down funds for eligible costs incurred. A Release of Funds letter will not be issued if there are any unresolved audit findings relating to a past grant or there is information in the audit regarding extreme misconduct.

**Requesting CDBG Funds**

The request by the grantee for CDBG funds is made using the “Request for CDBG Funds” form. There are two separate and distinct “Request for CDBG Funds” forms. One form is for all project activity costs. The second form is for general administration activity 0181 only costs. The grantee must use the correct form for requesting CDBG funds reimbursement of project costs and general administration. The grantee may not combine project costs and general administration costs on one form. Separate requests for the two types may be submitted concurrently. The Department will return the CDBG Request for Funds form when the incorrect form is submitted. These forms can be downloaded from the Department’s website. If a grantee is unable to download the form, it may be requested from the Department. The website and the reverse side of the form include complete instructions for properly completing the form to request funds.

One copy of the completed Request for CDBG Funds form must be mailed to the Department for processing. The signatures on the form must be original and correspond to those signatures on the current Authorization to Request CDBG Grant Funds form (initially required for Release of Funds) the Department has on file. Grantees must send in a new Authorization to Request CDBG Grant Funds form whenever the individuals authorized to sign Requests for CDBG Funds change.

Grantees should normally receive payments of requested CDBG funds within two weeks of receipt of the request by the Department if there are no errors in the request or other reasons for delay.

All CDBG payments are made through the Nebraska Information System (NIS) based on the electronic address established by the Nebraska State Treasurer. This electronic address correlates with a designated local bank account. This is essentially the “default” bank account for CDBG payments. Refer to Chapter 12 – Financial Management, for further information on Electronic Funds Transfer and how to designate a different local bank account for CDBG payments.

Please take special note of the following concerning the request, receipt and expenditure of CDBG funds:

- A request for funds may not be submitted until the grantee has received a Notice of Release of Funds letter.
- A request for funds may be required to be accompanied by source documentation of expenses. Refer to Chapter 12 – Financial Management for further information on source documentation.
- Double and triple check the completed Request for CDBG Funds form before sending it to the Department, as any errors will cause considerable delay in payment.
- Request only the amount of funds needed to pay immediate obligations.
- **A request for project costs must be submitted separate from general administration.** Check to make sure the correct CDBG request for funds form is used for requesting reimbursement of general administration activity 0181 costs and for project activity costs, which are non-general administrative costs.
- Funds may be requested at any time and in any frequency; however, effective July 1, 2006 the
minimum CDBG drawdown request is $1,500. The exception is when the request is for only general administration, which is a $500 minimum request or the final request on a grant. Failure to satisfy these standards will result in the return of the “Request for CDBG Funds” form.

- The maximum allowable percentage of approved CDBG general administrative activity 0181 costs as contracted that may be requested by the grantee through the CDBG drawdown process are as follows:
  - 50% upon removal of grantee contracted special conditions—DED issuance of release of funds certifies that grantee contracted special conditions are met.
  - 90% prior to the submission of project closeout*—no more than 90% CDBG funds may be drawn prior to the grantee submission and the Department’s receipt of closeout documents. The grantee closeout documents are the final financial report, project status report, clearance of monitoring (compliance) report, and if applicable the final wage report, final jobs report, and planning document. The local government recipient may need to submit an audit, or notification of annual audit. The Department holds 10% general administrative CDBG funds until the closeout documentation process for receipt and acceptance of documents is met.

  [CDBG Planning grants are not subject to the 90% draw maximum for the general administration activity prior to submission of the closeout documents].

  *Department may waive 90% rule as warranted.

- 100% following submission by the grantee and receipt by the Department of all closeout documents. The grantee may submit the CDBG request for the final 10% general administration activity 0181 CDBG funds along with the closeout documents. The Department will process the final 10% general administrative costs following receipt and acceptance of closeout documents. The grantee closeout documents are the final financial report, project status report, clearance of monitoring (compliance) report, and if applicable the final wage report, final jobs report, and planning document. The local government recipient may need to submit an audit, or notification of annual audit

  [CDBG Planning grants are not subject to the 10% hold back for general administration activity.]

- Program income must be disbursed prior to requesting additional non-general administrative funds.
- Federal funds on hand must be disbursed prior to requesting additional funds.
- Grantees may not earn interest on the deposit of federal funds pending disbursement.
- If excessive amounts of cash (over $1,000) are on hand for an extended period of time (over five working days), the local government must return the excess to the Department.
- The request for payment must be in accordance with the approved budget for the grant contained in the Sources & Uses of Funds section of the grant contract.
- Grantees are required to show local match or other funds in the proportionate amount for each activity as included in the approved budget when requesting funds for an activity.
- The request for funds should show the status of all approved activities even if no funds are requested for one or more activities in a specific request.
Grantees must contact their Program Representative if budget amendments, extensions of contract completion dates, match waivers, or other actions are needed in connection with requesting CDBG funds. Written approval of changes affecting the budget may be required before payment requests will be processed.

**Matching Requirements/Other Funds**
The availability of matching and leveraged funds is part of the CDBG Contract. Grantees must ensure that funds are available for expenditure during the project period. Matching and leveraged funds may be cash or in-kind contributions as defined and governed by 24 CFR Part 85, 2 CFR 200 Subpart E, and 24 CFR Part 570, or unless restricted by category guidelines.

Grantees are required to certify on each “Request for CDBG Funds” form the amount of local and matching funds applied to the project. Project costs are to be paid from grant and local matching funds in the proportions approved in the project budget. Local funds expended for an activity for which no match is required may not be counted as part of the matching or leveraged funds required in other activities.

If the Grantee is unable to provide local matching funds in the exact proportions stated in the approved budget for all expenditures, a temporary waiver may be requested. The waiver request must include:
- A letter from the Grantee signed by the Chief Elected Official which states the reasons for the request, and
- The period of time for which the waiver is requested.

**Contract Amendments/Extensions**
During the course of administering a project, situations may occur that require a change in the original terms of the CDBG contract. These changes are referred to as contract modifications or amendments.

Grantees must request approval from the Department for any modification or amendment to the CDBG contract. When submitting the request for approval, the grantee must complete and submit the CDBG Contract Amendment Request Form to the Department.

Common amendment requests include:
- Changes to the budget
- Extensions of the contract end date
- Decreases in proposed accomplishments
- Amendments to housing program guidelines

The Department will review amendment requests using the following factors:
- The effect the amendment will have on the points earned in the selection process.
- Whether the amendment is appropriate and will enhance the overall impact of the original project.
- Grantee’s performance and capacity. (An on-site visit may be required before a determination can be made).
- Any other relevant information.

The Department will inform grantees in writing as to whether the amendment has been approved. In most cases when the amendment is approved, the Department will provide the Grantee with a formal contract amendment, which will need to be executed by the grantee and the Department. In other
cases, the Department may simply notify the grantee in writing that the modification has been approved. Grantees should never assume that an amendment has been, or will be approved, and no action should be taken until written approval from the Department is received by the grantee. Grantees should be aware that changes to the budget that allocate funds from one activity to another activity may require the Grantee to provide additional matching funds for the project, as the proportion of match to CDBG funds that was approved during the application phase must be maintained when the budget is modified. See Chapter 5 – CDBG Contract, for more information on contract amendments and modifications.

**Conflict of Interest**

As a general rule no employee, officer or agent of the grantee will participate in selection, or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when: the employee, officer or agent; any member of their immediate family; their partner; or an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee’s officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements, during office tenure or for one year after the closeout of the grant.

This stipulation must be included in all other contracts and subcontracts to this grant.

Upon the written request of the Grantee, the Department may grant an exception to this rule on a case-by-case basis when it determines that such an exception will serve the purposes of the Act and the effective and efficient administration of the grantee’s project. An exception will be considered only when the grantee has provided the following:

1) A disclosure of the nature of the possible conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made,

2) An opinion from the Grantee’s attorney or the Accountability and Disclosure Commission that the interest for which the exception is sought would not violate applicable State laws.

3) Verification that the affected person has withdrawn from active involvement in any grant-related issues.

Grantees and all interested parties will receive written notification of the Department’s decision to either allow or not to waive the conflict of interest requirement. In determining whether to grant an exception, the Department will consider the cumulative effect of the following factors, where applicable:

1) Whether the exception would provide a significant cost benefit or essential expert knowledge to the program or project.

2) Whether an opportunity was provided for open competitive bidding.

3) Whether the affected person has withdrawn from his/her functions or responsibilities or from the decision-making process.

4) Whether the interest or benefit was present before the affected person was in the position described in (3).

5) Whether undue hardship would result either to the Grantee or to the person affected when weighed against the public interest served by avoiding the prohibited conflict.
Recordkeeping Requirements
Grantees must establish a system for record keeping that assists the Department’s review of files for compliance. In other words, records should be kept in a manner that clearly tells the whole story of a CDBG project from beginning to end. A tool that the Department prescribes is using the monitoring checklist as a guide for the organization of grant files.

Financial records, supporting documents, statistical records and all other records pertinent to a grant will be retained for a period of ten years after closeout (certificate of closeout) of the grant. The ten-year rule is not applicable if:

- Any litigation, claim or audit is started before the expiration of the ten-year period, the records will be retained until all litigations, claims, or audit findings involving the records have been resolved.
- Records for nonexpendable property acquired with CDBG funds will be retained for 4 years after its final disposition.
- When records are transferred or maintained by the Department. The Department may request the transfer of certain records to its custody or to HUD when it determines that the records possess long-term retention value.

Representatives of HUD, the Inspector General, the General Accounting Office, the Comptroller General of the United States, the State Auditor’s Office, and the Department or any of their duly authorized representatives will have access to any pertinent books, records, accounts, documents, papers, and other property belonging to or in use by the grantee or sub-grantee in order to make audits, examinations, excerpts, or transcripts.

Reporting Requirements
The Department requires grantees to report on grant progress through the life of the project. These reports include:

- **Project Status Reports:** All grantees must submit this report every six months by January 15 and July 15.
- **Job Creation/Retention Reports:** Grantees funded under the economic development category and other grantees funded with job creation and/or retention as the national objective must submit this report every six months by January 15 and July 15.
- **Program Income Reports:** Grantees must report on program income earned from CDBG projects every six months by January 15 and July 15.
- **Notification of Annual Audit:** Grantees must submit this report for each grantee fiscal year that CDBG funds are expended.
- **Final Reports:** The Department requires the submission of a Final Performance, Final Financial reports, and a copy of the affidavit and minutes for the second public hearing for every project before closing out the project. Some projects also require the submittal of a Final Job Creation/Retention report and/or Final Wage Compliance Report. Planning projects also need to submit a final product prior to closeout.

Grantees should use the most current form for a particular report they are submitting. Current forms are available at the Department’s website near the on-line version of this manual in an area called “Forms”. The grant’s program representative will provide assistance, if needed, with locating and/or
sending the current on-line form. Refer to Chapter 13 – Reporting Requirements for additional information.

**Monitoring**
The Department conducts two basic types of monitoring that includes desktop and onsite monitoring in order to review a grantee’s progress of their project. Refer to Chapter 14 – Monitoring for more information.

During a monitoring review a determination may be made that a grantee lacks continuing capacity to administer a CDBG project. If at any time the Department determines that the objectives set forth in the federal regulations, the Administrative Requirements, or the approved program have not been met, the following procedures may be utilized:

1) **Warning:** A written warning will be issued when a violation of a program requirement has occurred. This warning will cite the violation, and if the violation is occurring, a deadline when it must be remedied.

2) **Suspension:** Grant funds will be discontinued for any grant which is found to be in noncompliance and for which corrective action by the grantee has not been initiated. Funding may be discontinued for the entire project or for a specific activity. Funding may be reinstated upon the correction of the violating condition.

3) **Reimbursement:** The grantee will be required to reimburse CDBG funds that have not been spent in accordance with the approved application and program requirements. The amount of the reimbursement will be determined by the amount that has been disallowed and for which no other costs may be substituted.

4) **Payment Adjustments:** If the grantee has not demonstrated responsible fiscal and administrative capacity, the Department may adjust the payment method in which the grant funds are disbursed.

5) **Grant Adjustment:** Grant awards may be adjusted, reduced or the total amount withdrawn when there is noncompliance and the violation cited has not been remedied as specified.

6) **Nonparticipation in the CDBG Program:** Grantees which have not complied with actions administered by the Department may be prohibited from future participation. The Department may allow grantees to participate in the program if the grantee has complied with the required actions.

7) **Full or Partial Termination:** The CDBG contract may be terminated in whole or in part if the Department determines that the grantee has failed to comply with its terms and conditions. Payments made to the grantee or recoveries by the Department will be in accord with the legal rights and liabilities of the grantee and the Department.

Refer to Chapter 14 – Monitoring for additional information including a monitoring checklist.

**Closeout**
Closeout is the process in which the Department determines that all requirements of the contract between the Department and the Grantee have been completed. After the completion of project activities several items must be completed by the grantee in order to obtain a Certificate of Closeout.

Refer to Chapter 16 – Closeout Chapter for more information.
CERTIFIED ADMINISTRATOR REQUIREMENTS

All grantees who receive a CDBG grant from the Department, or those communities with CDBG program income revolving loan funds, must have a CDBG Certified Administrator. The Certified Administrator is the person in charge of the project on a day-to-day basis and may be an employee of the grantee or a consultant that has been procured for and under contract with the grantee. In order to obtain Release of Funds, the grantee must identify the Certified Administrator for the project as part of the Special Conditions of the contract.

In order to be a CDBG Certified Administrator, a candidate must complete: 1) attendance at a designated Certification Workshops; 2) successfully complete the Certification written exam; and 3) no outstanding balances for training events, which includes registration fees. Below is specific information for CDBG Certified Administrators.

Certified Administrator Required Knowledge and Duties

Certification by the Department is based upon the premise that the person who will be assisting a grantee in meeting CDBG requirements must have a high level of proficiency in all areas of CDBG project management. Significant knowledge of the federal Community Development Block Grant program, as implemented and administered by the Department, is required. A successful Certified Administrator should have four primary skill sets that include:

- Ability to understand, interpret, and apply federal regulations;
- Basic knowledge of community-based and economic development programs;
- Leadership ability; and
- Organization and management skills.

The above-mentioned skills will be utilized to perform several duties and responsibilities that include, but are not limited to, the following:

- Ensuring the Grantee meets all federal and state laws, regulations, and policies that are relevant to the project.
- Ensuring the Grantee meets all of the Special Conditions of the Grantee’s Contract within the specified time frame stated in the grant agreement in order to obtain Release of Funds.
- Ensuring that the Grantee complies with all federal, state, and grantor requirements for procuring professional services and construction services.
- Ensuring the Grantee has a solid understanding of the financial management requirements associated with the CDBG grant and that the Grantee has an appropriate financial management system in place.
- Ensuring all environmental, labor, acquisition, and relocation requirements are followed over the course of the project.
- Ensuring all reporting is submitted to DED by required deadlines.
- Ensuring proper closeout and compliance review of each CDBG project is completed that meets all federal, state, and grantor reporting requirements.

Full Certification Process

During each calendar year, the Department will host a Certification Workshop. This Workshop will be referred to as CDBG Full Certification Training and is intended for those persons who are seeking the Certified Administrator designation. The Workshop will provide comprehensive training on CDBG topics and provide Certified Administrators with the necessary information to effectively administer a project.

At the conclusion of the CDBG Workshop, each person seeking the Certified Administrator designation must complete the written Certification Exam. The Exam will consist of questions that cover the primary
Persons notified can not identify discretion Coordinator Grantees notified to take in Workshop. Scheduled time will be between Exam certification. Exam will expire immediately after the training event. In this event, the individual will be decertified and any Grantees that have entered into administration agreements with the Certified Administrator will be notified that they must select another Certified Administrator.

Persons who do not successfully complete the Full Certification Exam will be notified by the Department. Those individuals may retake the Certification Exam at the next scheduled Certification Exam time or may request to make special arrangements with the CDBG Training Coordinator or Program Manager to take the Certification Exam at a different time. Successful completion of the Certification Exam will result in a 2 year certification period.

**Conditional Certification**

Persons who would like to become certified during a time when no Full Certification class is available can apply for a Conditional Certification. Conditional Certification will allow an individual to become certified to administer CDBG grants in Nebraska for a short period of time, not to exceed the time between passing the Full Certification Exam and the time of the next scheduled Full Certification Workshop.

In order to receive a Conditional Certified Administrator designation, the individual must schedule a time to take the Certification Exam with the CDBG Training Coordinator or Program Manager. It is the responsibility of the individual to prepare for the Certification Exam. The cost of taking the Certification Exam will be equal to the cost associated with attending the Full Certification training and includes the purchase of the current Nebraska CDBG Administration Manual.

Persons who successfully complete the Full Certification Exam will be notified by the Department of their successful completion of the Training and Exam and will receive a letter and certificate which will identify that they are now a Conditional Certified Administrator for a period of time between passing the Full Certification Exam and the time of the next scheduled Full Certification Workshop. Certified Administrators who receive Conditional Certification will be required to attend the next available Certification Workshop in order to receive full Certified Administrator status and the cost of attending the training will be waived.

If a Certified Administrator fails to attend the next Certification Workshop, the Conditional Certification will expire immediately after the training event. In this event, the individual will be decertified and any Grantees that have entered into administration agreements with the Certified Administrator will be notified that they must select another Certified Administrator.

Persons who do not successfully complete the Certification Exam will be provided one opportunity to take and pass the Certification Exam. Those persons wishing to retake the Exam must make special arrangements with the CDBG Training Coordinator or Program Manager to schedule a time and place to
take the Certification Exam. Successful completion of the Certification Exam will result in a 2 year certification period.

**Re-Certification Process**

During each calendar year, the Department will also host a Re-Certification Workshop. This Workshop will be referred to as CDBG Re-Certification Training and is intended for those persons who are seeking to retain their Certified Administrator designation. The Workshop will provide comprehensive training on CDBG topics and provide Certified Administrators with the necessary information to effectively administer a project.

Recertification Training must be successfully completed prior to the expiration of the Certified Administrator’s certification. Certified Administrators may attend Re-Certification Training, and pass the Re-Certification Exam, in either the third or fourth year of certification to maintain their designation. Certification expiration dates are based upon a specific calendar date and not based on the CDBG Program Year. Certified Administrators may need to be re-certified during an ongoing project.

Persons who do not attend Re-Certification will be decertified and will not be allowed to attend Department training for the purposes of certification for one year. During this one year period, the individual will not be recognized as a Certified Administrator by the Department and will not be allowed to administer any CDBG grants. Full Certification requirements will then have to be completed after that time in order to administer CDBG programs.

At the conclusion of the CDBG Workshop, each person seeking to retain their Certified Administrator designation must complete the written Re-Certification Exam. The Exam will consist of questions that cover the primary CDBG topic areas. The Exam will be open book, but only the Nebraska CDBG Administration Manual, and any other materials provided during the Workshop, may be used during the testing.

Each person taking the Re-Certification Exam must receive a passing score in order to be a CDBG Certified Administrator. Those persons who do not receive a passing score on the Re-Certification Exam will be placed on probation (effective the date the Certified Administrator failed the test). A Certified Administrator on probation may continue with current agreements; but will not be eligible to enter into any new agreements.

Persons who successfully complete the Re-Certification Exam given during the CDBG Workshop will be notified by the Department of their successful completion of the Training and Exam and will receive a letter and certificate which will identify that they are now recertified as a CDBG Certified Administrator for an additional period of 4 years (from the date of their current certification end date) as designated by the Department. This period of designation is solely up to the Department’s discretion and may be revised as necessary for proper administration of CDBG programs.

Persons who do not successfully pass the Re-Certification Exam given during the CDBG Workshop will be notified by the Department and will be placed on probation (effective the date in which the Re-Certification Exam was failed). Those individuals may retake the Re-Certification Exam at the next scheduled Full Certification Exam time or may request to make special arrangements with the CDBG Training Coordinator or Program Manager to take the Re-Certification Exam at a different time. Successful completion of the Re-Certification Exam will result in a 2 year certification period.
Persons who do not pass the retake of the Re-Certification Exam will be decertified and will not be allowed to attend Department training for the purposes of certification for one year. During this one year period, the individual will not be recognized as a Certified Administrator by the Department and will not be allowed to administer any CDBG grants.

After the conclusion of the one year decertification period, the person may attend Full Certification training to pursue certification. Individuals who were de-certified under the Certified Administrator program may not attend a Recertification Training to become certified. Such individuals will be treated as first-time participants and will initially be certified for 4 years after attending the Certification Workshop and successfully passing the Certification Exam.

CERTIFIED ADMINISTRATOR IN GOOD STANDING; AND TYPES OF VIOLATIONS

Definition of Certified Administrator in Good Standing
To avoid probation or decertification, a Certified Administrator should remain in good standing. A Certified Administrator is considered to be in good standing by achieving the following objectives:

1) Assist grantee in meeting all special conditions of the contract within 90 days of the Notice of Award.
2) On behalf of the grantee, timely and correct submission of all documents and forms required by the CDBG program to the grantor.
3) Ensure that all deficiencies noted in a monitoring letter are resolved within 30 days of the date stated on the letter.
4) Ensure that the same deficiencies do not occur in multiple monitoring letters.

Note: This list is not all-inclusive and is subject to change without notice.

Violations Affecting Good Standing
Failure to remain in good standing can result in probation or decertification. Each documented failure of the Certified Administrator to meet any of the above objectives will result in a violation. Please note that Objective #2 (above), the incorrect and untimely submission of all documents and forms (including drawdowns), affects the good standing of a Certified Administrator. However, the Department acknowledges that there may be factors outside of the control of the Certified Administrator that can result in incorrect or untimely submittal of forms and documents. Subsequently, the nature and the frequency of the incorrect or untimely document submittals will be taken into consideration when issuing violations under Objective #2.

Monitoring Violations
Monitoring violations can affect a Certified Administrator’s good standing in the CDBG Certified Administrator program. The monitoring visit will address three different areas: Grantee Findings, General Findings, and Deficiencies. Each violation has a different effect on a Certified Administrator’s standing:

- **Grantee Finding:** These are the requirements that are the primary responsibility of the local governmental entity receiving the CDBG award. In most cases, a grantee finding will not be counted as a violation on the part of the Certified Administrator. However, if there are repeated Grantee Findings, these may result in a violation on the part of the Certified Administrator. For example, if the local government did not issue a check to a contractor within 10 days of drawing down CDBG funds, this is a Grantee Finding. If the local governmental entity repeatedly fails to follow the 10 day rule throughout the course of the project, this may result in a General Finding (which does count towards a violation for a Certified Administrator) as well as a Grantee Finding.
because it is the Certified Administrator’s job to ensure that the financial management system at the local level meets the all federal and state rules and regulations.

- **General Findings:** These are any errors that cannot be corrected. An example is a Project Status report not submitted by the due date. Each general finding will count as 1/3 of a violation against the Certified Administrator. A violation occurs when there are 3 General Findings against a Certified Administrator. General Findings against a Certified Administrator are cumulative and can come from multiple projects. For instance, if a Certified Administrator is working on three different CDBG projects and has one General Finding for each project, this will result in a violation that will remain on the Certified Administrator’s record for one year.

- **Deficiencies:** These are any errors that can be corrected. Most issues found in a monitoring will fall under this category. The Certified Administrator will have 30 days from the date on the monitoring letter to resolve a deficiency. If the deficiency is not resolved within 30 days, it becomes a violation. Additionally, if the same deficiency is documented multiple times to the same Certified Administrator, even if resolved within 30 days, it will become a violation against the Certified Administrator’s certification.

**Clearing Violations from Certified Administrator’s Record**

A violation will remain on the Certified Administrator’s record for a one year period. A violation can also be removed from the Certified Administrator’s record prior to the end of the one year period if the Certified Administrator attends a training that addresses the subject matter specific to the violation.

If the Certified Administrator chooses to attend training to clear a violation from his/her record, the Certified Administrator must attend the next relevant training session within 6 months of the date of the violation notice to successfully remove the violation from the record. If agreed upon by the CDBG Training Coordinator, the Certified Administrator can choose to attend the relevant session(s) of the Department Certification or Recertification trainings or, if there are no Certification or Recertification trainings available within the 6 month window, the Certified Administrator may contact the CDBG Training Coordinator to schedule an individual training on the violation subject matter.

Additional training will not be available to those Certified Administrators that have reached their fourth violation within a one year period; at this point the Certified Administrators will be placed on a probationary status by the Department.

**Violation Notices**

When violations occur Certified Administrators will receive email notices in order to provide an otherwise Certified Administrator in Good Standing an opportunity to clear the violation(s) by attending relevant training.

Once a Certified Administrator accumulates two documented violations the Certified Administrator will receive a written warning from the CDBG Program Manager.

Written notices are also issued upon the third violation within a one year period; the Certified Administrator’s employer and the local contact person for the local unit of government for each open CDBG award the Certified Administrator manages will also be contacted at this time.
Four documented violations within a one year period will result in administrative probation. This notice will be sent certified mail. A copy of this notice will also be sent to the Certified Administrator’s employer plus the local contacts that represent those communities where the CDBG Certified Administrator’s has current and open projects; this communication is also shared with all relevant employees within the grantors agency.

Administrative Probation
The CDBG Program Manager may place a Certified Administrator on administrative probation status for a period of time up to one year once the Certified Administrator has accumulated four violations as described in earlier in this chapter. The CDBG Program Manager shall record the reasons for the probationary status. All notifications of probationary status to a CDBG Certified Administrator will be sent by Certified mail, the date of the probationary period starts is the same as the date shown on the letter; the certified letter will advise when the probationary status ends.

The Certified Administrator may continue to manage current CDBG contracts to which they are a party, but they may not enter into new contracts during the probationary period.

Once the probationary period expires, and there were no further documented violations during that time; the Certified Administrator may be fully reinstated. A Certified Administrator who has not incurred further violations during the probationary period may be required to attend a CDBG training event before the Certified Administrator is once again considered to be in good standing; the additional training is left to the discretion of the CDBG Program Manager. If one or more violations are documented during the probationary period, the Certified Administrator will not be allowed to clear the violations through training. An additional violation will result in the end of the probationary period and the decertification process will proceed. If a Certified Administrator is placed on probation twice within a three year period, the Department will proceed with the decertification process.

Should the Certified Administrator’s certification expire during the probationary period, the individual shall be allowed to participate in the Recertification Training and may become recertified; however, this does not nullify the probationary status or any violations on the record and the Certified Administrator will remain on probation and unable to enter into new CDBG grant administration contracts until the end of the probationary period and the Certified Administrator is once again in good standing.

Appeal of Violations/Probationary Status
A Certified Administrator may appeal the issuance of a violation and/or probation in writing to the Director of Housing and Community Development Division within 20 working days of the date of the notice of the violation/probationary status. In appealing a violation, the written appeal must include: a description of the violation in question; extenuating circumstances surrounding the violation, if any; and reasons that the Certified Administrator believes that the violation should not be recorded on their administrative record. In appealing imposition of probationary status the written appeal must include: a summary of all violations that led to the Grantors decision to put the CDBG Certified Administrator on probation; extenuating circumstances surrounding the Certified Administrator’s performance over the year; and reasons that the Certified Administrator believes that probationary status is not warranted. The written appeal must be signed by the Certified Administrator; however, the Certified Administrator may include any supporting documentation as deemed necessary by the Certified Administrator.

Decisions by the Housing and Community Development Division Director in regard to the issuance of a violation or to put a Certified Administrator on Administrative Probation will be final.
Decertification
A Certified Administrator may be decertified if the following actions are documented and verified by Department staff. These actions include but are not limited to:

- Consistently bypassing federal or state statutes, regulations or policies of the Grantor, Actions that result in the de-obligation or repayment of grant awards.
- Two or more substantiated written complaints filed by a grantee, the grantor, agent, elected official or other individual involved in the implementation of federal grants.
- Poor performance by the grantee, as evidenced by consistent grant extensions, modifications, project delays, and unresolved monitoring issues.
- Improper procurement of contractors.
- Conflicts of interest which, if disclosed, would result in the loss of the contract.
- Failure to attend the mandatory trainings and pass the exam administered at the required trainings.
- Accumulation of an additional violation while on probation, or being placed on probation twice within three years.
- Engaging in conduct involving significant dishonesty, fraud, deceit, or misrepresentation whether or not such activity is a crime.
- Engaging in any conduct that is found significantly prejudicial to the administration of the CDBG program or CDBG grants.

At the discretion of the CDBG Program Manager and the Director of the Housing and Community Development Division of the Nebraska Department of Economic Development, the aforementioned actions can automatically result in the implementation of the decertification process without an initial or additional probationary status.

A Certified Administrator, who is decertified for any reason, including failure to attend mandatory trainings and pass the required exams, will need to wait one year before attending the Full Certification training. A decertified Administrator may not attend a Recertification Training in order to become reinstated as a Certified Administrator.

The Department reserves the right, with cause, to add to this list without notice any action detrimental to the efficient conduct and timely execution of a grant award that is attributable to the performance of a Certified Administrator. Decertification will not take place without the due process that is outlined in the following section.

Decertification Process
The decertification process shall begin with written notice from the Director of the Housing and Community Development Division of the Nebraska Department of Economic Development. Such notice will be mailed to the Certified Administrator via certified mail. The notice will advise the Certified Administrator that the Department is seeking decertification of such Administrator. The notice will also include a statement summarizing the reasons for decertification and it will include a statement that the Certified Administrator is entitled to file a written appeal with the Deputy Director of the Nebraska Department of Economic Development within 20 calendar days from the date the letter was written or postmarked in which to file an appeal with the Deputy Director. The appeal must specifically respond to the reasons for decertification as set forth in the decertification notice.
The Deputy Director of the Department of Economic Development will make the final decision in regard to a decertification appeal. The decision of the Deputy Director will be issued via certified mail within 20 calendar working days of the receipt of the appeal.

If a Certified Administrator fails to file an appeal with the Deputy Director within 20 calendar days from the date of the letter, the Department will proceed to decertify the Administrator.

**Working with a Decertified Administrator**

The Department recognizes that decertified Administrators could potentially continue to work on projects with the assistance of a Certified Administrator in good standing. The Department cautions Certified Administrators in good standing that this type of arrangement can result in violations accruing against the Certified Administrator in good standing. Regardless of who actually prepares the documents, errors will result in violations against the Certified Administrator that is the Certified Administrator of record for the stated project. Please note that this is also applicable to Certified Administrators that have been placed on administrative probation and are unable to enter into new contracts. If the Certified Administrator on probation continues to work on new projects under the name of a Certified Administrator in good standing, violations resulting from the work on the project will accumulate on the record of the Certified Administrator in good standing.

**APPEAL OF DEPARTMENT DECISIONS**

An appeal is a written request directed to the Department by an applicant, grantee or Certified Administrator for reconsideration of a decision made by Department staff. This applies to all appeals, with the exception of appeals in regard to the Certified Administrator program, the process of which is outlined above.

**Procedures**

1) An applicant, grantee, or a Certified Administrator appealing a decision of Department staff must submit a written appeal requesting a reversal of the decision based upon facts of the situation. This appeal must come to the Department from the Chief Elected Official or the Certified Administrator.

2) The CDBG Program Manager will consider the issues and respond within 30 days to the applicant, grantee or Certified Administrator.

3) If dissatisfied with the CDBG Program Manager’s decision, the applicant, grantee or Certified Administrator may appeal to the Department Director. The Department Director may, at the request of the parties, schedule a hearing or simply render a written decision. If a hearing is held, all interested parties will participate.

4) The purpose of this informal hearing will be to determine the facts of the situation, the appropriateness of the decision, and the justification and the appropriateness of the appeal.

5) The Department Director will make a decision within 30 days of the hearing. This written decision will be sent to all parties.

6) The Department Director’s decision is the final administrative action that will be taken by the Department.

**PROGRAM ADMINISTRATION COMPLAINT PROCESS**

Federal law prohibits housing discrimination based on your race, color, national origin, religion, sex, family status, or disability. Individuals or authorized representatives of individuals who believe they have been the subject of discrimination may file a complaint with the Department of Economic Development.
(Department) or the Fair Housing and Equal Opportunity Office (FHEO) of the Department of Housing and Urban Development (HUD) located in Kansas City.

**Against Grantee Administration**

The Department will receive and act upon written complaints against the grantee’s administration of the program. Complaints may also be received verbally, and by other means, as necessary where the Department determines that a citizen is not reasonably able to submit a written complaint. In these instances, the Department may convert these complaints into written form.

The Department will implement the following procedures for disposition of complaints against local administration:

1) The Department will forward a copy of the written complaint to the grantee.
2) The Department Complaint Manager will request that the grantee respond to the complaint and inform the Department within 30 days of the action to be undertaken to resolve the complaint.
3) If the response by the grantee is determined to be satisfactory, in consultation with the Complaint Review Committee, the grantee will be notified along with the party lodging the complaint.
4) If the response is determined to be inadequate, the grantee will be put on official notice by the Department that the response was inadequate, and will be granted 15 days to reconsider and respond to the party lodging the official complaint. The grantee will submit to the Department the actions occurring to resolve the complaint.
5) The Complaint Review Committee will review the grantee’s actions to resolve the complaint. If the actions are deemed satisfactory, the grantee will be notified along with the party lodging the complaint.
6) If the Complaint Review Committee does not consider the grantee’s actions satisfactory in resolving the complaint, the Department may impose administrative sanctions upon the grantee. If imposed, the sanctions will not be lifted until the Department is satisfied with the grantee’s actions.
7) If dissatisfied with the disposition of the complaint, the party may lodge an official appeal of a decision to the Department Director, or in instances where the complaint is connected to a CDBG or HOME funded project, such party may appeal to HUD officials.

**Against State Administration**

The Department will receive and respond to written complaints against state administration of the program. Complaints may also be received verbally, and by other means, as necessary where the Department determines that a citizen is not reasonably able to submit a written complaint. In these instances, the Department may convert these complaints into written form.

The Department will implement the following procedures in response to complaints against state administration of the Program:

1) When a complaint is received by a Department official it will be forwarded to the Program Manager.
2) Within 30 days of receiving the complaint the Program Manager, in consultation with the appropriate parties, will respond to the complaint.
3) Complaints will be responded to in writing.
4) If dissatisfied with the disposition of the complaint, the party may lodge an official appeal of a decision to the Department Director.

To contact the HUD FHEO Office:
Kansas City Regional Office of FHEO
U.S. Department of Housing and Urban Development
Gateway Tower II
400 State Avenue, Room 200
Kansas City, Kansas 66101-2406
(913) 551-6958
(800) 743-5323
TTY (913) 551-6972

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i. National origin discrimination includes discrimination based on a person’s inability to speak, read, write, or understand English.

ii. Since the complainant is receiving a copy of this letter, which is simply our Department’s standard, initial response request letter to a program grantee, we will particularly note the following for the information of the complainant. This complaint process is not meant to resolve disputes between a homeowner and a contractor about workmanship, product warranties, “punch list” completion, construction completion timing, or any other issues that may arise between homeowners and construction contractors. We emphasize this point because we do not want the complainant homeowner to be operating under the false impression that this complaint process is meant to resolve disputes the homeowner may have with their contractor.

iii. Depending on which Program the complaint in question originated from, complaint management will be conducted by the Program Manager of the CDBG, HOME, or NAHTF Programs.
PROCESO DE RECLAMOS CONTRA LA ADMINISTRACIÓN DEL PROGRAMA

La ley federal prohíbe la discriminación de vivienda basándose en su raza, color, nacionalidad", religión, sexo, estado familiar o discapacidad. Los individuos, o representantes autorizados de los individuos, quienes crean haber sido sujetos a discriminación podrían presentar un reclamo con el Departamento de Desarrollo Económico (el Departamento) o con la Oficina de Vivienda Justa e Igualdad de Oportunidades [FHEO, por sus siglas en inglés] del Departamento de Vivienda y Desarrollo Urbano [HUD, por sus siglas en inglés] ubicado en Kansas City.

En Contra de la Administración del Beneficiario

El Departamento recibirá y actuará al recibir los reclamos por escrito en contra de la administración del beneficiario del programa. Los reclamos también pueden ser recibidos de manera verbal y a través de otros medios conforme sea necesario, cuando el Departamento determine que un ciudadano no puede, de manera razonable, presentar un reclamo de manera escrita. En dichos casos, el Departamento podría convertir esos reclamos a un medio escrito.

El Departamento implementará los siguientes procedimientos para la disposición de reclamos en contra de la administración local:

1) El Departamento enviará una copia del reclamo escrito al beneficiario.
2) El Administrador de Reclamos del Departamento solicitará que el beneficiario responda a la queja e informe al Departamento dentro de 30 días de la acción que se tomará para resolver el reclamo.
3) Si se determina que la respuesta del beneficiario es satisfactoria, al hacer una consulta con el Comité de Revisión de Reclamos, se notificará al beneficiario junto con la parte que ha presentado el reclamo.
4) Si se determina que la respuesta es inadecuada, el beneficiario recibirá una notificación oficial por parte del Departamento indicando que su respuesta fue inadecuada y se le otorgará 15 días para reconsiderar y responder a la parte que ha presentado el reclamo oficial. El beneficiario luego enviará al Departamento las acciones que tomarán lugar para resolver el reclamo.
5) El Comité para Revisión de Reclamos revisará las acciones del beneficiario para resolver el reclamo. Si las acciones se consideran satisfactorias, se notificará al beneficiario junto con la parte que ha presentado el reclamo.¹
6) Si el Comité para Revisión de Reclamos considera que la respuesta del beneficiario es inadecuada para resolver el reclamo, el Departamento podría imponer sanciones administrativas al beneficiario. Si se imponen, dichas sanciones seguirán vigentes hasta que el Departamento esté satisfecho con las acciones del beneficiario.
7) Si no estuviese satisfecho con las disposiciones del reclamo, la parte en desacuerdo podría presentar una apelación oficial de la decisión con el Director del Departamento, o en casos en los cuales el reclamo se haga en conexión con proyectos solventados por CDBG o HOME, dicha parte podrían apelar ante los oficiales de HUD.

En Contra de la Administración Estatal

El Departamento recibirá y responderá a los los reclamos por escrito en contra de la administración estatal del programa. Los reclamos también pueden ser recibidos de manera verbal y a través de otros medios conforme sea necesario, cuando el Departamento determine que un ciudadano no puede, de manera razonable, presentar un reclamo de manera escrita. En dichos casos, el Departamento podría convertir esos reclamos a un medio escrito.
El Departamento implementará los siguientes procedimientos para responder a los reclamos en contra de la administración del programa:

1) Cuando un reclamo sea recibido por un agente del Departamento este será enviado al Administrador del Programa.

2) Dentro de 30 días de haber recibido el reclamo, el Administrador del Programa luego de haber consultado con las partes apropiadas, responderá al reclamo.

3) Las respuestas a los reclamos se realizarán por escrito.

4) Si no está satisfecho con la disposición del reclamo, la parte en desacuerdo podría presentar una apelación oficial frente al Director del Departamento.

Para contactar a la Oficina Regional de FHEO de HUD en Kansas City:

Kansas City Regional Office of FHEO
U.S. Department of Housing and Urban Development
Gateway Tower II
400 State Avenue, Room 200
Kansas City, Kansas 66101-2406
(913) 551-6958
(800) 743-5323
TTY (913) 551-6972

Discriminación debido a la nacionalidad incluye la discriminación basada en la inhabilidad de la persona para hablar, leer, escribir o entender el inglés.

Debido a que la persona que realiza el reclamo está recibiendo una copia de esta carta, la cual es simplemente una práctica estándar de nuestro Departamento, la carta solicitando una respuesta inicial a un beneficiario del programa, queremos recalcar particularmente la siguiente información: este proceso de reclamo no tiene la finalidad de resolver disputas entre un dueño de una propiedad y un contratista acerca del trabajo, la garantía del producto, la “lista de tareas” a completar, tiempo de culminación de la construcción, o cualquier otro problema que podría surgir entre dueños y contratistas de construcción. Nosotros enfatizamos este punto porque no queremos que los dueños de vivienda que presenten algún reclamo lo hagan bajo la falsa impresión que este reclamo tiene la intención de resolver las disputas que los dueños de viviendas pudiesen tener con sus contratistas.

Dependiendo del programa en el cual se haya originado el reclamo, la administración de este reclamo será realizada por el Administrador de Programa de los programas CDBG, HOME o NAHTF.
CHAPTER 3 – CDBG NATIONAL OBJECTIVES & FUNDABILITY

Before any activity can be funded in whole or in part with CDBG funds, a determination must be made as to whether the activity is eligible under Title I of the Housing and Community Development Act of 1974, as amended. Activities must also address at least one of the following three National Objectives of the CDBG Program:

- Benefit low and moderate income (LMI) persons,
- Aid in the prevention or elimination of slums or blight, and
- Meet other community development needs having a particular urgency, because existing conditions pose a serious and immediate threat to the health or welfare of the community and are of recent origin or recently became urgent, and where other financial resources are not reasonably available to meet such needs.

There are a number of different criteria by which an activity can meet a national objective, as shown in the following Table.

Below is additional information on each of the CDBG National Objectives.

**LOW AND MODERATE INCOME (LMI) PERSONS**

The LMI National Objective is often referred to as the “primary” national objective in so far as federal regulations require the Department to expend at least 70% of its CDBG funds to meet this particular objective. Grantees must ensure that the activities proposed, when taken as a whole, will not benefit moderate-income persons to the exclusion of low-income persons. Activities that benefit low and moderate income (LMI) persons are divided into four types:

- Area benefit activities;
- Limited clientele activities;
- Housing activities; and
- Job creation/retention activities
**Area Benefit Activities**

An Area Benefit activity is one whose benefits are available to all the residents in a particular service area, where at least 51 percent of the residents are LMI persons. For example, building a community center in an LMI town could qualify as an Area Benefit activity. The benefits of this type of activity are available to all persons in the area regardless of income.

The activity’s service area does not need to be consistent with census tracts or other officially recognized boundaries, but it must be the entire area served by the activity. Activities of the same type that serve different areas must be considered separately on the basis of their individual service areas.

In determining whether an activity will actually benefit LMI persons, the net effect of the completed activity is considered. The mere location of an activity in an LMI area does not conclusively demonstrate that the activity benefits LMI persons.

Examples of activities that may qualify as an Area Benefit activity include: building a library that serves an LMI area; providing drainage improvements in an LMI neighborhood; or constructing a water tower that serves an LMI area.

**Limited Clientele Criteria**

A Limited Clientele activity benefits a specific group of people (rather than all the residents in a particular area), at least 51 percent of whom are LMI persons. For example, the construction of a Senior Center for severely elderly persons could be a Limited Clientele activity. However, the following kinds of activities do not generally qualify under this category:

- Activities where the benefits are available to all the residents of an area.
- Activities involving the acquisition, construction, or rehabilitation of property for housing.
- Activities where the benefit to LMI persons is the creation or retention of jobs (except for certain microenterprise and job training activities as described below).

To qualify under Limited Clientele criteria, the activity must meet one or more of the following criteria that would benefit a clientele generally presumed to consist principally of LMI persons, provided there is no evidence to the contrary. The only groups that are in the presumed category include:

- Abused children,
- Elderly persons (62 and older),
- Battered spouses,
- Homeless persons,
- Severely disabled adults (as defined by the Census),
- Illiterate adults,
- Persons living with AIDS, and
- Migrant farm workers.

**Housing Activities**

An LMI Housing activity is one carried out for the purpose of providing or improving permanent, residential structures that will be occupied by LMI households upon completion. This would include, but not necessarily be limited to, owner occupied rehabilitation of residential property, rental rehabilitation, and down payment assistance to LMI persons.
Housing units can be either owner or renter-occupied in either one family or multi-family structures. Rental units occupied by LMI persons must be occupied at affordable rents as defined by the Department.

Job Creation/Retention

A Job Creation/Retention activity is demonstrated, in nearly all Economic Development (ED) projects through job creation, job retention, or both job creation and job retention, by a benefited business. Such job creation or job retention must involve the employment of persons, the majority (51%) of whom are LMI persons.

SLUM AND BLIGHT

The prevention or elimination of slum and blight is a CDBG National Objective that focuses on activities that create a change to the physical environment of a deteriorating area. HUD wishes to ensure that activities that qualify under this National Objective are clearly eliminating objectively determinable signs of slums or blight in a defined slum or blighted area or are strictly limited to eliminating specific instances of blight outside such an area.

The Slum and Blight National Objective can be met in 2 ways that include:
- Area Basis (SBA)
- Spot Basis (SBS)

Area Basis (SBA)

To qualify under the national objective of slums/blight on an area basis, an activity must meet all of the following criteria:
1) The area must be officially designated by the grant recipient and must meet a definition of a slum, blighted, deteriorated, or deteriorating area under State or local law. (For these purposes, it is not necessary to formally designate/declare the area to be blighted, but the area must meet the definitions for designation.)
2) The area must exhibit signs of economic disinvestment as indicated by at least one of the following physical signs of blight or decay:
   a. There must be a substantial number of deteriorated or deteriorating buildings throughout the area. As a “safe harbor,” HUD will consider this test to have been met if either:
      i. The proportion of buildings in the area that are in such condition is at least equal to that specified in the applicable State law for this purpose; or
      ii. In the case where the applicable State law does not specify the percentage of deteriorated or deteriorating buildings required to qualify the area, then at least one quarter of all the buildings in the area must meet the grant recipient’s definition of:
         ▪ deteriorated or deteriorating;
         ▪ abandoned;
         ▪ experiencing chronic high occupancy turnover rates or chronic vacancy rates in commercial or industrial buildings;
         ▪ experiencing significant declines in property values or abnormally low property values relative to other areas in the community; or
         ▪ known or suspected of environmental contamination
b. The public improvements throughout the area must be in a general state of deterioration. (For this purpose, it would be insufficient for only one type of public improvement, such as a sewer system, to be in a state of deterioration; rather, the public improvements taken as a whole must clearly exhibit signs of deterioration.)

3) Documentation must be maintained by the grant recipient on the boundaries of the area and the conditions that qualified the area at the time of its designation. The recipient must establish definitions of the conditions (listed above) and maintain records to substantiate how the area met the slums or blighted criteria.

**Note:** The area must be re-designated every 10 years for continued qualification and documentation must be retained.

4) Activities to be assisted with CDBG funds must be limited to those that address one or more of the conditions that contributed to the deterioration of the area. (Note that this does not limit the activities to those that address the blight or decay itself, but it allows an activity to qualify if it can be shown to address a condition that is deemed to have contributed to the decline of the area.)

**Spot Basis (SBS)**

The elimination of specific conditions of blight or deterioration on a spot basis (SBS) is designed to comply with the statutory objective for CDBG funds to be used for the prevention of blight, on the premise that such action(s) serves to prevent the spread to adjacent properties or areas.

To comply with the SBS National Objective an activity must meet the following criteria:

1) The activity must be designed to eliminate specific conditions of blight, physical decay or environmental contamination not located in a designated slum or blighted area and

2) The activity must be limited to one of the following:
   a. Acquisition;
   b. Clearance;
   c. Remediation of environmentally contaminated properties;
   d. Relocation;
   e. Historic Preservation; or
   f. Rehabilitation of buildings, but only to the extent necessary to eliminate specific conditions detrimental to public health and safety.

Where the assisted activity is acquisition or relocation, it must be a precursor to another eligible activity (funded with CDBG or other resources) that directly eliminates the specific conditions of blight or physical decay, or environmental contamination. This requirement is not intended to discourage acquisition and relocation as pre-development activities and does not mandate that a proposed plan be in place before CDBG funds can be spent. For example, a grantee could clean up a contaminated site without acquiring the site; however, if the grantee acquired the site first, the project would be considered to meet the slum/blight national objective criteria only after clean-up occurred.

For more information please review the specific HUD guidance on the Slum and Blight topic.
URGENT NEED
Use of this national objective category is extremely rare. It is designed only for activities that alleviate emergency conditions. Urgent Need activities must meet the following qualifying 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 recipient is unable to finance the activity on its own, and
- Other sources of funding are not available.

CDBG PROGRAM FUNDABILITY
Fundability refers to key thresholds that determine the ability of projects and programs to receive CDBG funding. The Department’s review process for all local government CDBG funding applications must include a fundability determination that is completed prior to award (also known as a Notice of Approval).

All CDBG activities, and activities completed for CDBG Match, must meet two criteria:
1) Meet a CDBG National Objective (National Objective Compliance); and
2) Must be eligible for funding (Activity Eligibility);

National Objective Compliance refers to the determination made as to whether or not an activity meets a CDBG National Objective based on a grantee’s application narrative and the activity description noted within the Part II – Funding Summary and Part III – Budget of a grantee’s application.

Activity Eligibility refers to the determination made as to whether or not an activity is eligible based on a grantee’s application narrative and the activity description noted within the Part II Funding Summary and Part III – Budget of a grantee’s application. Once a project is awarded, and an Executed Contract has been obtained, the grantee must complete the activities that were identified within the Contract. Failure to complete an activity as awarded, and identified within the Contract, will result in disallowance of CDBG funds and repayment by the grantee to the Department for funds previously drawn down.

Eligible and Ineligible Activities
There are several activities that are eligible for funding with the CDBG Program. The Housing and Community Development Act of 1974 (HCDA), as amended, is the primary authority for determining the eligibility of potential CDBG activities. The eligible activities section of the State CDBG regulations and guidance is minimal, thus the States and grantees must use Section 105(a) of the HCDA.

The complete list of eligible and ineligible activities is also identified and summarized within HUD’s “Guide to National Objectives and Eligible Activities for State CDBG Programs” that is available on HUD’s website at: https://www.hudexchange.info/resource/2179/guide-national-objectives-eligible-activities-state-cdbg-programs/.

Not all activities identified within HUD’s Guide are State priorities for the Department, and although technically eligible for funding under HUD, these may not be eligible for funding within the State of Nebraska’s CDBG Program. The State has the authority to be more restrictive in identifying activity priorities that are completed through the State CDBG Program.
**Eligible Activities**

All project activities must be eligible for funding according to the HCDA Section 105(a). The general rule is that any activity that is not authorized by the HCDA is ineligible to be assisted with CDBG funds.

Common eligible activities include, but are not limited to, the following:
- Acquisition
- Clearance
- Code enforcement
- Fire equipment (including the purchase of fire trucks)
- Public facilities
- Public services
- Payment of non-federal share
- Planning and Capacity Building
- Façade Improvements of Commercial Buildings
- Relocation
- Owner Occupied Rehabilitation (OOR) of residential units
- Down Payment Assistance (DPA)
- Rental rehabilitation of residential units
- Street improvements including curb, gutter, and sidewalk, which may include energy efficiency improvements for lighting; storm sewer improvements; flood control drainage improvements;
- Removal of architectural barriers; and single or multi-use facility improvements that are designed to provide public recreational and social activities;
- Removal of architectural barriers that restrict accessibility for elderly and handicapped persons in support of public facilities/infrastructure, which includes buildings used predominantly for the general conduct of government
- Job Training
- Economic Development (ED)
- Technical Assistance
- General CDBG Administration expenses

**Ineligible Activities**

Any activity that is not authorized by the HCDA Section 105(a) is ineligible to be assisted with CDBG funds.

Common ineligible activities include, but are not limited to, the following:
- Payment of salaries for public employees (not related to the CDBG program)
- Operating/Maintenance expenses
- Public improvement repairs
- Construction equipment
- Motor vehicles
- Filling of pot holes in streets
- Reconstruction of City Hall or County Courthouses
- General government operating expenses
- Political expenses
- Capitalizing CDBG funds for City Hall construction
- General government expenses
- Mowing recreation areas
- Repairing cracks in sidewalks
- Purchase of furniture
- New housing construction
- Construction or rehabilitation of buildings for the general conduct of government (except for special cases)

Overall, the grantee should work with a DED Program Representative in order to determine which activities are appropriate for CDBG funding for any given project.
CHAPTER 4

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CHAPTER 5 – CDBG CONTRACT

This section of the CDBG Manual provides guidance on the steps that must be fulfilled before a funded project is implemented and an overview of the requirements a grantee has as a result of signing a CDBG Contract.

Caution:

- Prior to seeking any professional services or contractors, a Grantee must understand and follow the procurement processes required of CDBG funded projects. See Chapter 7 – Procurement.
- Prior to contracting for non-general administrative services, a Grantee must receive a Notice of Release of Funds from the Department.

NOTICE OF APPROVAL LETTER

A letter announcing the award is sent to each successful CDBG program applicant. The letter specifies the amount of the award and the activity or activities funded. The amount of the award may be smaller than the requested amount. An approved applicant is required to designate an employee of the local governmental entity to have principal day-to-day responsibility for the administration of this grant. In addition, a CDBG Certified Administrator must be employed or contracted by the grantee to oversee the administration of the grant. The CDBG Certified Administrator may be the designated employee responsible for day-to-day administration or a contracted professional, in either case the Certified Administrator must be recognized by the Department as being a Certified Administrator.

The award letter cautions the grantee about incurring costs. Non-administrative costs incurred prior to receiving a Notice of Release of Funds cannot be reimbursed with CDBG funds unless a special pre-agreement is executed. Only a very limited number of costs may be incurred prior to receiving a Notice of Release of Funds. Only costs associated with the general administration of a grant are allowable such as contracting for administrative services or hiring staff to administer the grant. Administrative costs include the related costs necessary for completing the Special Conditions requirements of the CDBG Contract this includes the environmental review. Contracts for general administration services must be executed after the Notice of Approval date. All expenses incurred prior to the Notice of Approval cannot be reimbursed by CDBG funds.

A grantee will also find in the Notice of Approval the contact information for the Program Representative. This is the Department staff person who is the principal contact for all matters concerning this grant.

CDBG CONTRACT

Note: As a result of the Office of Management and Budget’s release of the Super Circular and the U.S. Department of Housing and Urban Development’s Notice of Transition to 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final Guidance, the Department has made several changes and additions to the CDBG Contracts. Grantees are strongly encouraged to thoroughly review the CDBG contracts prior to execution.

The grantee will receive two copies of the CDBG Contract (see the sample contract) after receiving the Notice of Approval. This is the contract between the Department and the grantee. The grantee should thoroughly review the terms and conditions of the contract with its attorney.
The Chief Elected Official is the only individual recognized by the Department authorized to sign and execute CDBG contractual documents and official correspondence. This applies to any contract extensions and amendments involving changes in terms, conditions and amounts. At the time of application, the grantee should have passed a resolution authorizing the Chief Elected Official to sign such documents.

The grantee has 30 days to sign both copies of the CDBG Contract and send both copies to the following address:

Community Development Block Grant  
Nebraska Department of Economic Development  
P.O. Box 94666  
301 Centennial Mall South  
Lincoln, NE 68509-4666

**Terms**  
The CDBG Contract contains a project description, time of performance, sources and uses of funds, conditions governing the use of CDBG funds and the special conditions for release of funds. In most cases, the special conditions of the contract must be satisfied within three months and the project completed within two years.

Each grantee is responsible for adhering to all the terms of their CDBG Contract. A substantial number of regulations, acts, and statutes apply to the grant. It is a good idea to understand all the requirements of the contract.

**SPECIAL CONDITIONS FOR RELEASE OF FUNDS**  
Recipients of CDBG funds are advised to carefully review their CDBG Contract before implementing the funded project. Contained within the contract is a section entitled Special Conditions for Release of Funds. The section begins by stating that “Funding of the amount stipulated in §1.01 will not be released to the Recipient by the Department until the following Special Conditions for Release of Funds are met.” These Special Conditions must be satisfactorily completed by the identified date, or the Department reserves the right to cancel the contract if these special conditions are not met within this specified time frame.

**Note:** Project costs cannot be obligated or incurred prior to the Department issuing a written Notice of Release of Funds to the Grantee.

**Typical Special Conditions for Release of Funds**  
- **Grantee Information Sheet**  
  Documentation is required that the Grantee has completed and returned this form to the Department. This form should be resubmitted to the Department anytime a representative identified on the form has changed.  
- **Environmental Review**  
  Documentation is required by the Department evidencing the Grantee’s completion of its responsibilities for environmental review and decision making pertaining to the project, and its compliance with the National Environmental Policy Act of 1969 (NEPA), and other provisions of Federal law as specified in 24 C.F.R. Part 58, which furthers the purposes of NEPA. (See Chapter
6 – Environmental Review)

- **Language Assistance Plan**
  Documentation is required by the Department evidencing the grantee’s completion of its responsibilities regarding Limited English Proficiency (LEP) persons, assignment of an LEP Representative, a Four Factor Analysis, and a description of the actions grantee will take to fulfill the requirements to provide meaningful access to LEP persons.

- **Authorization to Request Funds**
  Documentation is required that the Grantee has completed and returned this form to the Department. This form should be resubmitted to the Department anytime a representative identified on the form has changed.

- **Financial Management**
  Documentation is required evidencing completion of all financial management system requirements and execution of the financial management certification form prescribed by the Department.

- **Procurement Standards and Code of Conduct**
  Documentation is required evidencing adoption of Procurement Standards and Code of Conduct equivalent to those established in 24 C.F.R. Part 85 and 24 C.F.R. Part 570.

- **Excessive Force Certification**
  Documentation is required that the Grantee has adopted a policy to prohibit the use of excessive force by law enforcement agencies against any individual engaged in nonviolent civil rights demonstrations.

- **Fair Housing**
  Documentation is required that the Grantee has specifically provided a description of the actions it will take during the course of the grant to fulfill the requirements to affirmatively further fair housing. (See later in this chapter for more guidance on fair housing)

- **Implementation Schedule**
  Documentation that the grantee has completed and submitted this form to the Department.

- **CDBG Certified Administrator**
  Documentation is required that the grantee has selected a CDBG Certified Administrator.

**Disclaimer:** The above list represents a list of typical standard special conditions, however all CDBG Contracts are tailored to a specific project with unique standard conditions. The Special Conditions for Release of Funds in the CDBG Contract must be satisfied before the Notice of Release of Funds will be issued for that project. Forms and samples to assist in completing special condition requirements are available from the Department’s website.

**Federal and State Requirements**
In PART V: SPECIAL REQUIREMENTS AND ASSURANCES the grantee agrees to comply with: the Administrative Requirements of the program; those applicable items in the current Consolidated Plan; Title I of the Housing and Community Development Act of 1974; and 24 CFR Part 570; as well as other laws and regulations, both federal and state, as they are applicable to the approved Project.

The grantee must gain understanding of all the requirements that they are agreeing to comply with. The following is meant as a summary of some of the requirements and not a complete coverage of the responsibilities of CDBG grantees.
Civil Rights and Equal Opportunity Provisions

- **Title VI of the Civil Rights Act of 1964**
  Provides that no person shall be excluded from participation in, denied program benefits of, or subject to discrimination based on race, color and/or national origin under any program or activity receiving federal financial assistance.

- **Section 109 of the Housing and Community Development Act of 1974**
  Provides that no person shall be excluded from participation in (including employment), defined program benefits of, or subject to discrimination on the basis of race, color, national origin, or sex under any program or activity funded in whole or in part under Title I (Community Development) of the Act.

- **Age Discrimination Act of 1975**
  Provides that no person shall be excluded from participation in, denied program benefits of, or subject to discrimination on the basis of age under any program or activity receiving federal funding assistance.

- **Section 504 of the Rehabilitation Act of 1973**
  Provides that no otherwise qualified individual shall; solely by reason of his or her handicap, be excluded from participation in (including employment), denied program benefits of, or subjected to discrimination under any program or activity receiving federal funding assistance.

  United States Housing and Urban Development (HUD) regulations require that grantees follow specific steps in complying with Section 504 of the Rehabilitation Act of 1973. Attachment 2 provides guidance on those compliance steps.

- **Americans with Disability Act**
  Extends civil rights to those with disabilities in the following areas: employment, public accommodations, state and local government services, and telecommunications. Discrimination could occur if facilities are designed or constructed (built for initial occupancy after January 26, 1993) and are not accessible or usable by those with disabilities. The ADA also mandates that structurally-based architectural and communications barriers be removed, provided that the removal be readily achievable, easily accomplished and capable of being accomplished with little difficulty or expense.

- **Executive Order 11246**
  Applies to all federally-assisted construction contracts and subcontracts. It provides that no person shall be discriminated against on the basis of race, color, religion, sex or national origin in any phase of employment during the performance of a federal or federally-assisted construction contract in excess of $10,000. Grantees must include the applicable equal opportunity language in the bid specifications and contract documents.

- **Executive Order 11063, As Amended by Executive Order 12259**
  Provides that the administration of all federal programs and activities relating to housing and urban development be carried out in a manner to further housing opportunities throughout the United States. Under this executive order, if HUD (or in this case, the state) concludes that any person or entity applying for or participating in, or supervised or regulated under, a program or activity relating to housing and urban development has not complied with this order or any...
applicable rule, regulations, or procedures issued or adopted pursuant to this order, they shall endeavor to remedy such violation by informal means, including conference, conciliation and persuasion. In the event of failure of such informal means, sanctions may be imposed.

- **Title VIII of the Civil Rights Act of 1968, As Amended by the Fair Housing Amendments Act of 1988**
  This law, seeking fair housing practices throughout the United States, prohibits any person from discriminating in activities associated with housing, because of race, color, national origin, religion, sex, handicap, or familial status. The grantee must also administer programs and activities relating to housing and urban development in a manner that affirmatively promotes fair housing and furthers the purposes of Title VIII.

**Environmental Standards and Provisions**
For more information on environmental requirements refer to Chapter 6 – Environmental Review

- **Title IV of the Lead-Based Paint Poisoning Prevention Act and regulations at 24 C.F.R. Part 35**
  National Environmental Policy Act of 1969 and regulations at 24 C.F.R. Part 58
  Environmental review procedures, including completing a checklist and determining and publishing a Finding of Significance or of No Significant Impact for a project, are a necessary part of this process. Pursuant to these provisions, the grantee must also submit environmental certifications to the Department when requesting that funds be released for the project.

  The grantee must certify that the proposed project will not significantly impact the environment and that the grantee has complied with environmental regulations and fulfilled its obligations to give public notice of the funding request, environmental findings and compliance performance.

- **EPA List of Violating Facilities**
  The grantee will ensure that the facilities under its ownership, lease, or supervision which will be utilized in the accomplishment of the program are not listed on the U.S. Environmental Protection Agency's (EPA) List of Violating Facilities.

- **Flood Insurance**
  The grantee will comply with the flood insurance purchase requirement of §102(a) of the Flood Disaster Protection Act of 1973. §102(a) requires, on and after March 2, 1974, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Federal Emergency Management Agency as an area having special flood hazards.

- **Historic Preservation**
    - Consulting with the state Historical Preservation Officer to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 C.F.R. Part 800.0) by the proposed activity; and,
    - Complying with all requirements established by the state to avoid or mitigate adverse effects upon such properties.
**Labor Standards and Provisions**
For more information on labor standards requirements refer to Chapter 9 – Construction & Labor Standards

- Davis-Bacon Act
- Section 2 of the June 13, 1934 Act Poplarly Known as The Copeland Anti-Kickback Act Contract Work
- Hours and Safety Standards Act
- Section 3 of the Housing and Urban Development Act of 1968
- Fair Labor Standards Act of 1938

**AFFIRMATIVELY FURTHERING FAIR HOUSING**
All CDBG grantees, regardless of the type of CDBG project, must certify that they will affirmatively further fair housing in the community (Title VIII of the Civil Rights Act of 1968). This requirement dictates some form of action to be taken by the grantee, not just passive compliance with existing laws and ordinances. The requirement is not limited to those grantees with a housing activity, but must be undertaken by all DED CDBG grantees each time a grant is awarded.

Fair housing choice is the ability of persons of similar income levels to have available to them a like range of housing choices regardless of race, color, national origin, religion, sex, familial status, or disability. Local governments, because of their influence and power, are in the most effective position to promote fair housing. CDBG grantees make a commitment to Affirmatively Further Fair Housing in the community as a recipient of CDBG funds. Although the Department has a specific action requirement, it is important for grantees to be aware that this is a commitment to understand every individual’s fair housing rights and ensure all local policies and practices do not hinder fair housing and when appropriate actively further fair housing.

**Grantees, as a Special Conditions requirement must:**
- Identify a local contact, preferably an employee or elected official of the local government, as the community Fair Housing representative that will actively promote fair housing and ensure potential fair housing violations are reported to the appropriate agencies. The Department does not expect, or recommend, that the community Fair Housing representative take on the responsibility of deciding whether specific complaints are legitimate violations of the Fair Housing Act. Instead the Fair Housing representative needs to make individuals aware of the agencies that can assist them with investigating and resolving a complaint that is potentially a violation of the Act.
- Inform the Department of a specific action they will undertake to further fair housing and clearly document the action that was taken in the project file. Documentation of the Fair Housing Action can include newspaper articles, meeting and board minutes, contracts and agreements with workshop presenters, sign-in sheets, web-sites, and video files.

Standard, minimal actions that may be undertaken without additional actions only by a grantee village that it is a first-time recipient of CDBG funds and with permission from the Department program representative:
- Add the Equal Opportunity Fair Housing logo to official letterhead.
- Prominently display posters, logo, and informational material on fair housing in the village office and community meeting places.
- Pass a Fair Housing Resolution with a commitment to fair housing and measurable action steps to promote fair housing.
Acceptable Fair Housing Actions for purposes of meeting the Special Conditions requirement that Affirmatively Further Fair Housing:

- Undertake a review of existing fair housing ordinances, zoning and land use practices for discriminatory policies and practices. Document the review and make it available to the public. Develop a Fair Housing Plan with corresponding action steps to address discriminatory policies and practices.
- Take an action step identified in your Fair Housing Plan that has not been previously taken.
- Develop a community Fair Housing web-page which prominently displays the community’s commitment to Further Fair Housing on the community web-site including links to fair housing enforcement and education agencies such as the Nebraska Equal Opportunity Commission, the Fair Housing Center of Nebraska-Iowa, and HUD.
- Enhance the community’s Fair Housing Web-page with additional resource and education materials.
- Print a notice or advertisement that appears in a prominent location of the local newspaper that states that the grantee is an active supporter of fair housing laws. The notice or advertisement must include the contact information for the community Fair Housing representative.
- Support and participate in an educational program coordinated with local realtors, home builders, and/or mortgage lenders designed to provide information on fair housing rights.
- Provide a housing referral and counseling services session with fair housing advocates to assist minorities, women, and persons with disabilities seeking housing within the grantee’s jurisdiction.
- Host an informational fair housing session for local employers to encourage cooperation in efforts to find housing for their employees and to promote equal housing choices within the community.
- Speak to an elementary school class about the Fair Housing rights of the children and their families.
- Request assistance from the Nebraska Equal Opportunity Commission or other advocacy groups to host a fair housing informational or technical assistance seminar in your community or region.
- Sponsor a billboard that informs citizens of their basic fair housing rights and contacts if they feel they have experienced discrimination.
- Invite the Nebraska Equal Opportunity Commission (NEOC) or other Fair Housing advocacy organization to have a discussion with a group of lenders or rental property owners and managers about their fair housing responsibilities.
- Host a Fair Housing Month (April) event such as a Fair Housing poster contest or Housing information event that includes Fair Housing advocates.
- Other actions approved in advance by the Department on a per grant basis.

Basic Facts about Individual Rights and Other Components in the Fair Housing Act

- **What Housing Is Covered?**
  The Fair Housing Act covers most housing. In some circumstances, the Act exempts owner-occupied buildings with no more than four units, single-family housing sold or rented without the use of a broker, and housing operated by organizations and private clubs that limit occupancy to members.
What Is Prohibited?

In the Sale and Rental of Housing:
No one may take any of the following actions based on race, color, national origin, religion, sex, familial status or handicap:
- Refuse to rent or sell housing
- Refuse to negotiate for housing
- Make housing unavailable
- Deny a dwelling
- Set different terms, conditions or privileges for sale or rental of a dwelling
- Provide different housing services or facilities
- Falsely deny that housing is available for inspection, sale, or rental
- For profit, persuade owners to sell or rent (blockbusting) or
- Deny anyone access to or membership in a facility or service (such as a multiple listing service) related to the sale or rental of housing.

In Mortgage Lending:
No one may take any of the following actions based on race, color, national origin, religion, sex, familial status or handicap (disability):
- Refuse to make a mortgage loan
- Refuse to provide information regarding loans
- Impose different terms or conditions on a loan, such as different interest rates, points, or fees
- Discriminate in appraising property
- Refuse to purchase a loan or
- Set different terms or conditions for purchasing a loan.

In Addition:
It is illegal for anyone to:
- Threaten, coerce, intimidate or interfere with anyone exercising a fair housing right or assisting others who exercise that right
- Advertise or make any statement that indicates a limitation or preference based on race, color, national origin, religion, sex, familial status, or handicap. This prohibition against discriminatory advertising applies to single-family and owner-occupied housing that is otherwise exempt from the Fair Housing Act.
- Threaten, coerce, intimidate or interfere with anyone exercising a fair housing right or assisting others who exercise that right
- Advertise or make any statement that indicates a limitation or preference based on race, color, national origin, religion, sex, familial status, or handicap. This prohibition against discriminatory advertising applies to single-family and owner-occupied housing that is otherwise exempt from the Fair Housing Act.

Additional Protection if You Have a Disability
If you or someone associated with you:
- Have a physical or mental disability (including hearing, mobility and visual impairments, chronic alcoholism, chronic mental illness, AIDS, AIDS Related Complex and mental retardation) that substantially limits one or more major life activities
- Have a record of such a disability or
- Are regarded as having such a disability
Your landlord may not:
- Refuse to let you make reasonable modifications to your dwelling or common use areas, at your expense, if necessary for the disabled person to use the housing. (Where reasonable, the landlord may permit changes only if you agree to restore the property to its original condition when you move.)
- Refuse to make reasonable accommodations in rules, policies, practices or services if necessary for the disabled person to use the housing.

Examples:
- A building with a "no pets" policy must allow a visually impaired tenant to keep a guide dog.
- An apartment complex that offers tenants ample, unassigned parking must honor a request from a mobility-impaired tenant for a reserved space near her apartment if necessary to assure that she can have access to her apartment.

However, housing need not be made available to a person who is a direct threat to the health or safety of others or who currently uses illegal drugs.

**Requirements for New Buildings**

In buildings that are ready for first occupancy after March 13, 1991, and have an elevator and four or more units:
- Public and common areas must be accessible to persons with disabilities
- Doors and hallways must be wide enough for wheelchairs
- All units must have:
  - An accessible route into and through the unit
  - Accessible light switches, electrical outlets, thermostats and other environmental controls
  - Reinforced bathroom walls to allow later installation of grab bars and
  - Kitchens and bathrooms that can be used by people in wheelchairs.

If a building with four or more units has no elevator and will be ready for first occupancy after March 13, 1991, these standards apply to ground floor units.

These requirements for new buildings do not replace any more stringent standards in State or local law.

**Housing Opportunities for Families**

Unless a building or community qualifies as housing for older persons, it may not discriminate based on familial status. That is, it may not discriminate against families in which one or more children under the age of 18 live with:
- A parent
- A person who has legal custody of the child or children or
- The designee of the parent or legal custodian, with the parent or custodian's written permission.

Familial status protection also applies to pregnant women and anyone securing legal custody of a child under 18.
**Exemption:** Housing for older persons is exempt from the prohibition against familial status discrimination if:

- The HUD Secretary has determined that it is specifically designed for and occupied by elderly persons under a Federal, State or local government program or
- It is occupied solely by persons who are 62 or older or
- It houses at least one person who is 55 or older in at least 80 percent of the occupied units, and adheres to a policy that demonstrates an intent to house persons who are 55 or older.

A transition period permits residents on or before September 13, 1988, to continue living in the housing, regardless of their age, without interfering with the exemption.

**If You Think Your Rights Have Been Violated**
HUD is ready to help with any problem of housing discrimination. If you think your rights have been violated, the Housing Discrimination Complaint Form is available for you to download, complete and return, or complete online and submit, or you may write HUD a letter, or telephone the HUD Office nearest you. You have one year after an alleged violation to file a complaint with HUD, but you should file it as soon as possible.

**What to Tell HUD:**
- Your name and address
- The name and address of the person your complaint is against (the respondent)
- The address or other identification to the housing involved
- A short description to the alleged violation (the event that caused you to believe your rights were violated)
- The date(s) to the alleged violation

**Where to Write or Call:**
Send the Housing Discrimination Complaint Form or a letter to the HUD Office nearest you or you may call that office directly.

**If You Are Disabled:**
HUD also provides:
- A toll-free TTY phone for the hearing impaired: 1-800-927-9275.
- Interpreters
- Tapes and braille materials
- Assistance in reading and completing forms

**What Happens when You File a Complaint?**
HUD will notify you when it receives your complaint. Normally, HUD also will:
- Notify the alleged violator of your complaint and permit that person to submit an answer
- Investigate your complaint and determine whether there is reasonable cause to believe the Fair Housing Act has been violated
- Notify you if it cannot complete an investigation within 100 days of receiving your complaint
RELEASE OF FUNDS
After receiving a Notice of Release of Funds and incurring eligible costs, the grantee may request CDBG funds from the Department. The grantee must complete and send to the Department a Request for CDBG funds only as funds are needed for the project. CDBG funds will be disbursed electronically to the grantee’s bank account generally within two weeks if the request contains no errors. The grantee has only 10 working days to spend CDBG funds following receipt.

The Department recommends to grantees, as a sound financial practice, that CDBG funds be drawn after the grantee has incurred and paid the eligible expense. It is an absolute requirement that expenses are incurred prior to drawing CDBG funds. More information on requesting funds is available in Chapter 12 – Financial.

AMENDMENTS/EXTENSIONS
During the course of administering a project, situations may occur that require a change in the original terms of the CDBG contract. These changes are referred to as contract modifications or amendments.

Grantees must request approval from the Department for any modification or amendment to the CDBG contract. When submitting the request for approval, the grantee must complete and submit the CDBG Contract Amendment Request Form to the Department along with any attachments required by the Department.

Common amendment requests include:
- Changes to the budget
- Extensions of the contract end date
- Decreases in proposed accomplishments
- Amendments to housing program guidelines

*The Department will review amendment requests using the following factors:*
- The effect the amendment will have on the points earned in the selection process.
- Whether the amendment is appropriate and will enhance the overall impact of the original project.
- Grantee’s performance and capacity. (An on-site visit may be required before a determination can be made).
- Any other relevant information.

The Department will inform grantees in writing as to whether the amendment has been approved. When the amendment is approved, the Department will provide the Grantee with a formal contract amendment, which will need to be executed by the grantee and the Department. Grantees should never assume that an amendment has been, or will be approved, and no action should be taken until written approval from the Department is received by the grantee.

Grantees should be aware that changes to the budget that allocate funds from one activity to another activity may require the Grantee to provide additional matching funds for the project, as the proportion of match to CDBG funds that was approved during the application phase must be maintained when the budget is modified.

Additional items may be required to accompany the submission of the CDBG Contract Amendment Request Form depending on the type of amendment request. Common types of amendment requests and the items required to accompany the request are detailed on the following page. For other types of
contract amendments, please contact your program representative at the Department to determine what information will be required to process your request.

Below is a list of the common types of contract amendments and the attachments required to be submitted to the Department along with the CDBG Contract Amendment Request Form.

**Changes to the Budget**
- **Attachment 1:** Letter from the Chief Elected Official including:
  1) Certification that the local governing body has approved the budget amendment;
  2) Identification and reasons for the proposed budget amendment; including
     a. Changes to the nature of the project requiring the amendment
     b. Steps being taken to avoid any future amendment requests for the same reasons
  3) If additional local matching funds are required as a result of this amendment, certification that such funds are available.
  4) If the amendment includes a new activity, certification that the activity meets the national objective.
- **Attachment 2:** Minutes from the public hearing held on the proposed amendment (required if reallocating more than 10% of the total original grant amount).
- **Attachment 3:** If the budget amendment will affect major milestones, a revised implementation schedule showing when major milestones will be completed for each activity
- **Attachment 4:** Certification of re-evaluation of the environmental assessment (this form is included in Chapter 6 – Environmental Review)

**Extensions of the Contract End Date**
- **Attachment 1:** A letter from the Chief Elected Official stating the following:
  1) Certification that the local governing body has approved the extension;
  2) Identification and reasons for the proposed amendment; including
     a. Changes to the nature of the project requiring the amendment;
     b. Steps being taken to avoid any future amendment requests for the same reasons
  3) If additional local matching funds are required as a result of this extension, certification that such funds are available.
- **Attachment 2:** A revised implementation schedule showing when major milestones will be completed for each activity

**Decreases in Proposed Accomplishments**
- **Attachment 1:** A letter from the Chief Elected Official stating the following:
  1) Certification that the local governing body has approved the decrease in proposed accomplishments;
  2) Identification and reasons for the proposed amendment; including
     a. Changes to the nature of the project requiring the amendment;
     b. Steps being taken to avoid any future amendment requests for the same reasons
  3) If additional local matching funds are required as a result of this decrease, certification that such funds are available.
- **Attachment 2:** A revised implementation schedule showing when major milestones will be completed for each activity
Amendments to Housing Program Guidelines

- **Attachment 1:** Letter from the Chief Elected Official stating the following:
  1) Certification that the local governing body has approved the amendment to the housing program guidelines;
  2) Identification and reasons for the proposed amendment;
  3) If additional local matching funds are required as a result of this amendment, certification that such funds are available.

- **Attachment 2:** If the housing program guidelines amendment will affect major milestones, a revised implementation schedule showing when major milestones will be completed for each activity

- **Attachment 3:** A complete copy of the proposed revised housing program guidelines

**Note:** The CDBG Contract Amendment Request Form is available on the Department’s website at: [http://www.neded.org/community/grants/applications/cdbg-forms](http://www.neded.org/community/grants/applications/cdbg-forms).
This contract is entered into between the State of Nebraska Department of Economic Development ("Department"), and the [Village/City/County] of [Anytown], Nebraska ("Grantee"), upon the date of signature by both parties.

REICITALS:

A. The Department has been designated by the United States Department of Housing and Urban Development ("HUD") to administer; and HUD has awarded the Department funds for; the Community Development Block Grant Program ("CDBG").

B. The Grantee has submitted, and the Department has approved, Grantee's application ("Application") which will undertake community development activities ("Project") authorized under the Housing and Community Development Act of 1974, as amended ("HCDA" or "Act"), and as authorized under the federal regulations governing CDBG at 24 C.F.R. Part 570.

X. The Application submitted proposes that Grantee will utilize "in kind" matching funds for a portion of the required Grantee match.

C. The authorized use of CDBG funds is premised upon, and conditioned on, the Grantee fulfilling a CDBG national objective as a result of the CDBG-assisted activity. Some of the specified national objectives in the Act (and in the CDBG regulations) are:

1) Benefiting low-to-moderate income ("LMI") persons.
   a. Such LMI benefit national objective is usually satisfied in the context of planning projects by demonstrating the projects serve a primarily residential area having at least 51% LMI residents. This subcategory of LMI benefit is referred to as LMI Area Benefit.
   b. Such LMI benefit national objective is sometimes satisfied in the context of planning projects by demonstrating the projects serve a limited clientele which qualifies as benefiting a presumed sufficient LMI group. This subcategory of LMI benefit is referred to as LMC Limited Clientele.
   c. Such LMI benefit national objective is sometimes satisfied in the context of planning projects by demonstrating the projects serve to identify or determine the extent of the need for providing or improving permanent residential structures to be occupied by LMI households. The LMI benefit status for this purpose is based on households—not on persons. See 24 C.F.R. §570.483(b)(3). This subcategory of LMI benefit is referred to as LMI Housing.

2) Activities which aid in the prevention or elimination of slums or blight. A recognized subcategory of this national objective involves activities of only planning, related to a slum or blighted area. See 24 C.F.R. §570.483(c)(3). This subcategory of a national objective is referred to (in this contract) as SBA Planning.
D. As is agreed in §1.03 below, but also being cited here in the Recitals for emphasis, a failure to fulfill the CDBG national objective as a result of the CDBG-assisted activities will result in the disallowance of CDBG funding for the Project, and the Grantee will be required, under HUD CDBG regulations, to repay all CDBG funds to the Department.

E. This Recital provision is to formally memorialize in this contract (as opposed to such data simply being among the various Application materials, or among other administrative file materials, submitted by the Grantee) the national objective to be met, and in the case of an LMI national objective, the proposed LMI beneficiaries data established at the time of the approval of the Project and which is being used by the Department in ascertaining that the LMI national objective is proposed to be met by the Project. The national objective being utilized for the Project is:

- **LMI Area Benefit**
  The data for proposed beneficiaries is →000 persons, of whom 000 (00.00%) are LMI persons.

- **LMC Limited Clientele**
  The data for proposed beneficiaries based on this presumptive category is →000 persons, of whom 000 (00.00%) are LMI persons.

- **LMI Housing**
  The data for proposed beneficiaries based on category is →000 LMI households. This data is derived from HUD's 2000 Census summary data for the area relevant to the Grantee.

- **SBA Planning**

**AGREEMENT:**
Premised on the Recitals above, and in consideration of the mutual promises and understandings of the parties set forth below, the parties agree as follows:

**PART I: TERMS AND CONDITIONS.**

§1.01  **Amount, Use, and Payment of CDBG Funds.**
The total amount of CDBG funds paid by the Department to the Grantee for allowable expenses incurred will not exceed $000. Of that amount, approved administrative and audit expenses will not exceed $000.

The grant will be used to fund the Project as detailed in the Application, which generally involves [description of project] for [Anytown], Nebraska.

Part V (Compliance with Applicable Laws and Regulations) of this contract incorporates, as being applicable to this contract, all of the Department's administrative requirements which are contained in the *Nebraska Community Development Block Grant Program Administration Manual* (“Administration Manual”). Those administrative requirements contain many restrictions governing the receipt of CDBG funds from the Department. Included among those restrictions are limitations on the amount of
administration expenses the Grantee is allowed, dependent on the Project's status.

Requests by the Grantee for reimbursement of Project administration expenses will not be paid by the Department unless a CDBG Certified Administrator is identified and available to conduct administration of the Project, at the time of each request for reimbursement of administration expenses, with this requirement applicable at all times through Project completion (including final Project reports). As a cross reference, note that §2.09 requires a CDBG Certified Administrator to achieve the initial Release of Funds for the Project.

To request payment of allowable expenses, the Grantee must submit a request for payment to the Department, in the manner and form prescribed from time to time by the Department, mailed to the Housing and Community Development Division, Department of Economic Development, 301 Centennial Mall South, P.O. Box 94666, Lincoln, Nebraska 68509-4666.

§1.02 Time of Performance.
The period covered under this contract will be 24 months from [date]. The termination date of this contract will be [date]. All of the required activities and services, except for submission of final reports, administration, and audit, will be completed by or before this date. The provisions of this contract that survive the termination date are specified in §4.31 of this contract.

§1.03 National Objective Compliance—Failure Requiring Repayment by Grantee.
A failure to fulfill the national objective as a result of the CDBG-assisted activities will result in the disallowance of CDBG funding for the Project, and the Grantee will be required, under HUD CDBG regulations, to repay all CDBG funds to the Department.

§1.04 Final Planning Products Must be Submitted by Grantee.
The Grantee must submit to the Department, prior to closeout of the grant, two copies of the final planning products resulting from the Project.

§1.05 Incorporation of RECITALS Paragraphs as Agreed Terms of Contract.
All provisions of paragraphs A, B, C, D, E, and F of the Recitals above are incorporated as agreed provisions of the contract.

PART II: SPECIAL CONDITIONS FOR RELEASE OF FUNDS.
Funding of the amount stipulated in §1.01 of this contract will not be released to the Grantee by the Department until the following special conditions for release of funds are met. These special conditions must be satisfactorily completed no later than [date]. The Department reserves the right to cancel the contract if these special conditions are not met within this specified time frame.

§2.01 Grantee Information Sheet.
Completion, and submission to the Department, of the Department's Grantee Information Sheet.

§2.02 Environmental Review.
Submission to the Department of documentation evidencing the Grantee's completion of its responsibilities for environmental review and decision making pertaining to the Project, and its compliance with the National Environmental Policy Act of 1969 (NEPA), and other provisions of federal law as specified in 24 C.F.R. Part 58 which furthers the purposes of NEPA as now in effect, and as such law may be amended during the term of this contract.
§2.03  Authorization to Request Funds Form.
Completion by the appropriate chief elected official of the Grantee, and submission to the Department, of the Department's Authorization to Request Funds form.

§2.04  Financial Management.
Submission to the Department of documentation evidencing completion of all financial management system requirements and execution of the financial management certification form prescribed by the Department.

§2.05  Procurement Standards.
Submission to the Department of documentation evidencing adoption of procurement standards in compliance with provisions of federal law as now in effect, and as such law may be amended during the term of this contract, including but not limited to, 24 C.F.R. Part 85, 24 C.F.R. §570.489, and 2 C.F.R. §§200.318 through 200.326, with emphasis on the provisions in 2 C.F.R. §200.322 regarding procurement of recovered materials. Such procurement standards must include written standards of conduct covering conflicts of interest and governing the actions of Grantee’s employees engaged in the selection, award and administration of contracts.

§2.06  Excessive Force Certification.
Submission to the Department of documentation that the Grantee has adopted a policy to prohibit the use of excessive force by local law enforcement agencies against any individual engaged in nonviolent civil rights demonstrations.

§2.07  Fair Housing.
Submission to the Department of documentation identifying the local fair housing representative for the Grantee, including the representative’s name and contact information. The Grantee must also submit a description of the actions Grantee will take during the course of the grant to fulfill the requirements to affirmatively further fair housing, and submit documentation demonstrating the actions that were actually taken. The requirement to submit documentation demonstrating the actions that were actually taken need not be submitted within the time frame for completion of the special conditions, but as required in §4.07, such documentation must be submitted prior to closeout of the grant. The Department's Administration Manual contains additional detail about affirmatively furthering fair housing.

§2.08  Implementation Schedule.
Completion, and submission to the Department, of the Nebraska CDBG Grantee Implementation Schedule form. The Implementation Schedule will serve as the schedule for completion of the Project, and may be used by the Department to assess Project progress.

§2.09  CDBG Certified Administrator Required.
Documentation must be submitted to the Department identifying the CDBG Certified Administrator the Grantee will use for the Project. The Department's Administration Manual contains details about the certification process.

In addition to satisfying this special condition as a prerequisite for receiving a Notice of Release of Funds, Grantee should note as a cross reference the contract provision in §1.01 providing that requests by the Grantee for reimbursement of Project administration expenses will not be paid by the Department.
unless a CDBG Certified Administrator is identified and available to conduct administration of the Project at the time of the request(s) for reimbursement.

§2.10 Limited English Proficiency.


Such documentation must include all of the following (1) information identifying the LEP representative for the Grantee, including the representative’s name and contact information; (2) a Four Factor Analysis that is consistent with the HUD LEP Guidance; and (3) a description of the actions the Grantee will take during the course of the grant to fulfill the requirements to provide meaningful access to LEP persons. If deemed necessary as a result of the Four Factor analysis, Grantee will prepare and submit to the Department, a Language Access Plan (“LAP”) that includes all elements of an effective LAP as defined by HUD.

The Grantee must also keep records of requests for LEP services, and all LEP services provided by Grantee during the course of the grant. Grantee must submit documentation to the Department demonstrating LEP services provided. The requirement to submit documentation demonstrating the LEP services provided need not be submitted within the time frame for completion of the special conditions, but as required in §4.07, such documentation must be submitted prior to closeout of the grant.

§2.11 Other Special Conditions.

None.

PART III: SOURCES AND USES OF FUNDS; AND OTHER REQUIREMENTS.

§3.01 Sources and Uses of Funds.

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<thead>
<tr>
<th>SOURCES ←</th>
<th>CDBG</th>
<th>OTHER</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
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<td></td>
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<tr>
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</tr>
<tr>
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<tr>
<td>TOTAL</td>
<td>$0</td>
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</tr>
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</table>

The Sources and Uses of Funds table above reflects:
- The anticipated total costs of the CDBG-assisted Project.
- The activities being funded.
- The sources and amounts of other matching funds required for each activity.
- The maximum authorized CDBG funds for each CDBG-assisted activity.
- The ratio (derived by computation, not expressly shown) of CDBG funds to other matching funds for each CDBG-assisted activity, which ratio is a further limitation upon the maximum authorized CDBG funds which may be paid for each activity. The ratio is invoked as a limitation if the actual total costs of the activity are less than anticipated.
[An example illustrates this point: If the anticipated cost of an activity such as the acquisition of equipment was $100,000, with $40,000 to be from CDBG funds as the source, and $60,000 to be from the Grantee as the source—but the actual cost of the machinery turned out to be $90,000—then the 40% ratio limits CDBG funding to $36,000, rather than the $40,000 originally anticipated.]

- The proportionality (derived by computation, not expressly shown) of funding from all funding sources, for each activity and for the Project in total. Disbursement of CDBG funds will be made only on a pro rata basis with all other funding sources, for each activity and for the Project in total. CDBG funds will not be the first funds invested in the Project—but rather—CDBG funds will flow into the Project in proportion to all other funding sources.

- It is noted that the Application proposes that Grantee will utilize "in kind" matching funds for a portion of the required Grantee match.

PART IV: OTHER CONTRACTUAL CONDITIONS.

§4.01 Program Income.
Program income is regulated by the provisions of 24 C.F.R. §570.489(e) as now in effect, and as such law may be amended during the term of this contract. The text of this regulation should be consulted for definitions and for other guidance concerning program income.

Program income generally means gross income received by the Grantee, or by a subrecipient of the Grantee, that was generated from the use of CDBG funds. Some exceptions to this general rule are detailed in 24 C.F.R. §570.489(e)(2). Program income includes, but is not limited to, the following:

- Payments of principal and interest on loans made using CDBG funds.
- Proceeds from the disposition (by sale or long-term lease) of real property purchased or improved with CDBG funds.
- Proceeds from the disposition of equipment purchased with CDBG funds.
- Interest earned on program income pending its disposition.
- Interest earned on CDBG funds held in a revolving loan fund's cash balance interest-bearing account.

Program income received prior to the completion of the approved grant activities must be applied to those activities prior to requesting additional CDBG funds from the Department. Should Grantee receive and retain program income, Grantee agrees to treat it as additional CDBG funds, subject to all requirements applicable to the CDBG Program. Additionally, Grantee agrees to submit regularly occurring reports to the Department regarding program income, and agrees, upon the Department’s request to maintain a contractual relationship with the Department for the duration of the time period in which Grantee maintains program income.

§4.02 Matching Requirements.
The Grantee agrees to provide matching and other leveraged funds for each approved activity in the amounts, ratios, and proportions set forth in §3.01 of this contract. Matching and other leveraged funds must be expended during the grant period.

Grantees are required to certify, with each request for CDBG funds, the amount of matching funds applied to the Project. Project costs are to be paid from grant and matching funds as specified in §3.01.
of this contract. The Grantee will be responsible for costs that exceed the total Project costs set forth in §3.01.

The Application proposes that Grantee will utilize "in kind" matching funds for a portion of the required Grantee match.

§4.03 Legal Authority; and Acceptance of Environmental Review Responsibility.
By signing this contract, the Grantee certifies that it possesses legal authority to accept CDBG funds, and to carry out the Project described in this contract; and that the Grantee's chief elected official:

(a) Consents to assume the status of responsible federal official and the responsibilities for environmental review and decision making under the National Environmental Policy Act of 1969 (NEPA) and other provisions of federal law as specified in 24 C.F.R. Part 58 which further the purposes of NEPA as such law is now in effect, and as such law may be amended during the term of this contract; and,

(b) Is authorized and consents on behalf of the Grantee that they accept the jurisdiction of the federal courts for the purpose of enforcement of their responsibilities as such responsible federal official.

§4.04 Designation of Officials to Execute Contract and Amendments.
The Director of the Department or their designee is the official authorized to execute this contract and any amendments to this contract, on behalf of the Department.

The Chief Elected Official of the Grantee is the official authorized to execute this contract and any amendments to this contract, on behalf of the Grantee.

The Grantee or the Department may request amendments to this contract. Amendments will not take effect until mutually agreed to in writing by both parties.

§4.05 Grantee Compliance with CDBG Regulations and Uniform Administrative Requirements.
The Grantee will comply with applicable CDBG Regulations in 24 C.F.R. Part 570 as now in effect, and as such law may be amended during the term of this contract. Grantee will also comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements set forth in this contract and in 2 C.F.R. Part 200, (which have been adopted by HUD through 2 C.F.R. Part 2400) as now in effect, and as such law may be amended during the term of this contract, or any reasonably equivalent procedures and requirements that the Department may prescribe.

In particular, Grantee agrees to establish internal controls in order to have reasonable assurance that Grantee is carrying out the Project in compliance with federal statutes, regulations, and terms and conditions of this contract, as required by 2 C.F.R. §200.303, as now in effect, and as such law may be amended during the term of this contract. Grantee also agrees to comply with provisions regarding protection of personally identifiable information as required by 2 C.F.R. §200.303 and 2 C.F.R. §200.512 as now in effect, and as such law may be amended during the term of this contract.

§4.06 Record Keeping.
The Grantee agrees to keep the following records: (1) records as specified in 24 C.F.R. §570.506, Records to be Maintained; (2) adequate documentation to support costs charged to the CDBG Program; (3) records detailing procurement procedures followed by Grantee; (4) as required by 24 C.F.R §570.490, for fair housing and equal opportunity purposes, records that include data on the racial, ethnic, and
gender characteristics of persons who are applicants for, participants in, or beneficiaries of the Project; and (5) any other records as the Department may reasonably require. The Grantee agrees to keep such records so as to allow the Department to perform a 24 C.F.R. §570.492, State’s review and audits.

All records pertinent to this grant and work undertaken as part of the Project, will be retained by the Grantee for the period required by 2 C.F.R. §200.333, as interpreted by HUD, and applied to the CDBG Program through 24 C.F.R. §570.490. Grantee agrees to transfer records pertinent to this grant and work undertaken as part of the Project to the Department, upon request of the Department.

Grantee also agrees to comply with the methods for collection, transmission and storage of information as described in 2 C.F.R §200.335.

The Department and duly authorized officials of the state and federal government will have full access to, and the right to examine, audit, excerpt and/or transcribe, any of the Grantee's records pertaining to all matters covered by this contract.

§4.07 Reports.
The Grantee will submit semiannual reports to the Department, in such form as the Department may prescribe, pertaining to the activities undertaken as a result of this contract. The Grantee will also be required to submit a final performance and financial report, in such form as the Department may prescribe, at the occasion of grant closeout. All semiannual reports must be submitted to the Department no later than thirty (30) days following the end of the reporting period. All final performance and financial reports must be submitted to the Department no later than ninety (90) days after the end date of the time of performance specified in §1.02 of this contract.

As required in §1.04, the Grantee must submit to the Department, prior to closeout of the grant, two copies of the final planning products resulting from the Project.

Additionally, as referenced in §2.07, prior to grant closeout, the Grantee must submit documentation demonstrating the actions that were taken to affirmatively further fair housing during the course of the grant, and as referenced in §2.10, the Grantee must submit documentation demonstrating the LEP services provided by Grantee during the course of the grant.

§4.08 Cost Principles; Audits; and Post-Closeout Adjustments and Continuing Responsibilities.
Grantee is responsible for the efficient and effective administration of the CDBG funds provided to Grantee under this contract. Grantee agrees to administer the CDBG funds in a manner consistent with this contract, HUD's administrative requirements for the CDBG program, and with the provisions of the Department's Administration Manual, and with all federal (and state) laws, regulations, and executive orders applicable to the CDBG-assisted Project.

Audits of this grant will be conducted in accordance with the Single Audit Act of 1984, as amended, and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, (which have been adopted by HUD through 2 C.F.R. Part 2400) as now in effect, and as such law may be amended during the term of this contract. Generally Accepted Government Auditing Standards (GAGAS) must be followed.

Grantee is required by 2 C.F.R §200.512 to submit the required audit reporting package to the Federal Audit Clearinghouse (“FAC”) within the earlier of 30 calendar days after receipt of the auditor's
§4.09 Conflict of Interest.
The Grantee will comply with the conflict of interest prohibitions set forth for the CDBG program at 24 C.F.R. §570.489, 2 C.F.R. §200.318, and Grantee’s written standards of conduct covering conflicts of interest submitted to the Department, as required by §2.05 of this contract. In the event prohibited conflicts of interest arise, Grantee must inform the Department of such conflicts of interest. Exceptions to the prohibition may be granted, on a case-by-case basis, by the Department.

§4.10 Applicability to Subrecipients and Contractors.
The provisions of the contract will be made binding on any subrecipient or contractor of the Grantee, and the Grantee will remain fully obligated under the provisions of this contract.

Any such subrecipient or contractor of the Grantee must be authorized to transact business in the State of Nebraska. All subrecipients and contractors are expected to comply with all Nebraska Secretary of State and Department of Revenue registration requirements, including any registration requirements pertaining to types of business entities (e.g. person, partnership, foreign or domestic limited liability company, association, or foreign or domestic corporation or other type of business entity). Construction contractors are expected to meet all applicable requirements of the Nebraska Contractor Registration Act and provide a current, valid certificate of registration to the Grantee for Grantee’s records.

Upon request of the Department, the Grantee will submit copies of written agreements executed between the Grantee and any subrecipients or contractors relating to the Project.

§4.11 Funding Source Recognition.
Prior to referring to the Project or Project activities in publications, the Grantee will inform the Department, and if requested by the Department, include a reference to the CDBG funding made available for the Project.

If the Project results in any copyrightable material or inventions, the Department and/or the State of Nebraska reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for governmental purposes.

§4.13 Religious Activities.
The Grantee agrees that CDBG funds provided under this contract will not be utilized for inherently religious activities prohibited by 24 C.F.R. 570.200(j), such as worship, religious instruction, or proselytization.
§4.14 Title, Use and Disposition of Property, Supplies and Equipment; Insurance.
Grantee agrees to comply with the provisions of 2 C.F.R. §§200.311 through 200.316 regarding title, use and disposition of property, supplies, and equipment.

In accordance with 2 C.F.R. §200.310, Grantee agrees to, at a minimum, provide insurance coverage for real property and equipment acquired or improved with CDBG funds that is equivalent to the insurance Grantee provides for Grantee’s other property.

§4.15 Anti-Lobbying.
To the best of the Grantee’s knowledge and belief:

(a) No federal appropriated funds have been paid or will be paid, by or on behalf of Grantee, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement; and

(b) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, Grantee will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

§4.16 Waivers; and Assignment of Interest.
No conditions or provisions of this contract can be waived unless approved by the Department in writing. The Grantee will not assign or transfer any interest in this contract to any other party without the written consent of the Department.

§4.17 Non-Waiver of Rights.
The Department’s failure to insist upon the strict performance of any provision of this contract, or failure to exercise any right based upon breach, will not constitute a waiver of any rights under this contract.

§4.18 Severability.
If any provision of this contract, or its application to any person or circumstances, is held invalid by any court of competent jurisdiction, the invalidity will not affect other provisions of this contract.

§4.19 Early Termination.
The Department may terminate this contract for any reason upon sixty (60) days written notice to Grantee. This contract may also be terminated in whole or in part, prior to the completion of Project activities, when both parties agree that continuation is not feasible or would not produce beneficial results commensurate with the further expenditure of funds. In the event of mutual termination, the parties must agree on the termination conditions, including effective date and the portion to be terminated.

The Grantee will not incur new obligations for the terminated portion after the effective date, and will
cancel as many outstanding obligations as possible. The Department will make funds available to the Grantee to pay for allowable expenses incurred before the effective date of termination.

§4.20 Termination for Cause.
In the event of a default or violation of the terms of this contract by the Grantee or failure to use the grant for only those purposes set forth, the Department may take the following actions (which are additional to other default remedies specified elsewhere in this contract):

(a) **Suspension.** After notice to the Grantee, suspend the contract and withhold any further payment or prohibit the Grantee from incurring additional obligations of grant funds, pending corrective action by the Grantee or a decision to terminate.

(b) **Termination.** Terminate the contract in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the terms and conditions of the contract. The Department will promptly notify the Grantee in writing of the determination and the reasons for the termination, together with the effective date. Payments made to the Grantee or recoveries by the Department under contracts terminated for cause will be in accord with the legal rights and liabilities of the parties. Payments and recoveries may include, but are not limited to, payments allowed for costs determined to be in compliance with the terms of this contract up to the date of termination. The Grantee will return to the Department all unencumbered funds. Further, any costs previously paid by the Department which are subsequently determined to be unallowable through audit and closeout procedures may be recovered from present grant funds or deducted from future grants.

§4.21 Termination Due to Loss of Funds.
This contract will terminate in full or in part, at the discretion of the Department, in the event the Department suffers a loss of funding or termination of the federal funds which permit it to fund this grant. In the event the Department suffers such a loss of funding, the Department will give the Grantee written notice which will set forth the effective date of full or partial termination, or if a change in funding is required, setting forth the change in funding.

§4.22 State of Nebraska Non-Liability/Hold Harmless.
The Grantee will hold the State of Nebraska and the Department harmless from any and all claims, demands, and actions based upon or arising out of any activities or services performed by the Grantee itself, or by their officials, officers, employees, agents, or associates under this contract.

§4.23 Entire Agreement, Binding Effect, and Counterparts.
This instrument, along with any attachments, the approved Application, and those items incorporated by reference, contain the entire agreement between the parties. Any statements, inducements, or promises not contained therein will not be binding upon the parties.

This agreement will be binding upon, and will inure to the benefit of, the successors, assigns, and legal representatives of the parties.

This agreement, or any amendment of this agreement, may be signed in any number of counterparts, each of which will be an original, but all of which taken together will constitute one agreement (or amendment, as the case may be).

§4.24 Governing Law.
This agreement shall be governed by; construed according to the laws and regulations of; and subject to the jurisdiction of; the State of Nebraska.

§4.25 Verification of Work Eligibility Status for New Employees.
The Grantee is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. In this context, "new employees" means employees hired on or after the effective date of this contract. A "federal immigration verification system" means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

This contractual obligation to verify work eligibility status for new employees physically performing services within the State of Nebraska also applies to any and all subcontractors utilized by the Grantee in performing this contract. The Grantee will be responsible to the Department for enforcing this requirement with Grantee’s subcontractors.

A failure by the Grantee to adhere to these requirements is a violation of the statutory requirements in Neb. Rev. Stat. §4-114 and as such will be deemed a substantial breach of this contract which could result in the Department declaring Grantee to be in default on the contract.

§4.26 Debarment, Suspension, And Ineligibility; Universal Numbering System and Registration Requirements.
By executing this contract, the Grantee certifies, represents, and warrants that Grantee and all subrecipients or contractors to be used by Grantee in performing this contract are not debarred, suspended, proposed for debarment, placed in ineligibility status, or voluntarily excluded from covered transactions by HUD or any other federal agency under the provisions of Executive Order 12549 “Debarment and Suspension” and 24 C.F.R. Part 24 (government debarment and suspension regulations). Grantee agrees to immediately notify the Department if Grantee or any of Grantee’s subrecipients or contractors become sanctioned or debarred. Grantee acknowledges that suspension or debarment of Grantee (and use by Grantee of suspended or debarred subrecipients or contractors) is cause for termination of this contract.

Grantee agrees to comply with requirements established by the Office of Management and Budget (“OMB”) concerning participation in the Dun and Bradstreet Data Universal Numbering System (“DUNS”), registration with the Federal System for Awards Management (“SAM”), and maintenance of such participation and registration.

§4.27 Mandatory Disclosures.
As required by 2 C.F.R. §200.113, Grantee must immediately disclose, to the Department, or to HUD or other appropriate authorities (with a copy to the Department), all violations of federal criminal law involving fraud, bribery or gratuity violations potentially affecting the use of CDBG funds provided under this contract.

§4.28 Force Majeure.
Neither party shall be liable for any costs or damages resulting from its inability to perform any of its obligations under the contract due to a natural disaster, or other similar event outside the control and
not the fault of the affected party ("Force Majeure Event"). A Force Majeure Event shall not constitute a breach of the contract. The party so affected shall immediately give notice to the other party of the Force Majeure Event. The Department may grant relief from performance of the contract if the Grantee is prevented from performance by a Force Majeure Event. The burden of proof for the need for such relief shall rest upon the Grantee. To obtain release based on a Force Majeure Event, the Grantee shall file a written request for such relief with the Department. Labor disputes with the impacted party’s own employees will not be considered a Force Majeure Event and will not suspend performance requirements under the contract.

§4.29 Drug Free Workplace.
Grantee certifies that it maintains a drug free workplace environment to ensure worker safety and workplace integrity. Grantee agrees to provide a copy of its drug free workplace policy at any time upon request by the Department.

§4.30 Notice.
Except as otherwise expressly specified herein, all notices, requests, or other communications shall be in writing and shall be deemed to have been given if delivered personally or mailed, by U.S. Mail, postage prepaid, return receipt requested, to the parties at their respective addresses set forth in the Application or in this contract, or at such other addresses as may be specified in writing by either of the parties. All notices, requests, or communications shall be deemed effective upon personal delivery or four (4) calendar days following deposit in the mail.

§4.31 Survival.
The terms of §1.01, §1.03, §1.04, §3.01, §4.01, §4.05, §4.06, §4.07, §4.08, §4.10, §4.11, §4.12, §4.14, §4.22, §4.24, §4.30, §4.31, and Part V. of this contract (and other terms of this contract that by their nature should survive the termination or expiration of this contract), shall survive any expiration or termination of this contract.

PART V: COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS.
The Grantee agrees to comply with the Department's and HUD's administrative requirements for the CDBG program, and with the provisions of the Department's Administration Manual, and with all federal (and state) laws, regulations, and executive orders applicable to the CDBG-assisted Project, including, but not limited to:

- Housing and Community Development Act of 1974, as amended ("HCDA").
- Clean Air Act and Federal Water Pollution Control Act, as amended.
- Federal Restrictions on the use of the power of eminent domain.
- The Davis-Bacon Act (and related requirements).
- Contract Work Hours and Safety Standards Act (and related requirements).
- Copeland “Anti-Kickback” Act (and related requirements).
- Lead-Based Paint Poisoning Prevention Act, the Residential Lead-Based Paint Hazard Reduction Act, and regulations at 24 C.F.R. Part 35.
- Section 3 of the Housing and Urban Development Act of 1968; and 24 C.F.R. Part 135.
- The requirement in the HCDA to affirmatively further fair housing.
- 2 C.F.R. Part 200, The Federal Funding Accountability and Transparency Act, and related federal...
requirements.

- Byrd Anti-Lobbying Amendment (and related acts and requirements).
- Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968 (The Fair Housing Act); the Age Discrimination Act of 1975; Section 504 of the Rehabilitation Act of 1973; The Housing for Older Persons Act of 1995; and related acts and requirements.
- Nebraska Uniform Energy Efficiency Standards, §§81-1608 to 81-1626.
**ACCEPTANCE PROVISIONS.**

The parties acknowledge they have read and understand this contract and agree to its provisions, and that it will be effective on the date when both parties have signed.

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SECTION 504
Responsibilities At The Local Level

The passage of the Rehabilitation Act of 1973 marked the first time in U.S. history that the civil rights of persons with disabilities were specifically protected.

The intent of the Rehabilitation Act was to end discrimination based on disability when federal funding was involved. This represented a national commitment to equal opportunity.

This law reflects an awareness that accessibility extends beyond building and buses to attitudinal prejudices. Inaccessibility in any form will lead to the limitation of full economic and social participation of citizens in any community and will limit a community’s potential.

Section 504 of the rehabilitation Act of 1973, as amended, applies to all Grantees of federal funds.

The Department of Housing and Urban Development issued its procedures and policies on June 2, 1988, 15 years after Congress passed the Rehabilitation Act. These regulations require that any applicant for, or recipient of federal funds will not discriminate on the basis of handicap in employment or in programs for qualified handicapped persons.

“Handicap person” is defined as an individual who has a physical or mental impairment substantially limiting one or more major life activities, has a record of this type of impairment and is regarded as having such an impairment.

Grantees must ensure that contracts, subcontracts or agreements contain nondiscrimination clauses.

The Civil Rights Restoration Act of 1988, requires that your entire community comply with Section 504 in all operations.

Self-Evaluation
The first step determining whether a municipality meets Section 504 requirements is a self-evaluation. The assessment must include an examination of all functions of the Grantees distributing or receiving funds.

Handicapped persons and or representative organizations, as well as, any interested persons must be included in the process. The self-evaluation must include careful inspection of:

- employment and personnel policies and practices,
- the extent to which programs and activities are readily accessible usable by individuals with disabilities,
- the extent to which benefits and service delivery is free from discriminatory effects,
- the intent to which contractual arrangements are free from subjecting handicapped persons to discrimination,

An effective approach to examining service and program accessibility is to do a walk through of the process required for participation. Analyze not only the physical path traveled, but also the administrative requirements, service delivery, eligibility, criteria and application procedures.

Any policies and practices that are found to be contrary to Section 504 requirements must be
modified and steps taken to remedy the discrimination.

**Transition Plan**

When and if structural barriers have been identified during the self-evaluation process and cannot be removed with nonstructural solution, a transition plan must be completed and be made available for public inspection. The transition plan must involve disabled persons and or representative organizations. The plan must:

- identify physical obstacles in the facilities that limit program accessibility,
- describe in detail the method that will be used to make facilities accessible,
- specify a schedule to achieve full program compliance and if the plan is longer than one year identify steps to be taken during each year,
- indicate the person responsible for implementing the plan,
- identify the person or groups with whose assistance the plan was prepared.

“Accessible” under Section 504 mean ensuring that program and activities when viewed in their entirety are accessible to, and usable by individuals with handicaps.

Grantees are not necessarily required to make each existing facility or every part of an existing facility accessible, although in some cases that will be the only way to achieve accessibility.

**Specifics About Communication**

Communication is also an important component of accessibility. Disabilities may include a wide variety of impairments - hearing, visual, speech or mobility. Varied approaches may be required to assure effective information dissemination such as using audio and visual materials. Members of the community who have disabilities must likewise be able to communicate with the town. Auxiliary aids, such as sign language interpreter, may be required.

Grantees must ensure effective communication with persons with all types of disabilities in all activities. Where the Grantee communicates with applicants and beneficiaries by phone, a TDD is required or an equally equivalent system must be available.

**Specifics About Nondiscrimination In Employment**

Any federally assisted Grantee cannot legally limit, segregate or classify applicant or employees in any way that negatively affects their status or opportunities because of handicap. In pre-employment and employment activities discrimination based on a handicap must not occur and reasonable accommodations must be made to the physical or mental limitations of otherwise qualified individuals unless it creates undue hardship for the Grantee.

It is important to remember that the essence of Section 504 provides for equal opportunity not necessarily identical results or level of achievements. Section 504 does not require the hiring or promotion of someone simply because they have a disability.

Reasonable accommodation in employment is determined on a case by case basis. It means reasonable modifications on the job or the work place to enable a handicapped person to perform the job for which they are qualified.

HUD’s regulations specify that an employer is prohibited from discriminating in:
• Recruiting, advertising and processing of applications,
• Hiring, upgrading, promoting, tenure, demotion, transfer, layoffs, termination right or return from layoffs, illness and rehiring,
• Rates of pay and any other forms of compensation,
• Job assignments, classifications and description, organizations structure, lines, progression and seniority lists.

A Grantee must examine its employment policies and practices as part of the detailed self-evaluation. This assessment scrutinizes employment tests and other procedures of selection to make sure that they do not screen out handicapped persons. Selection procedures must be job related and measure a person’s ability not an impairment.

**Specifics About Program Accessibility**

Under HUD’s regulations program accessibility is divided into two broad categories: non-housing and housing. The technical standards used by HUD for determining physical access in both categories is the Uniform Federal Accessibility Standards. (UFAS)

“Facility” is defined under Section 504 as any portion of a building, equipment, roads, walkways, parking lot or other real property. “Accessible” for non-housing purposes means that a facility or portion of a facility can be approached, entered and used by individuals with physical handicaps. For housing purpose, accessible means in addition that a dwelling is on an accessible route and adaptable inside.

Non housing programs as well as existing facilities in which they are situated must be readily accessible to and usable by persons with disabilities. Accessibility problems will be determined once again under your self-evaluation. The focus of program access is providing your programs in the most integrated setting possible. Providing separate or different programs is illegal unless necessary to achieve equal opportunity.

Methods of improving program access in existing facilities can include:
• Relocating programs to accessible facilities or accessible portions facilities.
• Acquiring or building new facilities,
• Selectively altering facilities,
• Changing operating policies and procedures,
• Assigning aides to assist beneficiaries,
• Adding or redesigning equipment or furnishings,
• Conducting home visits.

All newly constructed multi-family, federally assisted housing project under Section 504 must have:
• A minimum of 5% of total dwelling units accessible for individuals with mobility impairments,
• An additional 2% of units accessible for persons with hearing or vision impairments,
• All units made adaptable that are on the ground level or can be reached by an elevator.

The Fair Housing Amendment Act (Title VII) passed in 1988, extended federal housing anti-discrimination protection to families and people with disabilities. Section 504 is often more exacting in its requirements than Title VII

The primary difference between the two is the Fair Housing Amendment requires that a landlord must
allow a tenant to make reasonable modifications to a unit, paid for by the tenant. Section 504 provides that the landlord is responsible for making, and paying for reasonable accommodations.

**Compliance And Complaints**
HUD’s Office of Fair Housing and Equal Opportunity is responsible for seeking cooperation from and providing assistance to recipients regarding compliance. FHEO may perform periodic reviews of Grantees or require reports or other information to measure your compliance, including records of program participation by individuals with handicaps.

A complaint can be made by any individual or authorized representative of that individual who believes they have been the subject of discrimination based on a disability. This complaint would be filed with FHEO. The complainant’s identity will be held in confidence unless written authorization is given.

The time period for filing complaints is within 180 days of the alleged act. The Grantee will be notified by FHEO within 10 calendar days of receiving the complaint. Within 20 calendar days of this acknowledgement the complaint will be accepted, rejected or referred to the appropriate federal agency.

Rather than having to exhaust administrative appeals a person who believes their rights have been violated under Section 504 may file in federal court. The remedy through court action may include the award of damages, back pay, seniority and as with any equal opportunity action, attorney fees, or injunction against the noncomplying project.

It is HUD’s policy to encourage informal resolutions to matters, solicit voluntary compliance and corrective action. Noncompliance with requirements of Section 504 may ultimately result in the termination of or refusal to grant federal assistance.

**Special Requirements For Grantees With 15+ Employees**
There are several special requirements for Section 504 compliance for Grantees with 15 or more full or part time employees.

Grantees must keep a list of interested person or groups consulted in the self-evaluation process, a description of the areas examined and problems identified and a description of the modifications made and remedies taken to eliminate discriminatory policies and practices. This should remain available for public review for at least 3 years after completion.

A least one person must be designated to coordinate compliance efforts and most often it is the City Manager.

A grievance procedure must be adopted for larger municipalities incorporating due process standards and allowing for prompt local resolution of any complaints of discrimination based on disability. Existing grievance procedures can often be adapted to satisfy this requirement.

Initial and continuing notices must be given to the public, job applicants and employees of their rights under Section 504 and the municipality’s policy against discrimination, including that reasonable accommodation will be made.
Similar notice needs to be included in any municipal recruitment or information material. The notice must include:

- A statement that your municipality does not discriminate on the basis of handicap status in the provision of its programs, services or personnel practices.
- The name of the program coordinator who is the responsible employee designated to coordinate the implementation of the handicapped discrimination requirements.
- Methods of notification which ensure that visually impaired and hearing impaired persons will have access to the information.
CHAPTER 6 – ENVIRONMENTAL REVIEW

INTRODUCTION
Environmental Review is the examination of a project relative to the National Environmental Policy Act of 1969 (NEPA) and its related laws. NEPA was established to ensure environmental protection for federally funded projects.

Community Development Block Grant (CDBG) funded projects are subject to the provisions of NEPA [24 USC 432-14347] and the HUD regulations implementing NEPA [24 CFR Part 58]. Recipients of CDBG funds are required to complete an environmental review prior to receiving environmental clearance from the Nebraska Department of Economic Development (the Department). The type of project a recipient is completing will determine the level of environmental review and the necessary documentation that will be required.

For every environmental review, three basic steps must be followed in order to correctly complete the review. These steps include:

1) **Project Aggregation:**
   The recipient should evaluate the entire scope of the project and include all funding sources that may be used in conjunction with the project. The entire area in which the project will be located must be reviewed, regardless of what resources (CDBG or non-CDBG) are funding individual project activities.

2) **Determination of Level of Review:**
   The recipient must determine which level of environmental review is appropriate for the project in order to correctly complete the necessary documentation for the project. A Determination of Level of Review Form must be completed which provides a complete description of the project and the level of environmental review that will be completed.

3) **Documentation:**
   The recipient must complete the appropriate Department approved Environmental Review Packet and provide any other necessary information that is required to fully document the environmental review. This information is referred to as the Environmental Review Record (ERR). The ERR will vary in size. The project aggregation and the determination of level of review will help determine the appropriate ERR documentation. Additional source documentation must be provided, particularly for projects that require a CEST or EA review.

Table 1 describes the environmental review process for CDBG funded units of general local government recipients. A more detailed discussion of the complete environmental review steps will be discussed later in this chapter.
ENVIRONMENTAL REVIEW PROCESS
CDBG PROJECTS

Project Aggregation [58.32]
(Combine activities for review)

Determination of Level of Review

Exempt [58.34]
Finding of Exempt Activity Form
58.6 Checklist Requirements

Categorical Exclusion NOT Subject To 58.5 (CENST) [58.35(b)]
Finding of CENST Activity Form
58.6 Checklist Requirements

Categorical Exclusion Subject To 58.5 (CEST) [58.35(a)]
Statutory Checklist [58.5]
58.6 Checklist Requirements

Environmental Assessment (EA) [58.36]
Perform EA, Including Statutory Checklist, Environmental Assessment Checklist, & 58.6 Requirements

No Further 58.5 Compliance - Convert to Exempt
Finding of Exempt Activity Form

7-Day Public Notice: NOI-RROF
Submission of RROF/Certification Form to DED [58.71]
HUD’s 15-Day Objection Period completed by DED [58.73]

15-Day Public Notice: Combined FONSI & NOI-RROF
Submission of RROF/Certification Form to DED [58.71]
HUD’s 15-Day Objection Period completed by DED [58.73]

Environmental Clearance Obtained
### LEVEL OF ENVIRONMENTAL REVIEW

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### TYPE OF ACTIVITIES

| Environmental and other studies | Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are already in place and will be retained in the same use without change in size or capacity of more than 20% |
| Resource Identification | Replacement of water or sewer lines |
| Development of plans and strategies | Reconstruction of curbs & sidewalks |
| Information and financial services | Repaving of streets |
| Administrative and Management activities | Special projects directed toward the removal of material and architectural barriers that restrict the mobility of and accessibility to the elderly and handicapped. |
| Public Services, i.e. employment, crime prevention, childcare, health, drug abuse, education, counseling, energy conservation, welfare, recreational needs | Single Family Housing Rehab |
| Inspections and testing | Unit density is not increased beyond 4 units, |
| Purchase insurance and tools | Project doesn’t involve change in land use from residential to non-residential |
| Engineering or design costs | The footprint of the building in not increased in a floodplain or a wetland. |
| Technical assistance and training | Multifamily Housing Rehab |
| Temporary or permanent improvements that do not alter environmental conditions and are limited to activities to protect, repair or arrest the effects of disasters, imminent threats, or physical deterioration | Unit density change is not more than 20% |
| Payments of principal and interest on loans or obligations guaranteed by HUD | Project doesn’t involve change in land use from residential to non-residential |
| Combinations of the above activities | Cost of rehabilitation is less than 75% of the estimated cost of replacement after rehab |

### DOCUMENTATION REQUIRED IN ERR

| Written determination of exemption.* | Complete Statutory Worksheet, (Sec. 58.5) and indicate converts exempt.* |
| Other Requirements Checklist (Sec. 58.6) | Other Requirements Checklist (Sec. 58.6) |

*Use: Environmental Review for Activity/Project that is Exempt or Cat Ex Not Subject to Section 58.5

| Written determination of exemption.* | Complete Statutory Worksheet (sec. 58.5)* |
| Other Requirements Checklist (Sec. 58.6) | NOI/RROF notification |
| RROF & Certification (HUD form 7015.15) | Authority to Use Grant Funds (HUD form 7015.16) |
| Other Requirements Checklist (Sec. 58.6) | Other Requirements Checklist (Sec. 58.6) |

*Use: Environmental Review for Activity/Project that is Cat Ex Subject to Section 58.5

| Written determination of exemption.* | Environmental Assessment (including Statutory Worksheet)* |
| Other Requirements Checklist (Sec. 58.6) | FONSI and |
| NOI/RROF notification | NOI/RROF notification |
| RROF & Certification (HUD form 7015.15) | Form 7015.15 |
| Authority to Use Grant Funds (HUD form 7015.16) | Form 7015.16 |
| Other Requirements Checklist (Sec. 58.6) | Other Req. Checklist (Sec. 58.6) |

*Use: Environmental Assessment Determinations and Compliance Findings
As Table 1 demonstrates, the environmental review process is comprehensive and detailed. The amount of information needed to complete the review depends on the type of project the recipient is completing.

There are a number of key terms that a recipient must familiarize themselves with in order to understand environmental review and the Table 1 Environmental Review Process Flow Chart. A few main terms are noted below.

- **Project**: An activity or group of activities regardless of funding source.
- **Environmental Review**: NEPA Review of a project.
- **Recipient**: The entity receiving assistance from HUD. This includes an entity that receives CDBG, HOME, NAHTF, or other funds from the Department and not directly from HUD.
- **Environmental Review Record (ERR)**: A well-organized written record of review, decision making, and action as required by 24 CFR 58.38. This includes the Department required forms and other required documentation.
- **Responsible Entity (RE)**: State, Indian Tribe, or Unit of General Local Government.
- **Certifying Officer**: The Responsible Entity (RE) Agency official responsible for completing the ERR.
- **24 CFR 58**: The Code of Federal Regulations Section that details the HUD regulations for the environmental review process.
- **Exempt**: A project that is defined under 24 CFR 58.34.
- **CENST**: Categorical Exclusion Not Subject to the requirements of 24 CFR 58.5 as defined under 24 CFR 58.35(b).
- **CEST**: Categorical Exclusion Subject to the requirements of 24 CFR 58.5 as defined under 24 CFR 58.35(a).
- **Statutory Checklist**: The Department’s form and other necessary documentation that must be completed for a project that requires a CEST level of environmental review. This form includes an evaluation of 14 additional environmental review items.
- **Environmental Assessment**: The Department’s form and other necessary documentation that must be completed for a project that is not considered Exempt, CENST, or CEST as noted on the Determination of Level of Review.
- **58.6 Checklist**: The Department’s form that must be completed for all environmental review projects.
- **NOI-RROF**: Notice of Intent to Request Release of Funds—A public notice that is completed for projects that require a CEST or EA review.
- **FONSI**: Finding of No Significant Impact is a determination that must be made by the Responsible Entity for projects that require an EA review.
- **COMBINED NOTICE (FONSI/NOI-RROF)**: a public notice used for an EA review that combines the Finding of No Significant Impact notice and the Notice of Intent to Request Release of Funds (NOI-RROF) notice. Both notices are generally combined into a single publication for EA projects.
- **RROF/Certification**: Request for Release of Funds/Certification Form that is completed for projects that require a CEST or EA review. Also referred to as HUD Form 7015.15.
THE PROCESS
The basic environmental review process is described below and divided into steps. Follow the steps and refer to the Table 1 Environmental Review Process Flow Chart for further information.

- **Step 1—Project Aggregation**
  The recipient should evaluate the entire scope of the project and include all funding sources that may be used in conjunction with the project. Defining the project should include determining all integrally related activities designed to accomplish a specific objective. This includes evaluating the entire project area, regardless of the funding source for any project activities.

- **Step 2—Identifying Environmental Review Responsibilities**
  Entities eligible to receive CDBG funds from the State are local governments. These units of local government assume the role of Responsible Entity (RE) with respect to environmental reviews.

  For CDBG awards, the chief elected official assumes the role of environmental “certifying officer” and accepts full responsibility for the completeness and accuracy of the reviews. The chief elected official must sign all certifications and findings. This environmental duty may not be delegated, although local staff, consultants, and/or State resources may provide technical assistance to support local efforts.

- **Step 3—Determination of Level of Review**
  The recipient must determine which level of environmental review is appropriate for the project in order to correctly complete the necessary documentation for the project. The recipient must review the HUD regulations to determine which category of review the project should be classified under in order to determine which Environmental Review Packet must be completed.

Each level of environmental review is defined within the HUD regulations found at 24 CFR 58. The four main levels of review that HOME recipients will need to consider include:

- Exempt [Those projects classified under 24 CFR 58.34],
- CENST [Those projects classified under 24 CFR 58.35(b)],
- CEST [Those projects classified under 24 CFR 58.35(a)], or
- EA [All other projects that are not classified under 24 CFR 58.34, 58.35(b), or 58.35(a) and that do not require an Environmental Impact Statement (EIS)].

In addition to the four classifications, there is also an Environmental Impact Statement (EIS). This comprehensive review is for those projects that are larger in scope and will have a significant environmental impact. These projects are beyond the scope of those completed by recipients working in conjunction with the Department.

Overall, review the HUD regulations to determine the most appropriate level of environmental review for a project. Every CDBG project will be classified under one of the four levels of review. If a project cannot be classified as Exempt, CENST, or CEST, then recipient will be required to complete an EA.

See the Code of Federal Regulations [24 CFR 58] to make this determination.
- **Step 4—Environmental Review Packet Completion**
  Once a recipient has determined the scope of a project through project aggregation and determined the appropriate level of review, the recipient must complete the appropriate Environmental Review Packet for every project. The Packet that is completed will be a portion of the ERR for a project. There are four separate Environmental Review Packets (one for each different level of review).

  The four Environmental Review Packets include:
  - **Exempt Project Packet**—Projects that have been categorized under 24 CFR 58.34 must complete a packet that includes a Cover Sheet, a Determination of Level of Review Form, a Finding of Exempt Activity Form, and a 58.6 Checklist.
  - **CENST Project Packet**—Projects that have been categorized under 24 CFR 58.35(b) must complete a packet that includes a Cover Sheet, a Determination of Level of Review Form, a Finding of Categorical Exclusion Not Subject To Form, and a 58.6 Checklist.
  - **CEST Project Packet**—Projects that have been categorized under 24 CFR 58.35(a) must complete a packet that includes a Cover Sheet, a Determination of Level of Review Form, a Statutory Checklist Form, and a 58.6 Checklist. In addition, appropriate source documentation must be included in the Packet which provides maps, shows that the appropriate websites have been reviewed, and that the appropriate agencies have been consulted including letters to and from agencies.
  - **EA Project Packet**—Projects that cannot be categorized as Exempt, CENST, or CEST must complete a packet that includes a Cover Sheet, a Determination of Level of Review Form, and an Environmental Assessment Form. In addition, appropriate source documentation must be included in the Packet which provides maps, shows that the appropriate websites have been reviewed, and that the appropriate agencies have been consulted including letters to and from agencies.

  See also the Outline of the Environmental Review Record Items section for more information on the items needed for each Environmental Review Packet.

- **Step 5—Publication/Posting**
  Only those projects that require a CEST or EA review will be required to provide a NOI/RROF public notice which needs to be completed through either publication or posting. Projects that are Exempt, CENST, or those CEST projects that convert to Exempt do not require any publication or posting.

  Projects that require a CEST review will have a 7 or 10 day public comment period. Projects that require an EA review will have a 15 or 18 day public comment period.

  See also section titled Publication, RROF/Certification Form, & HUD Objection Period for more information.

- **Step 6—Completion of RROF/Certification Form and Affidavit of Publication**
  Only those projects that require a CEST or EA review will be required to complete a RROF/Certification Form. The most current HUD 7015.15 Form must be used.
The Form is available on the HUD website at: https://www.hudexchange.info/resources/documents/HUD-Form-701515-Request-Release-Funds-Certification.pdf

The RROF/Certification must be completed, an original affidavit of publication, and a copy of the publication must be sent to the Department after the ERR is completed and sent no earlier than the day after the publication period has ended.

A failure to complete RROF/Certification Form correctly will result in the Department requesting that the Form be revised and resubmitted. The HUD 15 day objection period will not begin until the RROF/Certification Form is accurate.

See also the instructions and a copy of the RROF/Certification Form below.

- **Step 7—HUD 15 Day Objection Period**
  Once the RROF/Certification Form, the affidavit of publication, and the copy of publication notice are received by the Department (no earlier than the day after the publication period has ended), the HUD 15 day objection period begins.

- **Step 8—Obtaining Environmental Clearance**
  After the end of the HUD 15 day comment period, the project will have environmental clearance. The Department will provide a Release of Funds letter to the recipient which will provide environmental clearance and clearance to use grant funds after the Department receives all of the special conditions required by recipient’s CDBG contract.

**COMPREHENSIVE OVERVIEW OF ENVIRONMENTAL PROJECTS**

**Exempt Projects**
A project that has been classified under 24 CFR 58.34 is considered Exempt and requires a limited environmental review.

An Exempt project is a project that can be classified under one of the following categories:

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;
12) Any of the categorical exclusions listed in §58.35(a) provided that there are no circumstances which require compliance with any other Federal laws and authorities cited in §58.5. [CEST Projects that converts to Exempt] If a project cannot be classified under any of the above mentioned categories, then the project is not Exempt and a higher level of environmental review will need to be completed.

The ERR for an Exempt project must include the completion of the following items:
- Cover Sheet
- Determination of Level of Review
- Finding of Exempt Activity Form
- 58.6 Checklist

A Recipient does not have to publish a NOI/RROF, does not have to submit an RROF/Certification Form, and does not have to require a 15 day HUD Comment Period for Exempt Projects.

**CEST Projects**
A project that has been classified under 24 CFR 58.35(b) is considered a Categorical Exclusion Not Subject to the requirements of 24 CFR 58.5 and requires a limited environmental review.

A CENST project is a project that can be classified under one of the following categories:

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 §58.47.

If a project cannot be classified under any of the above mentioned categories, then the project is not CENST and a higher level of environmental review will need to be completed.
The ERR for a CENST project must include the completion of the following items:

- Cover Sheet
- Determination of Level of Review
- Finding of Categorical Exclusion Not Subject To Form
- 58.6 Checklist

A Recipient does not have to publish a NOI/RROF, does not have to submit an RROF/Certification Form, and does not have to require a 15 day HUD Objection Period for CENST Projects.

**CEST Projects**

A project that has been classified under 24 CFR 58.35(a) is considered a Categorical Exclusion Subject To the requirements of 24 CFR 58.5 and requires the completion of a Statutory Checklist which evaluates 14 separate environmental laws.

A CEST project is a project that can be classified under one of the following categories:

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.
   a) Rehabilitation of buildings and improvements when the following conditions are met: In the case of a building for residential use (with one to four units), the density is not increased beyond four units, the land use is not changed, and the footprint of the building is not increased in a floodplain or in a wetland;
   b) In the case of multifamily residential buildings:
      i. Unit density is not changed more than 20 percent;
      ii. The project does not involve changes in land use from residential to non-residential; and
      iii. The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.
   c) In the case of non-residential structures, including commercial, industrial, and public buildings:
      i. The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
      ii. The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.

3) 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
   i. 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).

4) 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.

5) Combinations of the above activities.

If a project cannot be classified under any of the above mentioned categories, then the project is not CEST and an EA will need to be completed.

The ERR for a CEST project must include the completion of the following items:

- Cover Sheet
- Determination of Level of Review
- Statutory Checklist
- 58.6 Checklist
- Source Documentation [including, but not limited to, a FIRM Map, an aerial map, letters sent to any agencies, agency websites consulted, agency responses, and any other relevant information that provides support for your findings within the Statutory Checklist]
- NOI/RROF Publication
- Affidavit of Publication or Proof of Posting
- RROF/Certification Form

A Recipient does have to publish a NOI/RROF, does have to submit an RROF/Certification Form, and does have to require a 15 day HUD Comment Period for CEST Projects unless the project converts to Exempt.

**Note:** While completing the Statutory Checklist, if it is determined that the project is within a floodplain, the recipient will need to conduct the 8 Step Process for Compliance with Floodplain Management.

**CEST Project Converting to Exempt**

In some instances a CEST Project may convert to an Exempt Project. This may occur if the recipient has completed the Statutory Checklist and has marked all authorities as Status “A”.

If Box “A” has been selected within the Determination Section of the Statutory Checklist, the recipient would be confirming that the project does not require any further compliance measure (e.g. consultation, mitigation, permit, approval, or any other additional measure) with respect to any law or authority cited at 24 CFR 58.5.

When a project converts to Exempt, it will be necessary for the recipient to have completed the Determination of Level of Review, the Statutory Checklist, and the 58.6 Checklist, and provide the necessary source documentation for the project. After this information has been included in the ERR, the recipient then must complete a Finding of Exempt Activity Form and note that the project is converting to Exempt according to 24 CFR 58.34(a)(12). The Finding of Exempt Activity Form should be incorporated into the ERR and sent to the Department.
A NOI/RROF Publication, RROF/Certification, and 15 day HUD Comment Period are not required for CEST projects that have converted to Exempt.

**EA Projects**

A project that cannot be classified as Exempt, CENST, CEST, but is classified under 24 CFR 58.36 requires the completion of an Environmental Assessment (EA). An EA includes a FONSI Determination, a Statutory Checklist, an Environmental Assessment Checklist, a 58.6 Checklist, and all other required information as noted in the EA Project Packet.

The ERR for an EA project must include the completion of the following items:

- Cover Sheet
- Determination of Level of Review
- Environmental Assessment (EA) Form
- Source Documentation [including, but not limited to, a FIRM Map, an aerial map, letters sent to any agencies, agency websites consulted, agency responses, and any other relevant information that provides support for your findings within the Statutory Checklist]
- NOI/RROF Publication
- FONSI Publication
- Affidavit of Publication or Proof of Posting
- RROF/Certification Form

See also information below titled Completing the Statutory Checklist, Completing the Environmental Assessment Checklist, Completing the 58.6 Checklist, and the HUD Guide for further information.

See also the Source Documentation Section for further information.

A Recipient does have to publish a Combined Notice (FONSI/NOI-RROF), does have to submit an RROF/Certification Form, and does have to require a 15 day HUD Objection Period for EA Projects.

**PUBLICATION, RROF/CERTIFICATION FORM, & HUD OBJECTION PERIOD**

The HUD regulations at 24 CFR 58 define the publication requirements for CDBG projects and the process for receiving environmental clearance after the recipient’s environmental review packet has been completed for CEST or EA Projects and has been signed by the RE Certifying Officer.

This process includes a public comment period publication (Notice of Intent to Request Release of Funds, NOI-RROF), a FONSI publication for EA Projects only, the completion of a RROF/Certification Form with documentation, and a HUD 15-Day Objection period. This process must be completed in the correct order or republishing may be necessary.

24 CFR 58.21 defines time periods in regard to determining when a publication or objection period begins. Time Periods are defined as:

> All time periods in this part shall be counted in calendar days. The first day of a time period begins at 12:01 a.m. local time on the day following the publication or the mailing and posting date of the notice which initiates the time period.

24 CFR 58.43 further notes that the RE must consider the comments and make modifications, if appropriate, in response to the comments from the publication before completing the
RROF/Certification Form.

**Publication Requirements for CEST Projects**
For CEST Projects the recipient is required to:
- Provide a public comment period (NOI-RROF publication),
- Complete a RROF/Certification Form with documentation, and
- Complete the HUD 15 Day Objection Period.

The NOI-RROF cannot be published until after the RE Certifying Officer has signed the ERR. For CDBG projects, this means that the ERR must be prepared and signed by Certifying Officer at least one day before publication. Once the RE Certifying Officer signs the ERR it is proper to publish/post the NOI-RROF. Publication cannot be completed until at least 1 day after the RE Certifying Officer signs the ERR.

The NOI-RROF Notice is published or posted for a period of time defined at 24 CFR 58.45 [7 days when published or, if no publication, 10 days when mailing and posting].

A FONSI Notice is not required for CEST Projects. Only a NOI-RROF Notice is required. See Sample NOI-RROF Publication for the language that must be provided in the notice.

No earlier than the day after the public comment period has ended, the recipient completes the RROF/Certification Form and sends it to the Department along with the appropriate documentation. This documentation includes an affidavit of publication (or posting) and a copy of the publication notice.

**Note:** if the 8 Step Process is triggered, there are additional publication requirements. See also 8 Step Process for Compliance with Floodplain Management for further information.

**Publication Requirements for EA Projects**
For EA Projects the recipient is required to:
- Publish a FONSI Notice,
- Publish a NOI-RROF Notice,
- Choose to publish the FONSI/NOI-RROF together in a Combined Notice,
- Complete a RROF/Certification Form with documentation, and
- Complete the HUD Objection Period.

The FONSI notice and NOI-RROF publication process can be completed concurrently using a Combined Notice (FONSI/NOI-RROF) Publication. See Sample Combined FONSI/NOI- RROF Publication for the language that must be provided in the notice.

The Combined FONSI/NOI-RROF cannot be published until at least a day after the RE Certifying Officer has signed the ERR. For CDBG projects, this means that the ERR must be prepared and then signed by the RE Certifying Officer before publication.

The Combined Notice is published or posted for a period of time defined at 24 CFR 58.45 [15 days when published or, if no publication, 18 days when mailing and posting].

If publishing the FONSI Notice and NOI-RROF separately, then two separate 15 day public comment periods must be provided when publishing and 2 separate 15 day public comment periods must be provided when posting. These notices could not run concurrently. No earlier than the day after the
public comment period has ended, the recipient completes the RROF/Certification Form and sends it to the Department, along with the appropriate documentation. Appropriate documentation includes:

- An affidavit of publication (or posting), and
- A copy of the publication notice.

**SOURCE DOCUMENTATION**

Source Documentation is used to supplement the ERR and provide justification for the information that has been detailed in the Compliance Documentation Section of the Statutory Checklist, the Environmental Assessment Checklist, and any other section of the ERR. The ERR must be a standalone document that will provide a complete picture of the environmental impacts of the project for a reviewer.

Some examples of Source Documentation that must be included in CEST and EA Project reviews include:

- Aerial map of site (when sites have been identified)
- FIRM map (when sites have been identified and mapped)
- Agency websites reviewed
- Letters to Agencies
- Responses from Agencies

The RE may use an environmental review from another agency to help supplement the ERR for the Department. A copy of the review should be incorporated into the ERR and referenced in the Compliance Documentation Section of the Statutory Checklist or the Source Documentation Section of the Environmental Assessment Checklist.

In addition, any Engineering Reports, Phase I Reports, Phase II Reports, and any other relevant information should be included in the ERR.

**Completing the Statutory Checklist**

The Statutory Checklist must be completed for CEST and EA Projects. The Statutory Checklist is a separate form for CEST projects and is part of the Environmental Review Packet completion. For EA projects the Statutory Checklist is incorporated into the Environmental Assessment and must be completed.

The Statutory Checklist evaluates 14 separate environmental issues and impacts. Each of these 14 items must be evaluated for every project. Within the Statutory Checklist, the recipient must follow instructions detailed in the Checklist and select either Status A or Status B for each and every of the 14 items. 

By selecting Status A, the recipient is documenting that the project is in compliance either because 1) the nature of the project does not implicate the authority under consideration or 2) supporting information documents that the project compliance has been achieved. If Status A is marked, the recipient is noting that no further compliance is needed, and no further consultation, permitting, or additional evaluation are needed in regard to the Item evaluated.

By selecting Status B, the recipient is documenting that the project requires additional compliance. This includes an additional compliance step or action, including but not limited to, consultation with or approval from an oversight agency, performance of a study or analysis, completion of remediation or
mitigation measures, or obtaining a license or permit.

Selecting Status B is also appropriate when a project site has not been identified as a tiered review will be required and further compliance is necessary.

Note that leaving any Compliance Documentation Section blank or providing a “not applicable” response to any of the 14 items is not acceptable. A failure to review all 14 items will result in the recipient having to correct the Statutory Checklist and resubmit the information to the Department.

**Statutory Checklist Process**

A recipient should consult the appropriate statutes, authorities, executive orders, regulations, or policies as noted in each of the 14 items. 24 CFR 58.5 provides more information on the Related Federal laws and authorities that must be reviewed.

In addition, utilizing the HUD Guide to Environmental Compliance (HUD Guide) can also be used as a tool to assist the recipient with the completion of the Statutory Checklist. If used correctly the HUD Guide can provide guidance on how to appropriately provide Compliance Documentation. Review the Applicable Activities, Threshold for Action, Source Documentation, and Action Required Sections as a whole in order to assist the recipient.

For example, in providing a proper evaluation for Item 3 Coastal Zone Management, the recipient could note within the Compliance Documentation Section of the Statutory Checklist, that a project in Nebraska is not located in a state having a Coastal Zone Management (CZM) Program as provided by the National Oceanic & Atmospheric Administration at web site: http://coastalmanagement.noaa.gov/mystate/welcome.html. Providing this information, along with a copy of the website would provide sufficient source documentation for this item.

The goal of the evaluation is to obtain environmental compliance with each of the 14 items. Compliance can be obtained in some instances by the Recipient providing an appropriate narrative and source documentation within the Compliance Documentation section of the Statutory Checklist. In other instances it is necessary to provide additional source documentation, including referencing agency website information, letters sent to agencies, agency responses, and any other relevant information.

The RE must retain all documentation (letters, maps, notes on comments of authorities contacted, etc.) to support the Compliance Documentation in the ERR. The recipient should use the best available information in order to achieve compliance.

Federal or State Agency consultation may be necessary to provide a proper environmental evaluation. Agency responses may concur with a recipient’s findings and result in no need for further action, may place conditions on the project prior to environmental clearance, or may halt the project until mitigating measures are identified and steps have been taken to achieve compliance.

If permits are required, a listing of the specific permits needed and the procedures by which they will be obtained should be attached to the ERR. If mitigating actions are required, the RE should fully describe the actions the recipient will take to assure compliance.

The Statutory Checklist must be prepared and signed by the Preparer prior to being signed by the RE.
Certifying Officer. A failure to have the Preparer sign the Statutory Checklist before the RE Certifying Officer will result in the recipient having to correct the Statutory Checklist and resubmit the information to the Department.

For more information review 24 CFR 58.5 and the HUD Guide below.

For more information see also list of Potential Agency Contacts below.

**Completing the Environmental Assessment Checklist**
The Environmental Assessment Checklist must be completed for EA Projects. This Checklist is incorporated into the Environmental Assessment and must be completed.

The Environmental Checklist evaluates several impact categories to evaluate the significance of the effects of the proposal on the character, features, and resources of the project area. This evaluation includes the area surrounding the project site and the reference of the site to other resources in the community. Each of the impact categories must be evaluated for every project.

**Note:** Leaving any Compliance Documentation Section blank or providing a “not applicable” response to any of the items is not acceptable. A failure to review all items will result in the recipient having to correct the Environmental Assessment Checklist and resubmit the information to the Department.

An example for providing a proper evaluation for the impact category Community Facilities and Services in relation to Public Safety and Fire, a recipient may provide information on the location and distance of the nearest fire station in relation to the project site. If the station is near the site then it may be appropriate to note that the anticipated or potential impact was Beneficial to the project.

For further information see the Source Documentation section.

**Completing the 58.6 Checklist**
The 58.6 Checklist must be completed for every project. For Exempt, CENST, or CEST projects the 58.6 Checklist is a separate form that must be completed. For EA projects the 58.6 Checklist is incorporated into the Environmental Assessment and must be completed.

There are three main sections of the 58.6 Checklist that have to be reviewed. These include:

- **Airport Runway Clear Zones and Clear Zone Notification** [24 CFR Part 51.303(a)(3)]
- **Coastal Barrier Resources Act** [Coastal Barrier Improvement Act of 1990 (16 USC 3501)]
- **Flood Disaster Protection Act** [Flood Disaster Protection Act of 1973, as amended (42 USC 4001-4128)]

The 58.6 Checklist provides a set of “yes” or “no” questions that have to be answered and must be supplemented with proper source documentation. Source Documentation may include an aerial map, FIRM map, Agency website information, and any other relevant information that would substantiate the information provided in the 58.6 Checklist.

For the Flood Disaster Section, if “No” is answered for the first question, then it is not appropriate to answer the remaining questions.

In addition, for Section 3 pertaining to the Flood Disaster Protection Act it may be necessary to attach an
applicable FIRM Map when it is necessary to provide evidence that a project is not being locating within a Special Flood Hazard Area (SFHA). If a FIRM map is attached then it would be necessary to cite the appropriate year and panel number of the FIRM map. (See FEMA.gov for more information on FIRM maps).

If a project site is not mapped, then the best available information should be used to ascertain whether or not a project is located within a SFHA. In this instance it may be necessary to contact the Department of Natural Resources for this information.

**Timing**

For projects that require publication notices (CEST projects that do not convert to Exempt and EA projects) it is critical to ensure the public received the proper time period in which to comment and review the environmental record that was prepared by the grantee. After the public comment period, information is sent to the Department and the public has an additional period of time in which to object to environmental review process. This is referred to as the HUD 15 Day Objection Period.

Below is additional information on drafting the public notices for projects and in ensuring the proper timing requirements are met for each project.

**Drafting the NOI-RROF for CEST projects**

Once the RE Certifying Officer signs the environmental record, the Notice of Intent to Request Release of Funds (NOI-RROF) can be published in the newspaper or posted, but no earlier than the day after the RE Certifying Officer signs the environmental record. The specific required NOI-RROF notice language must be used for the publication. (See the Sample Notice language at the end of this Chapter). The timing worksheet can assist in ensuring that the language of the Notice is properly written in order to ensure the grantee provides the proper comment period for the public to review the environmental record.

<table>
<thead>
<tr>
<th>Timing Worksheet for NOI-RROF Publication Notice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date(s) RE signs: DLR, Stat. Checklist, and 58.6 Checklist</td>
</tr>
<tr>
<td>4</td>
</tr>
<tr>
<td>Earliest Date can sign RROF/Cert Form (day after comment period ends) [“On or after” date]</td>
</tr>
</tbody>
</table>

It is important to know the exact date that the Newspaper will publish the NOI-RROF public notice as this will determine the date of the last day of the public comment period and the earliest date in which the RE Certifying Officer can sign the RROF/Certification Form. It is recommended to add a day or two to the end of the comment period in order to ensure that the appropriate HUD public comment period has been met.
The first paragraph of the NOI-RROF notice notes “On or after” the RE will undertake a specific project. This “On or after” language is referencing the earliest date that the RE can sign the RROF/Certification Form. The RROF/Certification Form cannot be signed until the day after the end of the public comment period. Using the Timing Worksheet above will assist the grantee in ensuring proper timing. For example, if the RE signs the environmental record (all CEST required items) on July 10, 2015 then the earliest date that the NOI-RROF could be published would be on July 11, 2015.

### Timing Worksheet for NOI-RROF Publication Notice

<table>
<thead>
<tr>
<th>Date(s) RE signs: DLR, Stat. Checklist, and 58.6 Checklist.</th>
<th>Date Publish NOI-RROF (no earlier than day after RE signs)</th>
<th>Begin Counting (Enter Date)</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>7/10/2015</td>
<td>7/11/2015</td>
<td>7/12/2015</td>
<td>7/13</td>
<td>7/14</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/15</td>
<td>7/16</td>
<td>7/17</td>
<td>7/18/2015</td>
</tr>
</tbody>
</table>

If the Notice is published on July 11th, then the grantee would begin counting for the 7 day public comment period on the next day (July 12th). The last day of the public comment period as identified within the public notice within the “All comments received by” section would be July 18, 2015 (as this includes 7 complete days for the public to comment).

### PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR to the RE designated office responsible for receiving and responding to comments. All comments received by if notice is published: notice date plus seven days, if notice is mailed and posted: mailing and posting date plus ten days will be considered by the name of RE prior to authorizing submission of a request for release of funds.

Because the last day of the public comment period is July 18th, the earliest date that the RE can sign the RROF/Certification Form would be July 19, 2015 and this is the date that is added to the “On or after” portion of the Notice.

### NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS

Date of Publication: [date published]

Name of Responsible Entity (RE)
Address (e.g., Street No. or P.O. Box)
City, State, Zip Code
Telephone Number of RE

On or after at least one day after the end of the comment period the name of RE will if the RE is not also the grant recipient, insert the following language here: “authorize the [name of grant recipient] to submit a request to the HUD/State administering agency for the release of name of grant program funds under Title/Section [xx] of the name of the appropriation Act of [year], as amended, to undertake the following project:
Drafting the Combined Notice (FONSI/NOI-RROF) for EA projects

Once the RE Certifying Officer signs the environmental record, the Combined Notice (FONSI/NOI-RROF) Finding of No Significant Impact and Notice of Intent to Request Release of Funds can be published in the Newspaper or posted, but no earlier than the day after the RE Certifying Officer signs the environmental record. The specific required Combined Notice language must be used for the publication. (See the Sample Notice language at the end of this Chapter). The timing worksheet can assist in ensuring that the language of the Notice is properly written in order to ensure the grantee provides the proper comment period for the public to review the environmental record.

Timing Worksheet for Combined Notice Publication Notice

<table>
<thead>
<tr>
<th>Date(s) RE signs: DLR, Stat. Checklist, and 58.6 Checklist.</th>
<th>Date Publish NOI-RROF (no earlier than day after RE signs) [DATE of NOTICE]</th>
<th>Begin Counting (Enter Date)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>1</td>
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<td></td>
<td></td>
<td>14</td>
</tr>
<tr>
<td></td>
<td></td>
<td>15</td>
</tr>
</tbody>
</table>

Last Day of Comment Period [Identified in the NOTICE] Earliest Date RE can sign RROF/Cert Form (day after comment period ends) [“On or after” date]

It is important to know the exact date that the newspaper will publish the Combined Notice as this will determine the date of the last day of the public comment period and the earliest date in which the RE Certifying Officer can sign the RROF/Certification Form. It is recommended to add a day or two to the end of the comment period in order to ensure that the appropriate HUD public comment period has been met.

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR to the RE designated office responsible for receiving and responding to comments. All comments received by if notice is published: notice date plus seven days if notice is mailed and posted: mailing and posting date plus ten days will be considered by the name of RE prior to authorizing submission of a request for release of funds.
The first paragraph of the Combined Notice notes “On or after” the RE will undertake a specific project (see page 6-20). This “On or after” language is referencing the earliest date that the RE can sign the RROF/Certification Form. The RROF/Certification Form cannot be signed until the day after the end of the public comment period. Using the Timing Worksheet above will assist the grantee in ensuring proper timing.

For example, if the RE signs the environmental record (all EA required items) on July 10, 2015 then the earliest date that the Combined Notice could be published would be on July 11, 2015. You will notice that counting for the 15 day public comment period does not begin until the day after the Combined Notice is published.

### Timing Worksheet for Combined Notice

<table>
<thead>
<tr>
<th>Date(s) RE signs: DLR, EA</th>
<th>Date Publish Combined Notice (no earlier than day after RE signs)</th>
<th>Begin Counting (Enter Date)</th>
<th>1</th>
<th>2</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/10/2015</td>
<td>[DATE of NOTICE] 7/11/2015</td>
<td>7/12</td>
<td>7/13</td>
<td>7/14</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>5</td>
<td>6</td>
<td>7</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>7/15</td>
<td>7/16</td>
<td>7/17</td>
<td>7/18</td>
<td>7/19</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>10</td>
<td>11</td>
<td>12</td>
<td>13</td>
<td></td>
</tr>
<tr>
<td>7/20</td>
<td>7/21</td>
<td>7/22</td>
<td>7/23</td>
<td>7/24</td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>Last Day of Comment Period [Identified in the NOTICE]</td>
<td>Earliest Date RE can sign RROF/Cert Form (day after comment period ends) [“On or after” date]</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7/25</td>
<td>7/26</td>
<td>7/27/2015</td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

If the Notice is published on July 11\(^{th}\), then the grantee would begin counting for the 15 day public comment period on the next day (July 12\(^{th}\)). The last day of the public comment period as identified within the public notice within the “All comments received by” section would be July 26, 2015 (as this includes 15 complete days for the public to comment).
Because the last day of the public comment period is July 26th, the earliest date that the RE can sign the RROF/Certification Form would be July 27, 2015 and this is the date that is added to the “On or after” portion of the Notice.

Completing the RROF/Certification Form
As noted above the RE Certifying Officer cannot sign the RROF/Certification Form until after the end of the public comment period and this is why it is important to use the timing worksheet as it helps to ensure that proper timing was provided within the public notice and to ensure that the RE does not sign the RROF/Certification Form too early.

Once the public comment period has ended, the RE can sign the RROF/Certification Form. The Form basically tells the public that the grantee has completed the environmental review public comment period; that they are preparing to begin the HUD 15 Day Objection Period; and are ultimately requesting environmental clearance for the project.

The current RROF/Certification Form must be used and is available through a link to HUD’s current forms on the Department’s website.

HUD 15 Day Objection Period and Obtaining Environmental Clearance
Using the Timing Worksheet will help determine the earliest date that the RE can sign the RROF/Certification Form for CEST and EA projects. The Worksheet will also assist in identifying when the HUD 15 Day Objection Period will begin and note that the Objection Period cannot begin until after the Department receives the signed RROF/Certification Form, an Affidavit of Publication (or Posting) and a copy of the publication notice.
Timing Worksheet for CEST and EA Projects (Continued)

<table>
<thead>
<tr>
<th>Earliest Date RE can sign RROF/Cert Form (day after comment period ends) [“On or after” date]</th>
<th>Date the Department receives the RROF/Cert, the affidavit of publication, and a copy of the publication notice</th>
<th>Date RE signs the RROF/Cert Form</th>
<th>Begin Counting For HUD 15 Day Objection Period (Enter Date)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
<td>1</td>
<td>2</td>
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</table>

For example, if the earliest date that the RE could sign the RROF/Certification Form was on July 27, 2015 (and did sign the Form on that date) then the grantee would have to send the signed RROF/Cert Form, the affidavit of publication, and a copy of the publication notice to the Department. If this information was faxed or emailed on the same day that the Form was signed then the Department would note that the proper documentation was received on July 27th. Based on this information, counting for the HUD 15 Day Objection Period would begin on the next day (July 28th) and would run through August 11th. From the table below you will see that the earliest date that environmental clearance could be obtained for the project would be on August 12th.
Overall, the grantee should utilize the timing worksheet in order to ensure proper environmental timing is completed. A failure to provide an appropriate public comment period and a failure to sign the RROF/Certification Form on the correct date will result in the grantee having to republish, which will result in delays to the project that the grantee wishes to implement.

8 Step Process for Compliance with Floodplain Management
If a project has been determined to be located within a Special Flood Hazard Area (SFHA) as indicated on a Flood Insurance Rate Map (FIRM) or located in a wetland as determined by consultation with the Natural Resources Conservation Service and/or U. S. Army Corps of Engineers, then it will be necessary for the recipient to complete the 8 Step Process as required by 24 CFR 55.20. This process must be completed prior to finalizing the Statutory Checklist for CEST projects and prior to a FONSI for EA projects.

Complete the 8 Step Process Form and instructions. Complete the required publications including the Notice for Early Public Review and the Notice and Public Explanation.

For further information on the requirements of the 8 Step Process review 24 CFR 55.20 at the Electronic Code of Federal Regulations website [http://ecfr.gpoaccess.gov]. See also Sample Floodplain/Wetland notices at Attachment 5. Use the language as provided in the notices.
The 8 Step Process Form and instructions are found at the end of this Chapter. Below is a timing worksheet for CEST projects.

**Timing Worksheet for CEST Projects with 8 Step Process**

<table>
<thead>
<tr>
<th>Date Publish Early Public Notice</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
</tr>
</thead>
<tbody>
<tr>
<td>[enter date]</td>
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<tbody>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>15 [Last day of comment period]</th>
<th>Evaluate Steps 3 through 6</th>
<th>Publish the Notice of Explanation (No earlier than day after the end of the public comment period)</th>
</tr>
</thead>
<tbody>
<tr>
<td>[enter date]</td>
<td>[enter date]</td>
<td></td>
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</tbody>
</table>

<table>
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<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
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<tbody>
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</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>7 [Last day of comment period]</th>
<th>Earliest Day to finalize the EA by having the RE Certifying Officer sign the EA and make a FONSI determination. (No earlier than day after the end of the public comment period).</th>
</tr>
</thead>
<tbody>
<tr>
<td>[enter date]</td>
<td></td>
</tr>
</tbody>
</table>

**NOTE:** If any comments are received during the public comment periods, they must reviewed and response provided in writing prior to publishing the next public notice.
<table>
<thead>
<tr>
<th>Date DLR, Stat Checklist, 58.6 checklist signed by RE Certifying Officer</th>
<th>Date Publish NOI-RROF (no earlier than day after DLR, Stat Checklist, 58.6 Checklist signed by RE Certifying Officer</th>
<th>1</th>
<th>2</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td>[enter date]</td>
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<td>[enter date]</td>
</tr>
<tr>
<td>4</td>
<td>5</td>
<td>6</td>
<td>7 [Last day of comment period]</td>
<td>Earliest Day for RROF/Cert Completion (no earlier than the day after the end of the comment period)</td>
</tr>
<tr>
<td>[enter date]</td>
<td>[enter date]</td>
<td>[enter date]</td>
<td>[enter date]</td>
<td>[enter date]</td>
</tr>
<tr>
<td>Date RROF/Cert signed</td>
<td>RROF/Cert &amp; Documentation Sent to DED &amp; Rec’d by DED</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
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<td>[enter date]</td>
<td>[enter date]</td>
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<td>10</td>
<td>11</td>
<td>12</td>
<td>13</td>
</tr>
<tr>
<td>14</td>
<td>15</td>
<td>Earliest Day to receive environmental clearance</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

|  |  | Earliest Day to receive environmental clearance | | |

CDBG Manual 6-24 Revised April 2016
TIERED REVIEW
A tiered review is a process in which the grantee completes a CEST or EA Project review, but has not identified any or all the sites where the project activities will be completed.

In order to properly complete a tiered review, the grantee must complete a 2 step process. The first step is to complete the CEST or EA Project Packet by identifying and evaluating those issues that can be reviewed without having sites identified. This would also be called the “Broad Review” and this information would generally be identified with the Statutory Checklist.

The issues that cannot be evaluated without having specific sites identified would be reviewed once sites have been selected and noted within the Tier II evaluation. Language within the Compliance Documentation section of the Statutory Checklist would note “A Tier II evaluation will be conducted as sites are identified” and additional compliance documentation language would be provided.

In addition, the Broad Review should include a Tier II Review Format which will identify all the topics that will be reviewed within the Site Specific Review and also identify the methods that will be used to obtain the information.

The second step includes the grantee completing a Site-Specific Tier II environmental review for each site selected for the project. The grantee would identify and evaluate those issues that were noted in the Statutory Checklist, the Environmental Assessment Checklist (for EA projects), and 58.6 Checklist that required further evaluation once sites had been identified.

For housing projects that require a tiered review (generally owner occupied rehab projects), this may include, but would not be limited to Contamination and Toxic Substances, Floodplain Management, Historic Preservation, Noise Control, and Flood Disaster Protection.

For downtown revitalization projects that include façade improvements this may include, but would not be limited to Contamination and Toxic Substances, Floodplain Management, Historic Preservation, and Flood Disaster Protection.

The Tier II review should follow the recommended format and will be part of the ERR that is retained in the grantee’s project files at the grantee’s office. This Tier II review must reference the CEST or EA Project packet that was completed previously, and had received environmental clearance. This should be retained in a separate, master file, for the project.

The Tier II review should supplement the previous review. Discussing the tiered review is most appropriate in the description of the project in the Determination of Level of Review Form, the Statutory Checklist, the Environmental Assessment Checklist, and 58.6 Checklist.

An additional public comment period or HUD Objection Period is not required for a site specific review after the recipient has already received environmental clearance.

For a Tier II review format example see below.

For more information refer to 24 CFR 58.15.
CHANGES TO THE ORIGINAL PROJECT OR ADDITIONAL FUNDING (24 CFR 58.47)
In some instances the recipient may make changes to the activities in a project, change the project area, or receive additional funds for a project that has previously received environmental clearance.

In these instances it is necessary for the RE to re-evaluate its environmental findings. The RE should re-evaluate its environmental findings when:
- The recipient proposes substantial changes in the nature, magnitude or extent of the project, including adding new activities not anticipated in the original scope of the project; or,
- There are new circumstances and environmental conditions that may affect the project or the environment, such as concealed or unexpected conditions discovered during implementation.

The purpose of the re-evaluation is to determine if the new circumstances still justify and support the environmental finding originally issued. If the original finding is still valid, the RE must affirm the original findings by completing the Certification of Continued Environmental Compliance Form and update its ERR. Under these circumstances, if a FONSI notice has already been published, no additional FONSI notice is required.

However, if the re-evaluation is the result of a change in the scope, scale, nature, magnitude and/or location of a project, or additional funds are being added to a project with previous environmental clearance, then the RE must submit a Certification of Continued Environmental Compliance (Attachment 6) with its request to the Department for amendment approval.

If the RE determines that the original finding is no longer valid, it must re-initiate an additional CEST or EA review process if its evaluation indicates potentially significant impacts.

Provide a description of all project activities including those activities funded by all sources. In addition, if additional funds are being received for a project that has previously received environmental clearance describe why the project can be classified as supplemental assistance as defined at 24 CFR 58.35(b)(7). In this instance, the recipient would complete an environmental review packet for CENST projects and include a Certification of Continued Environmental Compliance.

When a recipient is only completing a contract amendment in which no new activities are anticipated or no additional funds are being added to total amount of grant funds received, it is not necessary to complete the Certification of Continued Environmental Compliance.

See an example of the Certification of Continued Environmental Compliance Form. Use the Department website, www.neded.org, to access the most current form.
OUTLINE OF ENVIRONMENTAL REVIEW RECORD (ERR) ITEMS
The following items will be needed in a recipient’s ERR depending on the type of project the recipient is completing. Complete the appropriate Environmental Review Project Packet using one of the four packets contained in this Attachment.

Exempt Activities [24 CFR 58.34]
- Cover Sheet
- Determination of Level of Review
- Finding of Exempt Activity
- 58.6 Checklist

Categorical Exclusion Not Subject To (CENST) Activities [24 CFR 58.35(b)]
- Cover Sheet
- Determination of Level of Review
- Finding of CENST Activity
- 58.6 Checklist
- Supporting Documentation (if necessary)

Categorical Exclusion Subject To (CEST) Activities [24 CFR 58.35(a)]
- Cover Sheet
- Determination of Level of Review
- Statutory Checklist
- 58.6 Checklist
- Supporting Documentation
- 7-Day Public Notice NOI/RROF Publication
- RROF/Certification
- 8 Step Process (if necessary)

Environmental Assessment [24 CFR 58.36]
- Cover Sheet
- Determination of Level of Review
- HUD Environmental Assessment
- Supporting Documentation
- 15-Day Public Notice FONSI & NOI/RROF Publication
- RROF/Certification
- Supporting Documentation
- Phase I (if necessary)
- Phase II (if necessary)
- 8 Step Process (if necessary)
EXEMPT

PROJECT

PACKET

[24 CFR 58.34]
ENVIRONMENTAL REVIEW RECORD

GRANT NUMBER: ____________________________

PROJECT NAME: ____________________________
DETERMINATION OF LEVEL OF REVIEW

ERR GRANT# ____________________________________________

Project Name: __________________________ Program Year: ________

Project Location: __________________________________________

Project Description (Attach additional descriptive information, as appropriate to the project, including narrative, maps, photographs, site plans, budgets and other information.):

______________________________________________________________________________

______________________________________________________________________________

The subject project has been reviewed pursuant to HUD regulations 24 CFR Part 58, “Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities,” and the following determination with respect to the project is made:

☐ Exempt from NEPA review requirements per 24 CFR 58.34(a)(____________________)

☐ Categorically Excluded NOT Subject to §58.5 authorities per 24 CFR 58.35(b)(____________________)

☐ Categorically Excluded SUBJECT to §58.5 authorities per 24 CFR 58.35(a)(____________________)
   (A Statutory Checklist for the §58.5 authorities is attached.)

☐ An Environmental Assessment (EA) is required to be performed. (An Environmental Assessment performed in accordance with subpart E of 24 CFR Part 58 is attached.)

☐ An Environmental Impact Statement (EIS) is required to be performed.

The ERR (see §58.38) must contain all the environmental review documents, public notices and written determinations or environmental findings required by Part 58 as evidence of review, decision making and actions pertaining to a particular project. Include additional information including checklists, studies, analyses and documentation as appropriate.

Preparer Name __________________________ Signature __________________________

Title __________________________ Date ________________

Responsible Entity Certifying Officer __________________________ Signature __________________________

Title __________________________ Date ________________
# FINDING OF EXEMPT ACTIVITY [24 CFR 58.34(a)]

**GRANTEE:** ____________________________________________  **GRANT #** ________________________________

**DIRECTIONS:** Certain CDBG, HOME, and NAHTF funded activities, which do not have a physical impact, require a grantee, as defined at 24 CFR Part 58.2, to determine whether the proposed activity is Exempt from the National Environmental Policy Act of 1969 (NEPA), as amended, and not subject to the environmentally-related statutory authorities listed at 24 CFR Parts 58.5. This form provides a grantee with a format to make this determination. A description of the activity (or project) should be attached to this form and the documentation maintained in the Environmental Review Record (24 CFR Part 58.38). Note that the 24 CFR 58.6 requirements will also need to be completed. Consult HUD’s environmental regulation (24 CFR Part 58) as necessary. **Check a single box** that best describes or fits the proposed activity. Submit the completed form to your Responsible Entity Certifying Officer for review.

<table>
<thead>
<tr>
<th>Box</th>
<th>Activity Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐</td>
<td>Environmental and other studies, resource identification and the development of plans and strategies [58.34(a)(1)].</td>
</tr>
<tr>
<td>☐</td>
<td>Information and financial services [58.34(a)(2)].</td>
</tr>
<tr>
<td>☐</td>
<td>Administrative and management activities [58.34(a)(3)].</td>
</tr>
<tr>
<td>☐</td>
<td>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 [58.34(a)(4)].</td>
</tr>
<tr>
<td>☐</td>
<td>Inspections and testing of properties for hazards or defects [58.34(a)(5)].</td>
</tr>
<tr>
<td>☐</td>
<td>Purchase of insurance [58.34(a)(6)].</td>
</tr>
<tr>
<td>☐</td>
<td>Purchase of tools [58.34(a)(7)].</td>
</tr>
<tr>
<td>☐</td>
<td>Engineering or design costs [58.34(a)(8)].</td>
</tr>
<tr>
<td>☐</td>
<td>Technical assistance and training [58.34(a)(9)].</td>
</tr>
<tr>
<td>☐</td>
<td>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 [58.34(a)(10)].</td>
</tr>
<tr>
<td>☐</td>
<td>Payment of principal or interest on loans made or obligations guaranteed by HUD [58.34(a)(11)].</td>
</tr>
<tr>
<td>☐</td>
<td>Any of the categorical exclusions listed in §58.35(a) provided there are no circumstances which require compliance with any other Federal laws and authorities cited in §58.5 [58.34(a)(12)].</td>
</tr>
</tbody>
</table>

**PROJECT DESCRIPTION:** Provide a description of all project activities including those activities funded by sources other than CDBG, HOME, or NAHTF. (Attach additional pages as necessary.)

In accordance with the provisions of 24 CFR 58.34(a), the grantee has determined that the subject CDBG, HOME, or NAHTF-assisted activity (or program) explained above is Exempt from the National Environmental Policy Act of 1969 (NEPA), as amended.

**DETERMINATION BY (PREPARER)**

<table>
<thead>
<tr>
<th>PRINT NAME</th>
<th>SIGNATURE</th>
<th>DATE</th>
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</thead>
</table>

**RESPONSIBLE ENTITY CERTIFYING OFFICER**

<table>
<thead>
<tr>
<th>PRINT NAME</th>
<th>SIGNATURE</th>
<th>DATE</th>
</tr>
</thead>
</table>
24 CFR §58.6 – OTHER REQUIREMENTS

Use this worksheet for projects that are EXEMPT, CATEGORICALLY EXCLUDED SUBJECT TO (CEST), and CATEGORICALLY EXCLUDED NOT SUBJECT TO (CENST) Related Federal Statutes and Authorities.

This 58.6 Form is a component of the Environmental Review Record (ERR) [§58.38]. Supplement the ERR, as appropriate, with photographs, site plans, maps, narrative and other information that describe the project.

1. AIRPORT RUNWAY CLEAR ZONES AND CLEAR ZONES NOTIFICATION [24 CFR Part 51.303(a)(3)]
Does the project involve the sale or acquisition of property located within a Civil Airport Runway Clear Zone or a Military Airfield Clear Zone?
☐ No. Cite or attach Source Documentation: ____________________________________________________________________________ [Project complies with 24 CFR 51.303(a)(3)].
☐ Yes. Notice must be provided to the buyer. The notice must advise the buyer that the property is in a Runway Clear Zone or Clear Zone, what the implications of such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of this information, and a copy of the signed notice must be maintained in the ERR.

2. COASTAL BARRIERS RESOURCES ACT [Coastal Barrier Improvement Act of 1990 (16 USC 3501)] Is the project located in a coastal barrier resource area?
☐ No. Cite or attach Source Documentation: ____________________________________________________________________________ [Proceed with project].
☐ Yes. Federal assistance may not be used in such an area.

3. FLOOD DISASTER PROTECTION ACT [Flood Disaster Protection Act of 1973, as amended (42 USC 4001-4128)]
Does the project involve acquisition, construction, or rehabilitation of structures located in a FEMA-identified Special Flood Hazard Area (SFHA)?
☐ No. Cite or attach Source Documentation: ____________________________________________________________________________ [Proceed with project].
☐ Yes. Cite or attach Source Documentation: ____________________________________________________________________________

Is the community participating in the National Insurance Program (or has less than one year passed since FEMA notification of Special Flood Hazards)?
☐ Yes. Flood Insurance under the National Flood Insurance Program must be obtained. If HUD assistance is provided as a grant, insurance must be maintained for the economic life of the project and in the amount of the total project cost (or up to the maximum allowable coverage, whichever is less). If HUD assistance is provided as a loan, insurance must be maintained for the term of the loan and in the amount of the loan (or up to the maximum allowable coverage, whichever is less). A copy of the flood insurance policy declaration must be kept on file in the ERR.
☐ No. Federal assistance may not be used in the Special Flood Hazard Area.

Preparer Name ____________________________________________________________________________
Preparer Signature ____________________________________________________________________________ Date ____________

RE Certifying Officer Name ____________________________________________________________________________
RE Certifying Officer Signature ____________________________________________________________________________ Date ____________
CENST

PROJECT

PACKET

[24 CFR 58.35(b)]
ENVIRONMENTAL REVIEW RECORD

GRANT NUMBER: ________________________________

PROJECT NAME: ________________________________
DETERMINATION OF LEVEL OF REVIEW

ERR GRANT# ____________________________

Project Name: ____________________________ Program Year: ____________________________

Project Location: ____________________________

Project Description (Attach additional descriptive information, as appropriate to the project, including narrative, maps, photographs, site plans, budgets and other information.):

__________________________________________________________________________________

__________________________________________________________________________________

__________________________________________________________________________________

The subject project has been reviewed pursuant to HUD regulations 24 CFR Part 58, “Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities,” and the following determination with respect to the project is made:

☐ Exempt from NEPA review requirements per 24 CFR 58.34(a)(__________________________)

☐ Categorically Excluded NOT Subject to §58.5 authorities per 24 CFR 58.35(b)(__________________________)

☐ Categorically Excluded SUBJECT to §58.5 authorities per 24 CFR 58.35(a)(__________________________)

(A Statutory Checklist for the §58.5 authorities is attached.)

☐ An Environmental Assessment (EA) is required to be performed. (An Environmental Assessment performed in accordance with subpart E of 24 CFR Part 58 is attached.)

☐ An Environmental Impact Statement (EIS) is required to be performed.

The ERR (see §58.38) must contain all the environmental review documents, public notices and written determinations or environmental findings required by Part 58 as evidence of review, decision making and actions pertaining to a particular project. Include additional information including checklists, studies, analyses and documentation as appropriate.

________________________________________________________________________

Preparer Name ____________________________ Signature ____________________________

Title ____________________________ Date ____________________________

________________________________________________________________________

Responsible Entity Certifying Officer ____________________________ Signature ____________________________

Title ____________________________ Date ____________________________
**FINDING OF CATEGORICAL EXCLUSION, NOT SUBJECT TO RELATED Federal Statutes and AUTHORITIES [24 CFR 58.35(B)]**

<table>
<thead>
<tr>
<th>GRANTEE:</th>
<th>GRANT #</th>
</tr>
</thead>
</table>

**DIRECTIONS:** Certain CDBG, HOME, and NAHTF funded activities, which do not have a physical impact, require a grantee, as defined at 24 CFR Part 58.2, to determine whether the proposed activity is Categorically Excluded from the National Environmental Policy Act of 1969 (NEPA), as amended, and not subject to the environmentally-related statutory authorities listed at 24 CFR Parts 58.5.

This form provides a grantee with a format to make this determination. A description of the activity (or project) should be attached to this form and the documentation maintained in the Environmental Review Record (24 CFR Part 58.38). Note that the 24 CFR 58.6 requirements will also need to be completed. Consult HUD’s environmental regulation (24 CFR Part 58) as necessary.

Check a single box that best describes or fits the proposed activity. Submit the completed form to your Responsible Entity Certifying Officer for review.

- [ ] Tenant-based rental assistance [58.35(b)(1)].
- [ ] Supportive services [58.35(b)(2)], including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, and short-term payments for rent/mortgage/utility costs.
- [ ] Operating costs [58.35(b)(3)], including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment, and other incidental costs.
- [ ] Economic development activities [58.35(b)(4)], 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.
- [ ] Activities to assist homeownership of existing or new dwelling units not assisted with Federal funds [58.35(b)(5)], including closing costs and down payment assistance to home buyers, interest buy-downs, and similar activities that result in the transfer of title to a property.
- [ ] Affordable housing predevelopment costs [58.35(b)(6)], 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.
- [ ] Approval of supplemental assistance [58.35(b)(7)], (including insurance or guarantee) to a project previously approved 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 §58.47.

**PROJECT DESCRIPTION:** Provide a description of all project activities including those activities funded by sources other than CDBG, HOME, or NAHTF. (Attach additional pages as necessary.)

In accordance with the provisions of 24 CFR 58.35(b), the grantee has determined that the subject CDBG, HOME, or NAHTF-assisted activity (or program) explained above is Categorically Excluded from the National Environmental Policy Act of 1969 (NEPA), as amended, and Not Subject to the Related Part 58.5 Statutory Authorities.

**DETERMINATION BY (PREPARER)**

<table>
<thead>
<tr>
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24 CFR §58.6 – OTHER REQUIREMENTS

Use this worksheet for projects that are EXEMPT, CATEGORICALLY EXCLUDED SUBJECT TO (CEST), and CATEGORICALLY EXCLUDED NOT SUBJECT TO (CENST) Related Federal Statutes and Authorities.

This 58.6 Form is a component of the Environmental Review Record (ERR) [§58.38]. Supplement the ERR, as appropriate, with photographs, site plans, maps, narrative and other information that describe the project.

1. AIRPORT RUNWAY CLEAR ZONES AND CLEAR ZONES NOTIFICATION [24 CFR Part 51.303(a)(3)]

Does the project involve the sale or acquisition of property located within a Civil Airport Runway Clear Zone or a Military Airfield Clear Zone?

☐ No. Cite or attach Source Documentation: __________________________________________________________ [Project complies with 24 CFR 51.303(a)(3)].

☐ Yes. Notice must be provided to the buyer. The notice must advise the buyer that the property is in a Runway Clear Zone or Clear Zone, what the implications of such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of this information, and a copy of the signed notice must be maintained in the ERR.

2. COASTAL BARRIERS RESOURCES ACT [Coastal Barrier Improvement Act of 1990 (16 USC 3501)] Is the project located in a coastal barrier resource area?

☒ No. Cite or attach Source Documentation: No CBRA’s in Nebraska according to the Office for Coastal Management (NOAA) https://coast.noaa.gov/czm/mystate/

☐ Yes. Federal assistance may not be used in such an area.

3. FLOOD DISASTER PROTECTION ACT [Flood Disaster Protection Act of 1973, as amended (42 USC 4001-4128)]

Does the project involve acquisition, construction, or rehabilitation of structures located in a FEMA-identified Special Flood Hazard Area (SFHA)?

☐ No. Cite or attach Source Documentation: __________________________________________________________ [Proceed with project].

☐ Yes. Cite or attach Source Documentation: __________________________________________________________ [Proceed with project].

Is the community participating in the National Insurance Program (or has less than one year passed since FEMA notification of Special Flood Hazards)?

☐ Yes. Flood Insurance under the National Flood Insurance Program must be obtained. If HUD assistance is provided as a grant, insurance must be maintained for the economic life of the project and in the amount of the total project cost (or up to the maximum allowable coverage, whichever is less). If HUD assistance is provided as a loan, insurance must be maintained for the term of the loan and in the amount of the loan (or up to the maximum allowable coverage, whichever is less). A copy of the flood insurance policy declaration must be kept on file in the ERR.

☐ No. Federal assistance may not be used in the Special Flood Hazard Area.

Preparer Name ____________________________ Preparer Signature ____________________________ Date __________

RE Certifying Officer Name ____________________________ RE Certifying Officer Signature ____________________________ Date __________
CEST

PROJECT

PACKET

[24 CFR 58.35(a)]
ENVIRONMENTAL REVIEW RECORD

GRANT NUMBER: ____________________________

PROJECT NAME: ____________________________
DETERMINATION OF LEVEL OF REVIEW

ERR GRANT# ____________________________

Project Name: ____________________________ Program Year: __________

Project Location: _________________________

Project Description (Attach additional descriptive information, as appropriate to the project, including narrative, maps, photographs, site plans, budgets and other information.):

_____________________________________________________________________

_____________________________________________________________________

The subject project has been reviewed pursuant to HUD regulations 24 CFR Part 58, “Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities,” and the following determination with respect to the project is made:

☐ Exempt from NEPA review requirements per 24 CFR 58.34(a)(__________)

☐ Categorically Excluded NOT Subject to §58.5 authorities per 24 CFR 58.35(b)(__________)

☐ Categorically Excluded SUBJECT to §58.5 authorities per 24 CFR 58.35(a)(__________)

(A Statutory Checklist for the §58.5 authorities is attached.)

☐ An Environmental Assessment (EA) is required to be performed. (An Environmental Assessment performed in accordance with subpart E of 24 CFR Part 58 is attached.)

☐ An Environmental Impact Statement (EIS) is required to be performed.

The ERR (see §58.38) must contain all the environmental review documents, public notices and written determinations or environmental findings required by Part 58 as evidence of review, decision making and actions pertaining to a particular project. Include additional information including checklists, studies, analyses and documentation as appropriate.

Preparer Name ________________________ Signature __________________________

Title __________________________ Date __________

Responsible Entity Certifying Officer __________________________ Signature __________________________

Title __________________________ Date __________
STATUTORY CHECKLIST

Use this worksheet only for projects that are CATEGORICALLY EXCLUDED SUBJECT TO (CEST) Related Federal Statutes and Authorities [24 CFR §58.35(a)]

GRANTEE: ________________________ GRANT#: ________________________

A “Determination of Level of Review” form should be provided as a cover to this checklist.

This checklist is a component of the Environmental Review Record (ERR) [§58.38]. In addition the “Requirements listed at 24 CFR §58.6” form must also be completed. Supplement the ERR, as appropriate, with photographs, site plans, maps, narrative and other information that describe the project.

### 24 CFR §58.5 – NEPA-Related Federal Statutes and Authorities

**DIRECTIONS** – For each authority, check either Box “A” or “B” under “Status.”

**“A box”** The project is in compliance, either because: (1) the nature of the project does not implicate the authority under consideration, or (2) supporting information documents that project compliance has been achieved. In either case, information must be provided as to WHY the authority is not implicated, or HOW compliance is met; OR

**“B box”** The project requires an additional compliance step or action, including, but not limited to, consultation with or approval from an oversight agency, performance of a study or analysis, completion of remediation or mitigation measure, or obtaining of license or permit.

**IMPORTANT:** Compliance documentation consists of verifiable source documents and/or relevant base data. Appropriate documentation must be provided for each law or authority. Documents may be incorporated by reference into the ERR provided that each source document is identified and available for inspection by interested parties. Proprietary material and studies that are not otherwise generally available for public review shall be included in the ERR. Refer to HUD guidance for more information.

<table>
<thead>
<tr>
<th>Statute, Authority, Executive Order, Regulation, or Policy cited at 24 CFR §58.5</th>
<th>STATUS A</th>
<th>STATUS B</th>
<th>Compliance Documentation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. Air Quality</strong>&lt;br&gt;[Clean Air Act sections 176(c) &amp; (d), and 40 CFR 6, 51, 93]</td>
<td>☐</td>
<td>☐</td>
<td></td>
</tr>
<tr>
<td><strong>2. Airport Hazards</strong>&lt;br&gt;(Clear Zones and Accident Potential Zones) [24 CFR 51D]</td>
<td>☐</td>
<td>☐</td>
<td></td>
</tr>
<tr>
<td><strong>3. Coastal Zone Management</strong>&lt;br&gt;[Coastal Zone Management Act sections 307(c) &amp; (d)]</td>
<td>☑</td>
<td>☐</td>
<td>The project in Nebraska is not located in a state having a Coastal Zone Management (CZM) Program as provided by the National Oceanic &amp; Atmospheric Administration. (<a href="http://coastalmanagement.noaa.gov/mystate/welcome.html">http://coastalmanagement.noaa.gov/mystate/welcome.html</a>.)</td>
</tr>
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<tr>
<td>5. Endangered Species [50 CFR 402]</td>
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<tr>
<td>6. Environmental Justice [Executive Order 12898]</td>
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<tr>
<td>8. Farmland Protection [7 CFR 658]</td>
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<tr>
<td>12. Water Quality (Sole Source Acquifers) [40 CFR 149]</td>
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<tr>
<td>14. Wild and Scenic Rivers [36 CFR 297]</td>
<td></td>
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</tr>
</tbody>
</table>

**DETERMINATION:**
- Box “A” has been checked for all authorities. The project can convert to Exempt, per §58.34(a)(12), since the project does not require any further compliance measure (e.g. consultation, mitigation, permit, or approval) with respect to any law or authority cited at §58.5. Complete Finding of Exempt Activity and document in writing per §58.34(a)(12) & (b); OR
- Box “B” has been checked for one or more authorities. The project cannot convert to Exempt since one or more authorities require compliance, including but not limited to consultation with or approval from an oversight agency, performance of a study or analysis, completion of remediation or mitigation measure, or obtaining of license or permit. Complete pertinent compliance requirement(s), publish NOI/RROF, request release of funds (HUD-7015.15), and obtain HUD’s Authority to Use Grant Funds (HUD-7015.16) per §§58.70 & 58.71 before committing funds: OR
- The unusual circumstances of this project may result in a significant environmental impact. The project requires preparation of an Environmental Assessment (EA). Prepare the EA according to 24 CFR Part 58 Subpart E.

Preparer Name: [Signature] Date: [Date]

RE Certifying Officer Name: [Signature] Date: [Date]
## 24 CFR §58.6 – OTHER REQUIREMENTS

Use this worksheet for projects that are EXEMPT, CATEGORICALLY EXCLUDED SUBJECT TO (CEST), and CATEGORICALLY EXCLUDED NOT SUBJECT TO (CENST) Related Federal Statutes and Authorities.

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### 1. AIRPORT RUNWAY CLEAR ZONES AND CLEAR ZONES NOTIFICATION [24 CFR Part 51.303(a)(3)]

Does the project involve the sale or acquisition of property located within a Civil Airport Runway Clear Zone or a Military Airfield Clear Zone?

- **Yes.** Notice must be provided to the buyer. The notice must advise the buyer that the property is in a Runway Clear Zone or Clear Zone, what the implications of such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of this information, and a copy of the signed notice must be maintained in the ERR.

### 2. COASTAL BARRIERS RESOURCES ACT [Coastal Barrier Improvement Act of 1990 (16 USC 3501)]

Is the project located in a coastal barrier resource area?

- **Yes.** Federal assistance may not be used in such an area.

### 3. FLOOD DISASTER PROTECTION ACT [Flood Disaster Protection Act of 1973, as amended (42 USC 4001-4128)]

Does the project involve acquisition, construction, or rehabilitation of structures located in a FEMA-identified Special Flood Hazard Area (SFHA)?

- **Yes.** Flood Insurance under the National Flood Insurance Program must be obtained. If HUD assistance is provided as a grant, insurance must be maintained for the economic life of the project and in the amount of the total project cost (or up to the maximum allowable coverage, whichever is less). If HUD assistance is provided as a loan, insurance must be maintained for the term of the loan and in the amount of the loan (or up to the maximum allowable coverage, whichever is less). A copy of the flood insurance policy declaration must be kept on file in the ERR.

**No. Federal assistance may not be used in the Special Flood Hazard Area.**

---

**Preparer Name**

**Preparer Signature**

**Date**

**RE Certifying Officer Name**

**RE Certifying Officer Signature**

**Date**

---

CDBG Manual 6-43 Revised April 2016
ENVIRONMENTAL ASSESSMENT (EA)

PROJECT

PACKET

[24 CFR 58.36]
ENVIRONMENTAL REVIEW RECORD

GRANT NUMBER: __________________________

PROJECT NAME: __________________________
DETERMINATION OF LEVEL OF REVIEW

ERR GRANT#__________________________________________

Project Name:________________________________________ Program Year:__________

Project Location:______________________________________

Project Description (Attach additional descriptive information, as appropriate to the project, including narrative, maps, photographs, site plans, budgets and other information:)

________________________________________________________________________

The subject project has been reviewed pursuant to HUD regulations 24 CFR Part 58, “Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities,” and the following determination with respect to the project is made:

☐ Exempt from NEPA review requirements per 24 CFR 58.34(a)(__________________________)

☐ Categorically Excluded NOT Subject to §58.5 authorities per 24 CFR 58.35(b)(__________________________)

☐ Categorically Excluded SUBJECT to §58.5 authorities per 24 CFR 58.35(a)(__________________________)

(A Statutory Checklist for the §58.5 authorities is attached.)

☐ An Environmental Assessment (EA) is required to be performed. (An Environmental Assessment performed in accordance with subpart E of 24 CFR Part 58 is attached.)

☐ An Environmental Impact Statement (EIS) is required to be performed.

The ERR (see §58.38) must contain all the environmental review documents, public notices and written determinations or environmental findings required by Part 58 as evidence of review, decision making and actions pertaining to a particular project. Include additional information including checklists, studies, analyses and documentation as appropriate.

Preparer Name

Signature

Title

Date

Responsible Entity Certifying Officer

Signature

Title

Date
ENVIRONMENTAL ASSESSMENT
for HUD-funded Projects

[HUD recommended format per 24 CFR 58.40]

Project Name: ____________________________________________________________

Responsible Entity: _______________________________________________________

Certifying Officer Name & Title: _____________________________________________

Environmental Review Record (ERR) File #: ________________________________
ENVIRONMENTAL ASSESSMENT

Project Location: ____________________________________________________________

Estimated Total Project Cost (all sources): ____________________________________________

Amount of HUD Assistance: ____________________________________________________________________________

HUD Grant Program: ______________________________________________________________________________

Grant Recipient (if different from Responsible Entity): ________________________________________________
[24 CFR 58.2(a)(5)]

Recipient Address & Phone: ______________________________________________________________________

RE Project Contact Name & Phone: _________________________________________________________________

Conditions for Approval: (List all mitigation and project modification measures adopted by the Responsible Entity to eliminate or minimize adverse environmental impacts. These conditions must be included in project contracts and other relevant documents as required.) [24 CFR 58.40(d), 40 CFR 1505.2(c)]

__________________________________________

FINDING: [24 CFR 58.40(g)]

☐ Finding of No Significant Impact (FONSI)
  (The project will not result in a significant impact on the quality of the human environment.)

☐ Finding of Significant impact
  (The project may significantly affect the quality of the human environment.)

PREPARER SIGNATURE: ___________________________ DATE: __________

PREPARER NAME & TITLE: __________________________________________

PREPARER’S AGENCY (If Different from RE): ________________________________________

RE CERTIFYING OFFICER SIGNATURE: _______________________________ DATE: __________
**Purpose of the Project:** [“Statement of Purpose and Need for the Proposal” - 40 CFR 1508.9(b)]

**Description of the Project:** Include all contemplated actions that are logically either geographically or functionally a composite part of the project, regardless of the source of funding. [24 CFR 58.32, 40 CFR 1508.25] As appropriate, attach maps, site plans, renderings, photographs, budgets, and other descriptive information.

**Existing Conditions and Trends:** Describe the existing conditions of the project area and its surroundings, and the trends likely to continue in the absence of the project. [24 CFR 58.40(a)]

---

**PART I: STATUTORY CHECKLIST** [24 CFR 58.5]

**DIRECTIONS** – For each authority, check either Box “A” or “B” under “Status.”

“A box” The project is in compliance, either because: (1) the nature of the project does not implicate the authority under consideration, or (2) supporting information documents that project compliance has been achieved. In either case, information must be provided as to WHY the authority is not implicated, or HOW compliance is met; OR

“B box” The project requires an additional compliance step or action, including, but not limited to, consultation with or approval from an oversight agency, performance of a study or analysis, completion of remediation or mitigation measure, or obtaining of license or permit.

**IMPORTANT:** Compliance documentation consists of verifiable source documents and/or relevant base data. Appropriate documentation must be provided for each law or authority. Documents may be incorporated by reference into the ERR provided that each source document is identified and available for inspection by interested parties. Proprietary material and studies that are not otherwise generally available for public review shall be included in the ERR. Refer to HUD guidance for more information.

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</table>
| **1. Air Quality**  
[Clean Air Act sections 176(c) & (d), and 40 CFR 6, 51, 93] |  |  |
| **2. Airport Hazards**  
(Clear Zones and Accident Potential Zones) [24 CFR 51D] |  |  |
| **3. Coastal Zone Management**  
[Coastal Zone Management Act sections 307(c) & (d)] | ☒ | No coastal zone management programs exist in the States of HUD Region VII, as established by Nat'l Oceanic & Atmospheric Administration, Office of Ocean and Coastal Resource Management. (http://www.ocrm.nos.noaa.gov/czm/czmsitelist.html) |
<p>| | | |</p>
<table>
<thead>
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</thead>
<tbody>
<tr>
<td>4. Contamination and Toxic Substances</td>
<td>[24 CFR 58.5(i)(2)]</td>
<td></td>
</tr>
<tr>
<td>5. Endangered Species</td>
<td>[50 CFR 402]</td>
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<td>[36 CFR 297]</td>
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</table>
PART II: ENVIRONMENTAL ASSESSMENT CHECKLIST  
[Environmental Review Guide HUD CPD-782, 24 CFR 58.40; 40 CFR 1508.8 & 1508.27]

For each impact category, evaluate the significance of the effects of the proposal on the character, features, and resources of the project area. Enter relevant base data and credible, verifiable source documentation to support the finding. Note names, dates of contact, telephone numbers, and page references. Then enter the appropriate determination of impact: None Anticipated, Potentially Adverse, or Potentially Beneficial. Attach additional material as appropriate. Note conditions or mitigation measures required.

<table>
<thead>
<tr>
<th>Impact Categories</th>
<th>Anticipated or Potential Impact</th>
<th>Source Documentation and Mitigation or Modification Required</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Adverse</td>
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<td></td>
<td>Beneficial</td>
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<tr>
<td></td>
<td>No Impact</td>
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**Land Development**

<table>
<thead>
<tr>
<th>Conformance with Comprehensive and Neighborhood Plans</th>
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<tr>
<td>Land Use Compatibility and Conformance with Zoning</td>
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<tr>
<td>Urban Design-Visual Quality and Scale</td>
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<tr>
<td>Slope</td>
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<td>Erosion</td>
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<td>Soil Suitability</td>
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<tr>
<td>Hazards and Nuisances, Including Site Safety</td>
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<tr>
<td>Noise-Effects of Ambient Noise on Project &amp; Contribution to Community Noise Levels</td>
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<tr>
<td>Air Quality-Effects of Ambient Air Quality on Project &amp; Contribution to Community Pollution Levels</td>
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<td>Socioeconomic Factors</td>
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<td>----------------------------------------</td>
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<td>Demographic Character Changes</td>
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<td>Displacement</td>
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<td>Employment and Income Patterns</td>
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<tr>
<th>Community Facilities and Services</th>
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<tr>
<td>Educational Facilities</td>
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<td>Commercial Facilities</td>
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<td>Health Care</td>
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<td>Social Services</td>
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<td>Solid Waste</td>
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<td>Waste Water</td>
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<td>Storm Water</td>
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<td>Water Supply</td>
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<td>Public Safety</td>
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<tr>
<td>• Police</td>
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<td>• Fire</td>
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</table>
- Emergency Medical
- Open Space & Recreation
  - Open Space
- Recreation
- Cultural Facilities

### Natural Features

<table>
<thead>
<tr>
<th>Description</th>
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<td>Water Resources</td>
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<tr>
<td>Surface Water</td>
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<tr>
<td>Unique Natural Features &amp; Agricultural Lands</td>
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<tr>
<td>Vegetation and Wildlife</td>
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<td></td>
</tr>
</tbody>
</table>
PART III: 58.6 CHECKLIST

1. AIRPORT RUNWAY CLEAR ZONES AND CLEAR ZONES NOTIFICATION [24 CFR Part 51.303(a)(3)]

Does the project involve the sale or acquisition of property located within a Civil Airport Runway Clear Zone or a Military Airfield Clear Zone?

☐ No. Cite or attach Source Documentation: 

☐ Yes. Notice must be provided to the buyer. The notice must advise the buyer that the property is in a Runway Clear Zone or Clear Zone, what the implications of such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of this information, and a copy of the signed notice must be maintained in the ERR.

2. COASTAL BARRIERS RESOURCES ACT [Coastal Barrier Improvement Act of 1990 (16 USC 3501)] Is the project located in a coastal barrier resource area?

☒ No. Cite or attach Source Documentation: No CBRA’s in Nebraska according to the Office for Coastal Management (NOAA) https://coast.noaa.gov/czm/mystate/

☒ Yes. Federal assistance may not be used in such an area.

3. FLOOD DISASTER PROTECTION ACT [Flood Disaster Protection Act of 1973, as amended (42 USC 4001-4128)] Does the project involve acquisition, construction, or rehabilitation of structures located in a FEMA-identified Special Flood Hazard Area (SFHA)?

☐ No. Cite or attach Source Documentation: 

☐ Yes. Cite or attach Source Documentation: [Proceed with project.]

Is the community participating in the National Insurance Program (or has less than one year passed since FEMA notification of Special Flood Hazards)?

☒ Yes. Flood Insurance under the National Flood Insurance Program must be obtained. If HUD assistance is provided as a grant, insurance must be maintained for the economic life of the project and in the amount of the total project cost (or up to the maximum allowable coverage, whichever is less). If HUD assistance is provided as a loan, insurance must be maintained for the term of the loan and in the amount of the loan (or up to the maximum allowable coverage, whichever is less). A copy of the flood insurance policy declaration must be kept on file in the ERR.

☐ No. Federal assistance may not be used in the Special Flood Hazard Area.

Summary of Findings and Conclusions

Project Alternatives Considered: [24 CFR 58.40(e), 40 CFR 1508.9] (As appropriate, identify other reasonable courses of action that were considered and not selected, such as other sites, design modifications, or other uses of the subject site. Describe the benefits and adverse impacts to the human environment for each alternative and the reasons for rejecting it. Include consideration of the No Action Alternative, that is, not implementing the preferred alternative.)
Mitigation and Project Modification Measures Recommended: [24 CFR 58.40(d), 40 CFR 1508.20] (Recommend feasible ways in which the proposal or its external factors should be modified in order to minimize adverse environmental impacts and restore or enhance environmental quality.)

Additional Studies Performed: (List the reports, studies, or analyses performed for this assessment, and attach studies or summaries.)

List of Agencies and Persons Consulted: [40 CFR 1508.9(b)] (List agencies and persons consulted for this assessment.)
## Tier II Review (Supplemental Information)

The following information is an example of the recommended format that should be used for a project that requires a tiered review. A tiered review is appropriate for CEST or EA projects where the location of all activities that will be completed in the project have not been identified.

The Tier II review supplements an ERR for a CEST or EA environmental review that has been previously completed (i.e. the Broad Review). A separate Tier II review should be completed for each newly identified project site and must be retained by the grantee in separate site-specific project files for the purposes of future monitoring by DED.

Only the items that have been previously identified in the Statutory Checklist, Environmental Review Checklist, or 58.6 Checklist that were noted to require further evaluation or consultation should be discussed in the Tier II review.

Below is an example of information noted within the Statutory Checklist related to the Tier II review. Note that within any area where a site specific review would be needed, the grantee must note that a Tier II revaluation will be conducted as sites are identified.

<table>
<thead>
<tr>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>☐ ☒ A Tier II evaluation will be conducted as sites are identified. Each sub-recipient will provide documentation within the Tier II review that includes the following steps and information:</td>
<td></td>
</tr>
<tr>
<td>a) Information regarding a visual inspection of the site and its surroundings.</td>
<td></td>
</tr>
<tr>
<td>b) Information as to whether or not there are any potentially contaminated sites exist at or near the home by utilizing the EPA’s Environmental Justice Geographic Assessment tool or the Department of Environmental Quality’s facility tracking tool at:</td>
<td><a href="http://epamap14.epagov/eimap/entry.html">http://epamap14.epagov/eimap/entry.html</a> or <a href="http://deqims.deq.state.ne.us/DEQ/">http://deqims.deq.state.ne.us/DEQ/</a></td>
</tr>
<tr>
<td>c) The sub-recipient will send a letter to the Fire Marshall (or other best available contact) to determine whether or not there are any Underground Storage Tanks (UST's) on the site or nearby the site location.</td>
<td></td>
</tr>
<tr>
<td>d) The sub-recipient will wait to receive a response from the Fire Marshall (or other best available contact) to determine if the Agency has any information on any UST’s on the site or surroundings and whether or not those are Leaking Underground Storage Tanks (LUST’s) that might be harmful to any persons living on the property.</td>
<td></td>
</tr>
</tbody>
</table>
Below is an example of a Tier II Review Format. This Format may be utilized, but must be customized to fit the grantee’s project.

### TIER II SITE SPECIFIC ENVIRONMENTAL REVIEW for CDBG OOR PROGRAM

<table>
<thead>
<tr>
<th>Grant Number</th>
<th>Sub-Recipient:</th>
<th>Property Address</th>
</tr>
</thead>
</table>

#### Description of Activities:

The project activities include: □ acquisition □ rehabilitation □ dpa □ closing cost assistance

Acquisition cost is projected at: $________________________.

Scope of the rehab work includes: ___________________________________________________________

The total estimated rehab cost is projected at: $_______________________________.

The total estimated cost of all activities is projected at: $________________________.

#### Compliance Documentation

**Contamination and Toxic Substances [24 CFR 52.8(i)(2)]**

Site review of site and surroundings conducted on ____________[date].

The site review identified the following concerns on or adjacent to the project site:

____________________________________________________________________________________

____________________________________________________________________________________

The □ EPA [http://epamap14.epa.gov/ejmap/entry.html](http://epamap14.epa.gov/ejmap/entry.html) mapping web-tool was used. The following sites were identified on or near the site that may be a concern for the project [Explain and attach documentation].

____________________________________________________________________________________

The □ DEQ [http://deqims2.deq.state.ne.us/deqflex/DEQ.html](http://deqims2.deq.state.ne.us/deqflex/DEQ.html) mapping web-tool was used.

The following sites were identified on or near the site that may be a concern for the project [Explain and attach documentation].

____________________________________________________________________________________
The ☐ Fire Marshall ☐ Other [_______________________________] was sent a letter on ______________, and is attached.

The Agency response letter noted that:
☐ There were no Underground Storage Tanks (UST’s) on or near the site.
☐ There were Underground Storage Tanks (UST’s) on or near the site.
These UST’s included those located at:_____________________________________________________

The following Attachments have also been included:
☐ Photographs
☐ Website
☐ Letter sent to Agency
☐ Response received back from Agency
☐ Maps
☐ Aerials

<table>
<thead>
<tr>
<th>Environmental Justice [Executive Order 12898]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is the proposed site located in or around a low-income or minority neighborhood? ☐ Yes ☐ No</td>
</tr>
<tr>
<td>The EPA [<a href="http://epimap14.epa.gov/ejmap/entry.html">http://epimap14.epa.gov/ejmap/entry.html</a>] website tool was used. The following sites were identified on or near the site that may be a concern for the project [attach documentation].____________________________________________________</td>
</tr>
<tr>
<td>Based on the above information, is the site located in a suitable, safe, and sanitary living environment? ☐ Yes ☐ No (Site should be rejected)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Explosive and Flammable Operations [24 CFR 51C]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site review of site and surroundings conducted on ____________[date].</td>
</tr>
<tr>
<td>☐ No known explosive or flammable operations were visible on or near the site.</td>
</tr>
<tr>
<td>☐ Explosive or flammable operations were visible on or near the site.[Complete the remaining info]</td>
</tr>
<tr>
<td>The site review identified the following concerns on or adjacent to the project site:____________________________________________________</td>
</tr>
<tr>
<td>___________________________________________________________ [Determine the type of operation, the distance from the operation, and calculate the Acceptable Separation Distance. Attach as separate documentation]</td>
</tr>
</tbody>
</table>
### Floodplain Management

[24 CFR 55, Executive Order 11988]

- Site is not located within a SFHA (100 year floodplain).
- The attached FEMA FIRM map [Map #, Panel #] was reviewed and indicates the site is not located in a Special Flood Hazard Area (SFHA). [Attach the FIRM Map]
- No FIRM map was available for the site. ________________________ was contacted on __________ and the attached information indicates the site is not located in a Special Flood Hazard Area (SFHA). [Attach source]
- Site is located within a SFHA (100 year floodplain).
- The attached FEMA FIRM map [Map #, Panel #] was reviewed and indicates the site is located in a Special Flood Hazard Area (SFHA). [Attach the FIRM Map]
- Complete the 8-Step Process prior to acquisition. Attach the 8-Step Process Form.
- Review the HOME Manual for additional information.

The following Attachments have also been included:

- FIRMA Map
- Other ________________________

### Historic Preservation

[36 CFR 800]

- The home was built in the year: ____________
- A site review and photos of the property were completed on the following date: ____________
- Based on the review, it has been determined that the home is:
  - historic
  - not historic
- It has also been determined that the rehab activities proposed in the project:
  - will not impact any historic resources.
  - may impact historic resources which may include the home or nearby houses or structures.
- A letter determining whether or not any historic resources might be impacted by the project, along with photos of the site, an aerial map of the residence, and a list of proposed activities were sent to the SHPO on the following date: ____________
- SHPO response was received back on the following date: ____________
- SHPO noted ____________________________

The following Attachments have also been included:

- Photographs
- Maps
- Aerials
- Letter sent to the Nebraska SHPO
- Letter received back from the Nebraska SHPO
**Noise Control**  
[24 CFR 51B]

The proposed site is located within

- _______ feet of a busy/major roadway
- _______ feet of a railway
- _______ miles from a civil airport or military airfield
- _______ miles from any community airport

Attach an aerial map(s) which includes the site marked and map scale as documentation.

- [ ] Based on the above mentioned review, the proposed site is located within an acceptable noise environment, and no further evaluation is needed.

Based on the above mentioned review, the proposed site is located within

- [ ] 1,000 feet of a busy/major roadway
- [ ] 3,000 feet of a railway
- [ ] 15 miles from a civil airport or military airfield

The site may be located within a normally unacceptable or unacceptable noise environment.

A description of the noise attenuation measures that will be incorporated during the rehabilitation include:

- __________________________________________________________________________
- __________________________________________________________________________

The comprehensive scope of weatherization improvements include:

- __________________________________________________________________________

---

### 58.6 Requirements

#### Flood Disaster Protection Act

- [ ] Site is not located within a SFHA (100 year floodplain).

The attached FEMA FIRM map [Map #, Panel #] was reviewed and indicates the site is not located in a Special Flood Hazard Area (SFHA). [Attach the FIRM Map]

No FIRM map was available for the site. ________________________ was contacted on ________ and the attached information indicates the site is not located in a Special Flood Hazard Area (SFHA). [Attach source]

- [ ] Site is located within a SFHA (100 year floodplain).

The attached FEMA FIRM map [Map #, Panel #] was reviewed and indicates the site is located in a Special Flood Hazard Area (SFHA). [Attach the FIRM Map]

No FIRM map was available for the site. ________________________ was contacted on ________ and the attached information indicates the site is located in a Special Flood Hazard Area (SFHA). [Attach source]

Due to the location of the site, the property

- [ ] Does not require the purchase of flood insurance
- [ ] Requires the purchase of flood insurance. [Attach evidence the community is participating in the National Insurance Program and a copy of the flood insurance policy]
A site specific environmental review has been performed at the above location in compliance with HUD environmental review regulations (24 CFR 58) and related laws, authorities, and requirements. The review has been performed prior to the commitment of HUD or non-HUD funds, as required by 24 CFR 58.22(a) and (c).

This review shall be retained as a component of the project's ERR. Consult the Tier I for further information as to compliance with other laws and authorities for this HUD-assisted project.

Preparer Name Preparer Signature Date
Sample Notice of Intent to Request a Release of Funds

The language below is HUD’s recommended wording of the Notice of Intent to Request a Release of Funds. This Notice is used to request the environmental release of funds for Categorically Excluded projects (24 CFR Part 58, Section 58.35(a) or for projects for which a Notice of Finding of No Significant Impact was previously issued. Words in bold type are required language. Words in italics are to be replaced by language appropriate to the particular project and Responsible Entity.

NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS

Date of Publication: [date published]

Name of Responsible Entity (RE)
Address (e.g., Street No. or P.O. Box)
City, State, Zip Code
Telephone Number of RE

On or after at least one day after the end of the comment period the name of RE will if the RE is not also the grant recipient, insert the following language here: “authorize the [name of grant recipient] to” submit a request to the HUD/State administering agency for the release of name of grant program funds under Title/Section [xx] of the name of the appropriation Act of [year], as amended, to undertake the following project:

Project Title: project name
Purpose: nature/scope of project
Location: project location
Estimated Cost: both estimated HUD funding & total project cost, as applicable

The activities proposed alternative #1: are categorically excluded under HUD regulations at 24 CFR Part 58 from National Environmental Policy Act (NEPA) requirements or alternative #2: comprise a project for which a Finding of No Significant Impact on the environment was [published/posted] on [date of Finding publication/posting]. An Environmental Review Record (ERR) that documents the environmental determinations for this project is on file at name and address of RE office where ERR can be examined and name and address of other locations where the record is available for review and may be examined or copied weekdays ___A.M to ___P.M.

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR to the RE designated office responsible for receiving and responding to comments. All comments received by if notice is published: notice date plus seven days; if notice is mailed and posted: mailing and posting date plus ten days will be considered by the name of RE prior to authorizing submission of a request for release of funds.

RELEASE OF FUNDS

The name of RE certifies to HUD/State that name of Certifying Officer in his/her capacity as Official Title consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. HUD’s/State’s approval of the certification satisfies its responsibilities under NEPA and related laws and authorities and allows the name of grant recipient to use HUD program funds.

OBJECTIONS TO RELEASE OF FUNDS

HUD/State will accept objections to its release of fund and the RE’s certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request ( whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of the name of RE; (b) the RE has omitted a step or failed to make a decision or finding required
by HUD regulations at 24 CFR part 58; (c) the grant recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by 24 CFR Part 58 before approval of a release of funds by HUD/State; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58, Sec. 58.76) and shall be addressed to HUD/State administration office at address of that office. Potential objectors should contact HUD/State to verify the actual last day of the objection period.

Note: The seven or ten-day public comment periods are the minimum time periods required by regulation prior to submission of a Request for Release of funds and Certification (form HUD-7015.15 to HUD/State. The Responsible Entity may choose to allow a longer comment period. The fifteen-day objection period is a statutory requirement. The objection period follows the submission date specified in the Notice or the actual date of receipt by HUD/State, whichever is later.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**
Sample Notice of Finding of No Significant Impact and
Notice of Intent to Request a Release of Funds

The language below is HUD’s recommended wording of the combined Notice of Finding of No Significant Impact and Notice of Intent to Request a Release of Funds. This Notice is used for projects requiring an Environmental Assessment (24 CFR Part 58, Section 58.36). Words in bold type are required language. Words in italics are to be replaced by language appropriate to the particular project and Responsible Entity.

NOTICE OF FINDING OF NO SIGNIFICANT IMPACT AND
NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS

Date of Publication: [date published]

Name of Responsible Entity (RE)
Address (e.g., Street No. or P.O. Box)
City, State, Zip Code
Telephone Number of RE

These notices shall satisfy two separate but related procedural requirements for activities to be undertaken by the name of RE or grant recipient.

REQUEST FOR RELEASE OF FUNDS

On or after at least one day after the end of the comment period the name of RE will if the RE is not also the grant recipient, insert the following language here: “authorize the [name of grant recipient] to” submit a request to the HUD/State administering agency for the release of name of grant program funds under Title/Section [xx] of the name of the appropriation Act of [year], as amended, to undertake the following project:

Project Title: project name
Purpose: nature/scope of project
Location: project location
Estimated Cost: both estimated HUD funding & total project cost, as applicable

FINDING OF NO SIGNIFICANT IMPACT

The name of RE has determined that the project will have no significant impact on the human environment. Therefore, an Environmental Impact Statement under the National Environmental Policy Act of 1969 (NEPA) is not required. Additional project information is contained in the Environmental Review Record (ERR) on file at name and address of RE office where ERR can be examined and name and address of other locations where the record is available for review and may be examined or copied weekdays __A.M to __P.M.

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR to the RE designated office responsible for receiving and responding to comments. All comments received by if notice is published: publication date plus fifteen days; if notice is mailed and posted: mailing and posting date plus eighteen days will be considered by the name of RE prior to authorizing submission of a request for release of funds. Comments should specify which Notice they are addressing.

RELEASE OF FUNDS

The name of RE certifies to HUD/State that name of Certifying Officer in his/her capacity as Official Title consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these

CDBG Manual 6-64 Revised April 2016
responsibilities have been satisfied. HUD’s/State’s approval of the certification satisfies its responsibilities under NEPA and related laws and authorities and allows the name of grant recipient to use HUD program funds.

**OBJECTIONS TO RELEASE OF FUNDS**

HUD/State will accept objections to its release of fund and the RE’s certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of the name of RE; (b) the RE has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR part 58; (c) the grant recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by 24 CFR Part 58 before approval of a release of funds by HUD/State; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58, Sec. 58.76) and shall be addressed to HUD/State administration office at address of that office. Potential objectors should contact HUD/State to verify the actual last day of the objection period.

Name and Title of RE Certifying Officer

Note: The fifteen or eighteen-day public comment periods are the minimum time periods required by regulation prior to submission of a Request for Release of Funds and Certification (form HUD-7015.15) to HUD/State. The Responsible Entity may choose to allow a longer comment period. 24 CFR Part 58 requires, at Section 58.46, “Time delays for exceptional circumstances,” a 30-day comment period for controversial or unique projects or those similar to projects normally requiring preparation of an Environmental Impact Statement. The fifteen-day objection period is a statutory requirement. The objection period follows the submission date specified in the Notice or the actual date of receipt by HUD/State, whichever is later.

See the Publication, RROF/Certification Form, & HUD Objection Period Section for more information.
Completing the RROF/Certification Form (HUD 7015.15)

The RROF/Certification Form that must be completed for CEST or EA projects no earlier than the day after the public comment has ended.

The most current, official HUD Form must be used. Use the following link to obtain the most current HUD Form at: https://www.hudexchange.info/resources/documents/HUD-Form-701515-Request-Release-Funds-Certification.pdf

Instructions for CDBG Projects

Part I:

1. **Program Title:** Enter “CDBG Program”

2. **HUD/State Identification Number:** Enter the DED grant number designated for your project.

3. **Recipient Identification Number:** Leave this section blank.

4. **OMB Catalog Number:** Enter “CFDA 14.228”.

5. **Name and address of Responsible Entity:** Enter the address of the Responsible Entity (RE).

6. **For Information about this request:** Enter the name and telephone number of the person to contact concerning this form and the environmental review for the activities/project listed on this form if further information or clarification is needed.

7. **Name and Address of Recipient (if different than responsible entity):** Leave this section blank.

8. **HUD or State Agency to receive request:** Enter “Nebraska Department of Economic Development, P O Box 94666, Lincoln, NE 68509”.

9. **Program Activity/Project Name:** Enter the activity(ies)/project name(s) for which this form is submitted.

10. **Location:** Enter the location(s) of the activity/project. Include the Street address, City, County, and State.

11. **Program Activity/Project Description:** Provide a complete description of the project similar to the one provided in the Determination of Level of Review. Include all activities within the project, regardless of funding source. This could include any infrastructure that is being developed in conjunction with a DED funded activity.

Part 2: Environmental Certification, Item 3: Check either “did” or “did not” require an EIS.

**Signature of Certifying Officer:** For CDBG projects, have the RE Certifying Officer sign the document, provide the RE’s Title and address.

Part 3: Do not complete this section.
# Request for Release of Funds and Certification

This form is to be used by Responsible Entities and Recipients (as defined in 24 CFR 58.2) when requesting the release of funds, and requesting the authority to use such funds, for HUD programs identified by statutes that provide for the assumption of the environmental review responsibility by units of general local government and States. Public reporting burden for this collection of information is estimated to average 36 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

## Part 1. Program Description and Request for Release of Funds (to be completed by Responsible Entity)

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<table>
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</thead>
<tbody>
<tr>
<td>1. Program Title(s)</td>
<td>2. HUD/State Identification Number</td>
<td>3. Recipient Identification Number (optional)</td>
</tr>
<tr>
<td>4. OMB Catalog Number(s)</td>
<td>5. Name and address of responsible entity</td>
<td></td>
</tr>
<tr>
<td>6. For information about this request, contact (name &amp; phone number)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. HUD or State Agency and office unit to receive request</td>
<td>7. Name and address of recipient (if different than responsible entity)</td>
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</table>

The recipient(s) of assistance under the program(s) listed above requests the release of funds and removal of environmental grant conditions governing the use of the assistance for the following:

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<tbody>
<tr>
<td>9. Program Activity(ies)/Project Name(s)</td>
<td>10. Location (Street address, city, county, State)</td>
</tr>
<tr>
<td>11. Program Activity/Project Description</td>
<td></td>
</tr>
</tbody>
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Download official form at: [https://www.hudexchange.info/resources/documents/HUD-Form-701515-Request-Release-Funds-Certification.pdf](https://www.hudexchange.info/resources/documents/HUD-Form-701515-Request-Release-Funds-Certification.pdf)
Part 2. Environmental Certification (to be completed by responsible entity)

With reference to the above Program Activity(ies)/Project(s), I, the undersigned officer of the responsible entity, certify that:

1. The responsible entity has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the project(s) named above.

2. The responsible entity has assumed responsibility for and complied with and will continue to comply with, the National Environmental Policy Act of 1969, as amended, and the environmental procedures, permit requirements and statutory obligations of the laws cited in 24 CFR 58.5; and also agrees to comply with the authorities in 24 CFR 58.6 and applicable State and local laws.

3. The responsible entity has assumed responsibility for and complied with and will continue to comply with Section 106 of the National Historic Preservation Act, and its implementing regulations 36 CFR 800, including consultation with the State Historic Preservation Officer, Indian tribes and Native Hawaiian organizations, and the public.

4. After considering the type and degree of environmental effects identified by the environmental review completed for the proposed project described in Part 1 of this request, I have found that the proposal did ☐ did not ☐ require the preparation and dissemination of an environmental impact statement.

5. The responsible entity has disseminated and/or published in the manner prescribed by 24 CFR 58.43 and 58.55 a notice to the public in accordance with 24 CFR 58.70 and as evidenced by the attached copy (copies) or evidence of posting and mailing procedure.

6. The dates for all statutory and regulatory time periods for review, comment or other action are in compliance with procedures and requirements of 24 CFR Part 58.

7. In accordance with 24 CFR 58.71(b), the responsible entity will advise the recipient (if different from the responsible entity) of any special environmental conditions that must be adhered to in carrying out the project.

As the duly designated certifying official of the responsible entity, I also certify that:

8. I am authorized to and do consent to assume the status of Federal official under the National Environmental Policy Act of 1969 and each provision of law designated in the 24 CFR 58.5 list of NEPA-related authorities insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decision-making and action that have been assumed by the responsible entity.

9. I am authorized to and do accept, on behalf of the recipient personally, the jurisdiction of the Federal courts for the enforcement of all these responsibilities, in my capacity as certifying officer of the responsible entity.

Signature of Certifying Officer of the Responsible Entity

Title of Certifying Officer

Date signed

Address of Certifying Officer

X

Part 3. To be completed when the Recipient is not the Responsible Entity

The recipient requests the release of funds for the programs and activities identified in Part 1 and agrees to abide by the special conditions, procedures and requirements of the environmental review and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions in accordance with 24 CFR 58.71(b).

Signature of Authorized Officer of the Recipient

Title of Authorized Officer

Date signed

X

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Download official form at: https://www.hudexchange.info/resources/documents/HUD-Form-701515-Request-Release-Funds-Certification.pdf
## 8 STEP PROCESS

**FOR COMPLIANCE WITH FLOODPLAIN MANAGEMENT**  
*[24 CFR 55, Executive Order 11988]*

<table>
<thead>
<tr>
<th>Step</th>
<th>Description</th>
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</table>
| 1.   | Floodplain Management applies to projects involving ANY of the following: Check all that apply: Acquisition of land or buildings  
New Construction  
Substantial Rehabilitation (i.e. modifications and improvements to buildings where rehabilitation costs exceed 50% of the pre-rehab value of the building or where residential density increases more than 20%)  
Expanding the footprint of buildings or structures  
Infrastructure Improvements—Water, Sewer, Drainage, Roads, and Ditches  
Other activities affecting land use______________________________  |
| 2.   | Is the project located in a 100-year floodplain, designated floodway, or wetland?  
Yes  
No  
[Note: Review the FIRM (Flood Insurance Rate Map) for your project area, or when the project area is not mapped, use other best available information (i.e. Dept. of Natural Resources response letter).]  
If YES, skip to #4  
If NO, go on to #3  |
| 3.   | You have determined that the project is NOT located in a floodplain or wetland. Document the determination by completing the following:  
Source Documentation: Attach a FEMA Flood Insurance Rate Map (FIRM) and identify the site and project location on the map.  
Community Name/Number: ________________________________  
FIRM Map Panel and Date of Map Panel: ________________________________  
If the area has not been mapped, obtain the best available information from one or more of the following qualified resources: (Check all sources used and attach all documentation received.)  
Nebraska Department of Natural Resources  
Natural Resources Conservation Service (Wetlands Determination Only)  
US Army Corps of Engineers (Wetlands Determination Only)  
Other ________________________________  |
| 4.   | You have determined that your project is located in a floodplain/wetland. The HUD 8 Step Process is required. Complete and attach the following 8-Step Decision Making Form and all supporting documentation.  
(Refer to the Preliminary Engineering/Architectural Report and/or consult with the engineer/architect for assistance. Consultation with environmental professionals may be appropriate.)  |
**HUD 8 STEP PROCESS**  
**DECISION MAKING PROCESS UNDER 24 CFR 55.20 AND EXECUTIVE ORDER 11988**  

**STEP 1—Determine if the proposed action/project is located in a 100-year floodplain/wetland.**

Attach the FEMA Flood Insurance Rate Map (FIRM) and complete the following: Community  
Name/Number: ____________________________________________  
Map Panel and Date of Map Panel: ____________________________  
Flood Zone for Proposed Project Site: _________________________  

Executive Order 11988 requires the project sponsor to evaluate all available options prior to deciding to put federally funded assets into an at-risk flood zone. If the proposed project is located in a regulated floodplain area, provide the necessary documentation which shows that development in a floodplain is the only viable option.  
(Continue to Step 2 if the area has been mapped and the information above has been provided)

If the area has not been mapped, obtain the best available information from one or more of the following qualified resources: (Check all sources used and attach all documentation received.)

- [ ] Nebraska Department of Natural Resources  
- [ ] Natural Resources Conservation Service (Wetlands Determination Only) US Army  
- [ ] Corps of Engineers (Wetlands Determination Only)  
- [ ] Other  

If the area has not been mapped, but is participating in the National Flood Insurance Program, the local floodplain coordinator should request a base flood elevation (BFE) request for the site from a community on-staff or on-retainer professional engineer and submit a letter with the request to the Nebraska Department of Natural Resources (NDNR). All correspondence from the NDNR is required to be with the local floodplain administrator. (Attach all documentation received.)

If the area has not been mapped, and not participating in the National Flood Insurance Program, a community on-staff or on-retainer professional engineer must include a letter, with the additional 8 Step Review documentation, stating that in his/her professional opinion, the project site is or is not flood prone. If the project site is flood prone, then the engineer must state how the flood risk will be mitigated to the project (Attach all documentation received).

**STEP 2—Involve the public in the decision-making process.**

Publish the Early Public Notice  
The Early Public Notice is a notice of the proposal to consider an action in a floodplain/wetland. The notice must be published in a newspaper of widest circulation. A required minimum 15-day comment period begins the day after publication. Indicate if any comments were received. If the RE receives any written comments, the RE must respond in writing, resolve any issues, and provide copies to DED.

Attach a copy of the notice and affidavit of publication to this form. Name of  
Newspaper: ____________________________________________  
Date of Publication: _____________________________________  
Were any comments received in writing? □ Yes □ No  
(If Yes, attach all correspondence.)
STEP 3—Evaluate alternatives to locating the proposed action in a floodplain.

Explain in detail each of the following to determine if the floodplain and/or wetland can be avoided:

(Attach additional pages as necessary.)

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<tr>
<td>a. Identify and explain if alternative sites suitable for the project exist outside the floodplain/wetland:</td>
<td>(Refer to the engineer/architect, or engineering/architectural report for alternatives. Include other sites and/or buildings and the No Action Alternative.)</td>
</tr>
<tr>
<td>b. Identify and explain if feasible alternative actions/methods may be used to fulfill the identical project objective: Can different or modified actions with less chance for impact be used to fulfill the same project?</td>
<td></td>
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<tr>
<td>c. Identify and explain if threats to lives and property and/or adverse impacts to the floodplain/wetland outweigh the benefits of the proposed project:</td>
<td>(Explain if impacts are too severe to human and natural environments to complete the project.)</td>
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STEP 4—Identify indirect and direct impacts associated with occupying or modifying the floodplain/wetland.

If the RE determines the practicable alternative for the project/action is occupying or modifying the floodplain/wetland, then impacts to lives and properties and impacts to floodplains and/or wetlands must be identified.

If the RE determines an alternative site for the project exists out of the floodplain/wetland, project activities may still have an impact on the nearby floodplain/wetland and must also be identified to determine ways to minimize harm.

Explain in detail how the project/activity will affect the floodplain/wetland regarding the following types of impacts:

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<tr>
<td>a. Positive or beneficial impacts to the floodplain/wetland, both direct and indirect:</td>
<td>(List and describe)</td>
</tr>
<tr>
<td>b. Negative or harmful impacts to the floodplain/wetland, both direct and indirect:</td>
<td>(List and describe)</td>
</tr>
<tr>
<td>c. Concentrated impacts at or near the floodplain/wetland:</td>
<td>(List and describe)</td>
</tr>
<tr>
<td>d. Dispersed or remote impacts occurring distant from the floodplain/wetland:</td>
<td>(List and describe)</td>
</tr>
<tr>
<td>e. Short-term impacts to the floodplain/wetland (temporary impacts occurring immediately after an action lasting a short while):</td>
<td>(List and describe)</td>
</tr>
<tr>
<td>f. Long-term impacts to the floodplain/wetland (impacts occurring during or after an action that persist for considerable time or indefinitely):</td>
<td>(List and describe)</td>
</tr>
<tr>
<td>g. Explain if the project encourages development in the floodplain wetland:</td>
<td>(Describe)</td>
</tr>
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</table>
### STEP 5—Identify mitigation measures to minimize impacts to and preserve benefits of the floodplain/wetland.

(Consult with the project engineer/architect and/or engineering/architectural report.)

**a.** Explain how actions will be designed and/or modified to minimize harm to, or within, the floodplain/wetland:

**b.** Explain how actions will be designed and/or modified to restore and/or preserve as much of the natural and beneficial floodplain/wetland values as possible:

### STEP 6—Re-evaluate alternatives identified in Step 3. Take into account all identified impacts and mitigation measures.

**a.** Explain whether it is possible to modify or relocate the project activity and why:

**b.** If there are no alternatives, explain why the project/activity should occur. Consider impacts determined in Step 4 and minimization efforts identified in Step 5.

### STEP 7—If re-evaluation results in no practicable alternative to relocate the project out of the floodplain/wetland, the decision must be made public.

**Publish the Notice of Explanation**

The Notice of Explanation must include the reasons for locating the project/activity in the floodplain/wetland, all alternatives considered (including the no action alternative), and all mitigation measures planned.

The notice must be published in a newspaper of widest circulation. A required minimum 7-day comment period begins the day after publication. Indicate if any comments were received. If the RE receives any written comments, the RE must respond in writing, resolve any issues, and provide copies to DED.

This notice must not be published concurrently with the Combined Notice. Attach a copy of the notice and affidavit of publication to this form.

**Name of Newspaper:**

**Date of Publication:**

Were any comments received in writing?  ☐ Yes  ☐ No (If Yes, attach all correspondence.)

### STEP 8—Implement the Project.

Project implementation can only proceed provided compliance has been demonstrated with respect to all of the prior steps and provided the project has been approved by the State in accordance with HUD regulation 24 CFR 58.

The RE has a continuing responsibility to ensure that the mitigating measures identified in Step 7 are implemented. Mitigation measures must be incorporated, as appropriate, in project contracts and all related agreement documents.

**Additional Information/Explanations:**

**Attachments:**
Notice for Early Public Review of a Proposal to Support Activity in the 100-Year Floodplain or Wetland

To: All Interested Agencies, Groups, and Individuals

This is to give notice that (Name of Grantee) is proposing to expend federal funds in a 100-Year Floodplain (or wetland, if applicable). The subject funds are (Community Development Block Grant or HOME Investment Partnership administered by the Nebraska Department of Economic Development) (mention other federal funds involved, if applicable).

This notice is required by Section 2(a)(4) of Executive Order 11988 for Floodplain Management, and by Section 2(b) of Executive Order 11990 for the Protection of Wetlands, and is implemented by HUD Regulations found at 24 CFR 55.20(b) for the HUD action that is within and/or affects a floodplain or wetland.

The (Name of Grantee) is proposing to undertake the following activities in the area.

Describe the project, being specific as to location of proposed activities, and total number of acres of floodplain/wetland involved.

The purpose of this notice is to give an early opportunity for interested agencies, persons or groups to comment on the proposed action(s). The (Name of Grantee) will consider any feasible alternatives or adjustments to the anticipated project which might minimize any potential adverse effects upon the floodplain/wetland as a result of the project.

This notice with a request for comment was mailed to: (Name of agencies, and other organizations notice sent to)

Additional information concerning this project is available for public review and copying, upon request, at: (location). Any comments relative to this proposed expenditure of federal funds in an area identified as a flood hazard/wetland area should be submitted in writing to (name and address) on or before (month, day, year) (allow minimum of 15 calendar days after publication date, not counting day of publication as required by 24 CFR 55.20(b)(2)).
Notice and Public Explanation of a Proposed Activity in the 100-Year Floodplain and Wetland

To: All interested Agencies, Groups and Individuals

This is to give notice that the (Name of Grantee) has conducted an evaluation as required by Executive Order (11988 or 11990) in accordance with HUD regulations at 24 CFR 55.20 to determine the potential affect that its activity in the (floodplain or wetland) will have on the environment. The proposed project (Description of project and project activities).

The (Name of Grantee) has determined that it has no practicable alternative other than locating the proposed (Community Development Block Grant or HOME Investment Partnership) project in a (floodplain/wetland). This activity will have no significant impact on the environment for the following reasons:

(List and describe the reasons why the activity will have no significant impact and state reason(s) why the project must be located in the floodplain; including other alternatives that were considered and mitigation measures to be taken to minimize adverse effects)

Written comments must be received by (Name of Grantee) at the following address on or before (month, day, year) [§ 55.20(g)(2) allows 7 days at a minimum]: (Address of Grantee)
CERTIFICATION OF CONTINUED ENVIRONMENTAL COMPLIANCE

Nebraska Department of Economic Development

CDBG, HOME, & NAHTF Projects

Grantee Name:                               Grant Number:

Original Level of Finding:

Date of Determination:

Date Notice of Intent (NOI-RROF) Published:

Date Request for Release Funds Submitted to DED:

Date of Environmental Clearance:

Description of Project:

In accordance with the provisions of 24 C.F.R. Part 58.47, it is the finding of the Certifying Officer that [check one of the following]:

1.  The scope, scale, nature, magnitude and location of the project are substantiated from that as originally reviewed and approved; further, no new circumstances or conditions which may affect the project or have a bearing on its impact, such as concealed conditions, have been discovered; and the selection of an alternative to the original finding is not proposed. Re-evaluation of the project under §58.47 is required. The same conditions that previously applied to the project remain unsolved.

OR

2.  The scope, scale, nature, magnitude and/or location of the project have substantially changed since that as originally reviewed and approved; or, new circumstances or environmental conditions which may affect the project or have a bearing on its impact, such as concealed conditions, have been discovered; or, the selection of an alternative to the original finding is now proposed. Re-evaluation of the project under §58.47 is required; the findings have been updated per §58.47(b) and are described on the next page.

I certify that the above statements accurately reflect the revisions to the project scope of work and do not alter the basis under which the project received its original environmental status determination.

Signature of RE Certifying Officer:          Address:

Title:                                       

Date:                                        

CDBG Manual                                   Revised April 2016
CHAPTER 7 – PROCUREMENT

INTRODUCTION
The purpose of this chapter is to provide information about the federal requirements for procurement of supplies, equipment, and services. Additional information on procurement associated with construction projects is located in Chapter 9 – Construction & Labor Standards.

GRANTEE RESPONSIBILITIES
The Department requires all grantees to adopt written Procurement Procedures and a written Code of Conduct prior to obtaining Release of Funds for a CDBG grant. A grantee must use procurement procedures that are in conformance with State and local laws and regulations, Federal law and the standards identified in 2 CFR Part 200 Chapter 300.

Grantees must establish and maintain effective internal control over the CDBG award, providing reasonable assurance that all parties involved are in compliance with federal, state, and local statutes, regulations, and the terms and conditions of the CDBG award. Internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

Under internal controls, Grantee establishes standards of conduct concerning integrity and ethical values. The Grantee uses ethical values to balance the needs and concerns of different stakeholders, such as regulators, employees, and the general public. The standards of conduct guide the directives, attitudes, and behaviors of the organization in achieving the entity’s objectives. For example, an entity serving as applicant preparer should not be involved in the preparation of bid documents should said entity intend to bid on any part of the project. Nor should that entity be involved in reviewing, scoring, and/or decision-making involving an award of contract. Internal control of such procedures may safeguard against loss-leader arrangements and other compliance concerns.

Conducting procurement processes prior to CDBG award does not remove the requirement to make use of internal controls. It is the Grantee’s responsibility to comply with federal, state, and local statutes, regulations, and the terms and conditions of federal awards, including CDBG.

Warning: The grantee must not execute any contract for goods or services prior to the Department issuing the grantee a written Notice of Release of Funds with the exception of contracts for general administration services. The Department may issue pre-agreement letters that allow for the obligation of non-administrative costs prior to Release of Funds.

2 CFR Part 200 Chapter 300: This chapter focuses on 2 CFR Part 200 Chapter 300 which sets forth the standards that are applicable to procurement for Federal grants and cooperative agreements and sub-awards to State, local and Indian tribal governments. Rules governing the contents of bid specifications, especially the required federal provisions, are included. It also addresses the methods of procurement and all the rules governing the utilization of the methods. The remaining information under this regulation pertains to the bonding requirements and general contract provisions.

Procurement procedures do not apply, however, to officials of the grantee who are acting in their official capacity. Consequently, if a city council has officially designated an attorney as city attorney, or
an engineer as city engineer, the individual so designated becomes an official of the city. As an official of the city performing Community Development Block Grant (CDBG) related duties, his/her legal or engineering service charges are eligible program costs to the extent that they are: (1) reasonable for the services provided; (2) follow an appointment made in accordance with state and local laws; and (3) the amount of compensation charged to the program will be based on payrolls documented and provided in accordance with generally accepted practices of state and local governments.

GENERAL PROVISIONS/ 2CFR 200.318
The standards and procedures for procurement are intended to ensure that supplies, equipment, construction, and other services are:

- Obtained as efficiently and economically as possible; and,
- Procured in a manner that provides, to the maximum extent practical, open and free competition.

Solicitations must explain all the requirements that the bidder/offeror has to meet for his or her bid/offer to be evaluated by the grantee. Solicitations for goods and services must be based on a clear and accurate description of the material, product, or service to be procured, and cannot contain features which unduly restrict competition 2CFR 200.319. Some of the situations considered to be restrictive of competition include, but are not limited to:

- Placing unreasonable qualifying requirements on firms;
- Requiring unnecessary experience and excessive bonding;
-Specifying only “brand name” products instead of allowing “an equal” product;
- Non-competitive pricing practices between firms or affiliated companies; and
- Non-competitive awards to consultants on retainer contracts.
- Organizational conflicts of interest.

Awards are to be made to the bidder/offeror whose bid/offer is responsive to the solicitation and is most advantageous to the grantee, price and other factors considered. Any and all bids may be rejected when it is in the grantee’s interest to do so. The grantee must ensure that the award is made only to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement. Consideration should be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

SUMMARY OF FEDERAL REQUIREMENTS

1) **Records and Files:** According to 2 CFR 200.318(i), the grantee must maintain records to detail the significant history of a procurement. The grantee must maintain files on the rationale for selecting the methods of procurement used, selection of contract type, the contractor selection/rejection process, and the basis for the cost or price of a contract.

2) **Pre-Qualified Lists of Vendors/Contractors:** If such lists are used, they must be current, developed through open solicitation, include adequate numbers of qualified sources, and must allow entry of other firms to qualify at any time during the solicitation period (2 CFR 200.319(d)).

3) **Unfair Competitive Advantage:** To eliminate unfair competitive advantage, if the grantee has used a contractor to develop or draft specifications, requirements, statements of work,
invitations for bids, and/or requests for proposals, the grantee should exclude that contractor from the competition for such.

4) **Debarred/Ineligible Contractors:** The grantee must ensure that awards are not made to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549 and 12689, and 2 CFR Part 180, "Debarment and Suspension" (2 CFR 212).

5) **Written Procedures For Contractor Selection:** The grantee must have written selection procedures for procurement transactions (2 CFR 200.319(c)), adequate to ensure that:
   a. The purchase of unnecessary or duplicate items is avoided. Where appropriate, an analysis should be made of lease vs. purchase alternatives (2 CFR 200.318(c));
   b. Whenever possible, use of federal excess and surplus property, or of intergovernmental agreements for procurement or use of common goods and services should be considered as a way to foster greater economy and efficiency (2 CFR 200.318(f));
   c. All purchase orders (and contracts) are signed by the grantee’s authorized official(s);
   d. Items delivered and paid for are consistent with the purchase order and/or contract for the goods or services;
   e. Timely payment to vendors occurs once the order is delivered, inspected, accepted, and payment authorized;
   f. A cost or price analysis is performed for every procurement action, including contract modifications, and documentation to that effect is maintained in the grantee’s files. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the grantee must make independent estimates before receiving bids or proposals (2 CFR 200.323(a)); and,
   g. Profit or fee is negotiated separately from price where competition is lacking or a cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor’s investment, the amount of subcontracting, the quality of past performance, and industry rates for the area (2 CFR 200.323(b)).

6) **Contract Pricing:** The grantee must not use “cost plus a percentage of cost” pricing for contracts (2 CFR 200.323(d)); in addition, the grantee should use “time and material” type contracts only after a determination is made that no other contract is suitable and the contract includes a ceiling price that the contractor exceeds at its own risk (24 CFR 85.36(b)(10)).

7) **Protest Procedures:** The grantee must have protest procedures in place to handle and resolve disputes relating to procurement (2 CFR 200.318(k)).

8) **Documenting Contractor Performance:** The grantee must have a documented system of contract administration for determining the adequacy of contractor performance (2 CFR 200.318(b)).

9) **Code of Conduct:** The grantee must have a written code of conduct governing employees, officers, or agents engaged in the award or administration of contracts (2 CFR 200.318(c) (1)).
BONDING AND INSURANCE
For construction or facility improvement contracts or subcontracts exceeding $150,000, the grantee must ensure that its procurement meets the minimum federal requirements (2 CFR 200.325) for bid guarantees, performance bonds, and payment bonds. These include:

1) A bid guarantee from each bidder equivalent to 5% of the bid price. The bid guarantee must be a firm commitment in the form of a bid bond, certified check or other negotiable instrument as assurance that the bidder is prepared to execute a contract within the time specified for the bid amount;

2) A performance bond from the contractor for 100% of the contract price to secure the contractor’s fulfillment of all obligations under the contract; and,

3) A payment bond from the contractor for 100% of the contract price, to assure payment of all persons supplying labor and material under the contract.

USE OF LOCAL, SMALL, MINORITY AND/OR WOMEN-OWNED BUSINESSES

1) Federal regulations make it very clear that grantees should make every effort to use local business firms and contract with small, minority-owned, and women-owned businesses in the procurement process. Specifically, the grantee must take affirmative steps to use small firms, minority-owned firms, women-owned firms, or labor surplus area firms (2 CFR 200.321(a)). For example, the grantee should:
   a. Incorporate such businesses in solicitation lists whenever they are potential sources;
   b. Ensure that such businesses are solicited when identified as potential sources;
   c. Divide procurement requirements, when economically feasible, to permit maximum participation of such businesses; and,
   d. Require prime contractors, when subcontracts are let, to take affirmative steps to select such firms.

2) In conformance with the requirements of Section 3 of the Housing and Community Development Act of 1968, to the greatest extent feasible, the grantee must award contracts for work to be performed to eligible business concerns located in or owned by residents of the target area to ensure that the employment and other economic opportunities generated by federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very-low income persons, particularly those who are recipients of government assistance for housing (see 24 CFR 570.607(b)).

Note: That the desire to award contracts to local firms is not a legitimate excuse for avoiding an open and competitive procurement process.

CONTRACT LANGUAGE
Contracts for construction: see the bid package and contract requirements in Chapter 9 – Construction and Labor Standards.
Professional service contracts must include the following provisions:

**General Administrative Provisions**
- Effective date of the contract.
- Names and addresses of the firm and the grantee.
- Citation of the authority of the grantee under which the contract is entered into and the source of the funds.
- Conditions and terms under which the contract may be terminated by either party and remedies for violation/breach of contract.
- Procedures for amending or revising the contract.
- Names of representatives of municipality and firm who will act as a liaison for administration of the contract.
- A clause prohibiting a transfer of any interest in the contract by the consultant.
- Provisions requiring the consultant to maintain records and furnish reports.

**Scope of Services**
- Detailed description of the extent and character of the work to be performed.
- Time for performance and completion of contract services, including project milestones, if any.
- Specification of materials or other services to be provided (i.e. maps, reports, etc.)

**Method of Compensation**
- Provisions for compensation for services including fee and or payment schedules and specification of maximum amount payable under the contract.

**Federal Standard Provisions**
- Compliance with Executive Order 11246, as amended (Required for service contractors only if the contractor has 50 or more employees and the contract is for more than $50,000)
- Title VI of the Civil Rights Act of 1964 clause
- Section 109 of the Housing and Community Development Act of 1974 clause
- Section 3 compliance clause (Required only if the contract exceeds $100,000)
- Access to Records/Maintenance of Records clause
- Age Discrimination Act of 1975, as amended
- Section 504 of the Rehabilitation Act of 1973, as amended

**PROCUREMENT OPTIONS**

**Initial Decision:** Will the grantee select a third party to perform all or part of the grant-funded activity, using some method of procurement?
- If no, and all of the work will be done in-house, then the grantee will not have to meet any federal procurement requirements.
- If yes, the federal procurement requirements will apply.

Depending on the scarcity of the item or service desired and the size of the purchase, different methods of procurement are available under the federal regulations.

**Starting the Work:**
- **In-House:**
  - If the grantee will use only its own staff to work on the grant, work may begin after the state
contract is fully executed and the Department has provided a written Notice of Release of Funds. The only costs incurred prior to Release of Funds that are eligible for reimbursement from CDBG funds are general administration activity costs, unless a special pre-agreement is issued to the grantee.

Officials of the grantee who are acting in their official capacity are considered “in-house” and are eligible to be compensated for CDBG-related duties if certain conditions are met. For example, if a city council has officially designated an attorney as City Attorney or an engineer as City Engineer, the individual so designated becomes an official of the city. As an official of the city performing CDBG related duties, his/her legal or engineering service charges are eligible program costs to the extent that they are: (1) reasonable for the services provided; (2) follow an appointment made in accordance with state and local laws; and, (3) the amount of compensation charged to the program will be based on payrolls documented and provided in accordance with generally accepted practices of state and local governments.

The Department will disallow costs for grantee’s that abuse the “in-house” provisions. For instance, appointments of “City Engineers” must not be made for the purpose of selecting an engineer to work on an anticipated CDBG project. The grantee must show evidence that they have a history of appointment, unrelated to any current or anticipated CDBG project.

- **Contracted:**

  If the grantee wants to contract out for services, the grantee must go through a procurement process. The grantee must select the proper procurement method that meets all Federal, State and local laws for the type of good or service sought and the amount of the contract. The only contract the grantee may execute prior to the Department’s issuance of a Notice of Release of Funds is for general administration services, unless a special pre-agreement is issued to the grantee. Contracts for general administration must be executed after Notice of Award.

- **If the work is hired out:**

  The grantee has several options for procuring a contractor:
  - Micro-purchases
  - Small purchase
  - Competitive sealed bid
  - Competitive proposals
  - Non-competitive proposals/sole source

  **No loss leader arrangements:**

  The intent of federal regulations is to require maximum open and free competition. “Loss-leader” arrangements, where a consultant offers to prepare a grant application or preliminary engineering estimates at cut rates or at no cost in return for a future contract if the application is funded, are prohibited by federal regulations. Some firms may suggest this approach because costs incurred by a city or county prior to the award of CDBG, such as preparation of the application or preliminary engineering studies, are not eligible for reimbursement with CDBG funds. However, loss-leader arrangements violate federal regulations which require “maximum open and free competition.” Professional organizations also consider this practice unethical because it deprives the client of the benefits that can result from competition among competent, professional firms.
Use of One Firm for Grant Administration and Professional Services such as Engineers, Planners, or Architects:
The use of a single firm for grant administration and engineering and/or planning professional services is generally acceptable provided that separate procurement processes are conducted for each of the separate services. However, a firm serving as the General Administrator for a grantee is not allowed to bid on a contract for services if the firm assists the grantee with preparation of the procurement advertisement or any aspect of the procurement process. Assistance with the procurement process includes, but is not limited to, the preparation of advertisements or evaluation and scoring of bids.

Selection of Engineers, Planners, or Administrative Consultants Prior to Grant Award:
Generally, the use of multi-services procurement and contracting is prohibited except for: i) when local officials decide to procure the services of an engineer to assist them with both preparation of preliminary engineering plans (which is not grant application preparation) and project engineering, in the event their community is selected for grant award; ii) when a community wants to conduct one procurement process to cover both grant preparation and grant administration; and, iii) when a community wants to conduct one procurement process to cover both planning grant application preparation and planning grant implementation.

Any agreement between the community and the engineer or consultant that includes preliminary and project engineering or grant writing and administration services would have to be contingent upon the award of CDBG funds. Local officials would have to follow the procedures for Competitive Proposals.

Note About the Procurement Methods: Among the procurement approaches described below, the competitive sealed bid resulting in a firm, fixed price contract is the preferred procurement approach when there are numerous available and qualified providers, when the requirements and specifications are thoroughly detailed and are unlikely to change, and where the grantee has the opportunity to make the provider assume a large share of the risk for non-performance.

- **Micro Purchases** [2 CFR 200.320 (a)]
  
  *The Department considers procurement by micro-purchase procedures best suited to obtaining small quantities of supplies and services.* Grantees may follow either their local small purchase procurement policy or the federal policy. If the local policy is used, it must be at least as stringent as the federal policy, described below.

  *The micro-purchase method may be used for procurement of $3,000 or less in the aggregate, per 2 CFR 200.67 Micro-purchase. A procurement of more than $3,000 may not be inappropriately broken up into smaller components solely to qualify for the micro-purchase approach. The micro-purchase threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions).*

  The grantee must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the grantee considers the price to be reasonable.
The Department considers procurement by small purchase procedures best suited to obtaining small quantities of supplies. Grantees may follow either their local small purchase procurement policy or the federal policy. If the local policy is used, it must be at least as stringent as the federal policy, described below.

The small purchase method may be used for procurement of $150,000 or less in the aggregate, per 2 CFR 200.320(d). A procurement of more than $150,000 may not be inappropriately broken up into smaller components solely to qualify for the small purchase approach. “Simplified acquisition threshold” means $150,000. Simplified acquisition threshold means the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. Non-Federal entities adopt small purchase procedures in order to expedite the purchase of items costing less than the simplified acquisition threshold. The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) 200.88 (Simplified acquisition threshold) and in accordance with 41 U.S.C. 1908. As of the publication of this part, the simplified acquisition threshold is $150,000, but this threshold is periodically adjusted for inflation. (Also see definition of §200.67 Micro-purchase.)

Competition is sought through oral or written price quotations. The grantee must document the receipt of an adequate number (usually at least three) of price or rate quotations from qualified vendors.

1) Identify in writing the item to be procured.
2) Solicit in writing, written quotes from at least three qualified bidders. Verbal quotes, documented by the grantee in writing, are acceptable for purchases of less than $500.
3) Identify the lowest responsible bidder.
4) Notify each bidder in writing as to whether or not they are the apparent low bidder.
5) Execute a contract to the lowest responsible bidder.

The Department considers this method of procurement best suited to obtaining contractors for construction projects and for large quantities of goods or materials. This method must lend itself to a firm, fixed price contract (lump sum or unit price) where the selection can be made principally on the basis of price.

1) The grantee must advertise the invitation for bids in publications of general circulation, solicit bids from an adequate number of known suppliers, providing them sufficient time to respond prior to bid opening;
2) The invitation for bids must include complete and accurate specifications and pertinent attachments, and clearly define items or services needed, in sufficient detail for the bidders to properly respond;
3) Bids must be opened publicly at the time and place stated in the Invitation for bids;
4) The grantee must receive at least two or more responsible bids for each
procurement transaction; and,

5) If awarded, a firm fixed-price contract award must be made in writing to the lowest responsive and responsible bidder. The grantee can, however, decide not to make the award to any of the bidders.

6) Any or all bids may be rejected if there is a sound documented reason.

- **Competitive Proposals** [2 CFR 200.320(d)]
  The Department considers this procurement method best suited to obtaining professional services. This is normally conducted with more than one source submitting an offer, and either a fixed-price or not-to-exceed type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. This method has two sub-parts—the Request for Proposal and the Request for Qualifications.

The review process for both statements of qualification and proposals in response to an RFP should be thorough, uniform, and well documented. The department prefers that this review be conducted by a committee or board which, to the extent possible, includes persons with technical skills. Reviewers should have no potential conflicts of interest with the firms or individuals under review, such as family relationships, close friendships, or business partnerships. (Refer to Code of Federal Regulations 24 CFR 85.36, paragraph (b) procurement standards, which in part states: “grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in the selection, or awarding or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved.”)

**Evaluation Criteria**

- Specialized experience or technical expertise of the firm and its personnel in connection with the type of services to be provided and the complexity of the project
- Past record of performance on contracts with the municipality and other clients, including quality of work, timeliness and cost control
- Capacity of firm to perform the work within time limitations, taking into consideration the current and planned workload of the firm
- Familiarity of the firm with the type of problems applicable to the project
- The relative importance of these criteria can be indicated by assigning weights to each

**Request for Proposals**

1) The Request for Proposals (RFP) must clearly and accurately state the technical requirements for the goods and services required.

- It should specify the scope of services and the type of contract to be provided; cost reimbursement (also known as cost plus fixed fee); fixed price; or per diem contract. Cost plus a percentage of cost contracts
are unacceptable and must not be used.

- The RFP also should specify the cost and pricing data required to support the proposed cost, anticipated start and completion dates, and evaluation criteria to be used in ranking proposals. The grantee should make available pertinent materials, such as reports, maps and site plans to assist the bidders in preparing proposals. For complicated projects, the grantee may wish to conduct a pre-bid conference to discuss the project, describe available materials, and explain relevant CDBG contract regulations.

2) The grantee must publicize the RFP, and to the maximum extent practicable, honor reasonable requests by parties to have an opportunity to compete;

3) Proposals must be solicited from an adequate number of qualified sources, consistent with the nature and requirements of the procurement;

4) The grantee must conduct a technical evaluation of the submitted proposals to identify the responsible offerors;

5) As necessary, the grantee must conduct negotiations with those offerors who are deemed responsive and responsible and fall within a competitive price range, based on the grantee’s evaluation of the bidders’ pricing and technical proposals. After negotiations, these bidders may be given the opportunity to submit a “best and final” offer; and

6) The grantee must award the contract to the most responsive and responsible offeror after price and other factors are considered through scoring the proposals or “best and final” offers according to predetermined evaluation criteria. The successful proposal/offeror must clearly be the most advantageous source of the goods and services.
Request for Qualifications

For procurement involving architecture or engineering services, the grantee shall use the Request for Qualifications (RFQ) competitive proposal procedure whereby competitors’ qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. In these instances, price is not used as a selection factor. The grantee should review and rank every statement received, and either contact the first two or three choices to request a proposal covering the scope of services and estimated costs, or select the top firm and begin negotiations.

Once the most-qualified firm is identified, only that firm is asked for a price proposal, which is subject to negotiation of a fair and reasonable price. If negotiations with the selected firm are unsuccessful, this process is repeated with the next highest-ranked firm, until a fair and reasonably priced contract can be awarded.

The grantee must take care to document the basis for its determination of the most qualified competitor and the reasonableness of the contract price. This qualifications-based approach to the competitive proposals method may not be used to purchase other than architectural and engineering services (2 CFR 200.320(d)(5)).

For applicants’ information, the above-cited federal rule relating to the procurement of architectural and engineering (A/E) services is quoted verbatim:

“Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors’ qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.”

This means that:

- Qualifications-based procurement can be used only for A/E services.
- A Request for Qualifications may be issued.
- The competitors’ qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation.
- An RFQ cannot be used to purchase other types of services, even though A/E firms are potential sources to perform other types of services.

In addition, the federal procurement regulations generally discourage the use of local geographical preferences in the evaluation of bids or proposals except where mandated by federal statutes, due to the restrictions on open competition, which
result. However, in procuring architectural and engineering services, geographic location is permitted as a selection criteria provided this criterion leaves an appropriate number of qualified firms (24 CFR 85.36(c)(2)).

- **Non-Competitive Proposals/Sole Source** [2 CFR 200.320(f)]
  
  This method may be used only under very limited circumstances and the grantee must obtain Department approval before using this method.

  When requesting permission to use this method, the grantee will have to show that another method of procurement was not feasible because:
  
  - The item or service was only available from a single source;
  - A public emergency or condition requiring urgency existed which did not permit the use of competitive procurement; or
  - Competition was determined to be inadequate after solicitation of proposals from a number of sources.

**CONTRACT FILE**

The grantee must establish a contract file and monitor the contract to assure that the contract is completed in a satisfactory and timely manner. The contract file must contain:

- Description of method used to select consultants
- Qualification statements, RFP and proposal(s) received
- Negotiation methods
- Cost and pricing data
- Contract for services
- Records of partial payments and supporting documentation (in financial management files); and
- Contract amendments, if any, and rationale for amendment

**Designating Grant Administration to Another Governmental Entity**

A grantee (which is required to be a unit of general local government under CDBG requirements) may conduct the activities of grant administration for itself, without a procurement process. This statement seems self-evident, but it is included here because the capacity to do one’s own grant administration activities forms the foundation for also allowing the grantee to designate (delegate) grant administration activities to some other governmental entities without a procurement process.

The Department looks to Nebraska state law to determine what types of other governmental entities are considered extensions of the grantee such that those other governmental entities will be allowed to be designated by a grantee to do grant administration without a procurement process.

Development regions, and subsequently formed development districts based on those regions, are recognized and statutorily authorized in Sections 13-1901 to 13-1907, Nebraska Revised Statutes (Reissue 1997). Development districts formed pursuant to, and meeting the requirements of, those development district statutes are considered to be an extension of the grantee (assuming the grantee is a member of the development district), and grant administration may be delegated to such districts without a procurement process.

The Interlocal Cooperation Act, Sections 13-801 to 13-827, Nebraska Revised Statutes, (Reissue 1997 and Cumulative Supplement 2002) allows local governmental entities to enter into agreements for their
mutual benefit. If such an interlocal agreement were entered into by a grantee and other governmental entities (whether one or more), and such agreement addressed the issue of CDBG grant administration, and authorized one of the agreeing governmental entities to do such grant administration work on behalf of other agreeing governmental entities, this arrangement would be recognized by the Department as not requiring a procurement process. Similarly, the Joint Public Agency Act, Sections 13-2501 to 13-2550, Nebraska Revised Statutes (Cumulative Supplement 2002) is another authorizing vehicle for interlocal agreements which would be recognized by the Department.

**Subrecipients**

A subrecipient is a public or private non-profit agency or organization receiving CDBG funds from a grantee or another subrecipient to undertake eligible activities. Another way to say this is that subrecipients are organizations that are provided CDBG funds by a grantee for their use in carrying out agreed-upon, eligible activities.

**Warning:** The Grantee must consult with the Department prior to entering into an agreement with a subrecipient.
SAMPLE PROFESSIONAL SERVICE/CONSULTANT AGREEMENT

This is a sample document only, and is not intended to replace advice from an attorney.

Project Title

THIS AGREEMENT made and entered into by and between the Village/City/County of ____________, Nebraska (hereinafter referred to as the Village/City/County) and ____________, (hereinafter referred to as the Consultant).

WITNESSES THAT:

WHEREAS, the Village/City/County and the Consultant are desirous of entering into a contract to formalize their relationship, and

WHEREAS, pursuant to Title I of the Housing and Community Development Act of 1974, as amended through 1981 and 24 CFR 570, the State of Nebraska Department of Economic Development (the Department) is authorized by the federal Department of Housing and Urban Development (HUD) to provide Community Development Block Grant Program funds (hereinafter referred to as CDBG funds) to units of local government selected to undertake and carry out certain programs and projects under the Nebraska State Community Development Block Grant Program in compliance with all applicable local, state and federal laws, regulations and policies, and

WHEREAS, the Village/City/County, as part of its [year] CDBG grant agreement with the Department, under contract number ____________, has been awarded CDBG funds for the purposes set forth herein, and

WHEREAS, the Scope of Work included in this contract is authorized as part of the Village/City/County 's approved CDBG program, and

WHEREAS, it would be beneficial to the Village/City/County to utilize the Consultant as an independent entity to accomplish the Scope of Work set forth herein and such endeavor would tend to best accomplish the objectives of the local CDBG program.

NOW, THEREFORE, in consideration of the mutual promises, covenants and provisions contained herein and the mutual benefits to be derived therefrom, the parties hereto agree as follows:

1. Services to be Provided by the Parties
   a. The Consultant shall complete, in a satisfactory and proper manner as determined by the Village/City/County, the work activities described in the Scope of Work (Attachment #1).
   b. The Village/City/County will provide such assistance and guidance as may be required to support the objectives set forth in the Scope of Work and will provide compensation for services as set forth in Section 3 below.
2. **Time of Performance**
   The effective date of this contract shall be the date the parties sign and complete execution of the contract. The termination date of the contract shall be [date].

3. **Consideration**
   The Village/City/County shall reimburse the Consultant in accordance with the Payment Schedule described in Attachment #2 for all allowable expenses agreed upon by the parties to complete the Scope of Work. In no event shall the total amount reimbursed by the Village/City/County exceed the sum of $________ (____________________ dollars). Reimbursement under this contract shall be based on billings that are supported by appropriate documentation of costs actually incurred. It is expressly understood that claims for reimbursement shall not be submitted in excess of actual, immediate cash requirements necessary to carry out the purposes of this agreement.

   It is also understood that this contract is funded in whole or in part with funds through the State of Nebraska Community Development Block Grant Program as administered by the Department and is subject to those regulations and restrictions normally associated with federally funded programs and any other requirements that the state may prescribe.

4. **Records**
   The Consultant agrees to maintain such records and follow such procedures as may be required under 24 CFR 85.42(b)(c) and any such procedures that the Village/City/County or the Department may prescribe. In general such records will include information pertaining to the contract, obligations and unobligated balances, assets and liabilities, outlays, equal opportunity, labor standards (as appropriate), and performance.

   All such records and all other records pertinent to this contract and work undertaken under this contract shall be retained by the Consultant for a period of ten years after the final audit of the Village/City/County's CDBG project, unless a longer period is required to resolve audit findings or litigation. In such cases, the Village/City/County shall request a longer period for record retention.

   The Village/City/County, the Department, and duly authorized officials of the state and federal government shall have full access and the right to examine any pertinent documents, papers, records and books of the Consultant involving transactions to this local program and contract.

5. **Relationship**
   The relationship of the Consultant to the Village/City/County shall be that of an independent Consultant rendering professional services. The Consultant shall have no authority to execute contracts or to make commitments on behalf of the Village/City/County and nothing contained herein shall be deemed to create the relationship of employer and employee or principal and agent between the Village/City/County and the Consultant.
6. **Suspension, Termination and Close Out**

If the Consultant fails to comply with the terms and conditions of this contract the Village/City/County may pursue such remedies as are legally available including, but not limited to the suspension or termination of this contract in the manner specified herein:

1. **Suspension:** If the Consultant fails to comply with the terms and conditions of this contract, or whenever the Consultant is unable to substantiate full compliance with the provisions of this contract, the Village/City/County may suspend the contract pending corrective actions or investigation, effective not less than 7 days following written notification to the Consultant or its authorized representative. The suspension will remain in full force and effect until the Consultant has taken corrective action to the satisfaction of the Village/City/County and is able to substantiate its full compliance with the terms and conditions of this contract. No obligations incurred by the Consultant or its authorized representatives during the period of suspension will be allowable under the contract except:

   1. Reasonable, proper and otherwise allowable costs which the Consultant could not avoid during the period of suspension.

   2. If upon investigation, the Consultant is able to substantiate complete compliance with the terms and conditions of this contract, otherwise allowable costs incurred during the period of suspension will be allowed.

   3. In the event all or any portion of the work prepared or partially prepared by the Consultant be suspended, abandoned, or otherwise terminated the Village/City/County shall pay the Consultant for work performed to the satisfaction of the Village/City/County, in accordance with the percentage of the work completed.

2. **Termination for Cause:** The Village/City/County may terminate its contract with the Consultant if the Consultant fails to comply with the terms and conditions of this contract and any of the following conditions exist:

   1. The lack of compliance with the provisions of this contract are of such scope and nature that the Village/City/County deems continuation of the contract to be substantially detrimental to the interests of the Village/City/County;

   2. The Consultant has failed to take satisfactory action as directed by the Village/City/County or its authorized representative within the time specified by same;

   3. The Consultant has failed within the time specified by the Village/City/County or its authorized representative to satisfactorily substantiate its compliance with the terms and conditions of this contract; then, the Village/City/County may terminate this contract in whole or in part, and thereupon shall notify the Consultant of the termination, the reasons therefore, and the effective date provided such effective date shall not be prior to notification of the Consultant. After this effective date, no
charges incurred under any terminated portions are allowable.

3. **Termination for Other Grounds:** This contract may also be terminated in whole or in part:

   (1) By the Village/City/County, with the consent of the Consultant, or by the Consultant with the consent of the Village/City/County, in which case the two parties shall devise by mutual agreement, the conditions of termination including effective date and in case of termination in part, that portion to be terminated.

   (2) If the funds allocated by the Village/City/County via this contract are from anticipated sources of revenue, and if the anticipated sources of revenue do not become available for use in purchasing said services.

   (3) In the event the Village/City/County fails to pay the Consultant promptly or within 60 days after invoices are rendered, the Village/City/County agrees that the Consultant shall have the right to consider said default a breach of this agreement and the duties of the Consultant under this agreement terminated. In such an event, the Village/City/County shall then promptly pay the Consultant for all services performed and all allowable expenses incurred.

   (4) The Village/City/County may terminate this contract at any time giving at least 10 days notice in writing to the Consultant. If the contract is terminated for convenience of the Village/City/County as provided herein, the Consultant will be paid for time provided and expenses incurred up to the termination date.

7. **Changes, Amendments, Modifications**

   The Village/City/County may, from time to time, require changes or modifications in the scope of services to be performed hereunder. Such changes, including any increase or decrease in the amount of compensation therefore, which are mutually agreed upon by the Village/City/County and the Consultant shall be incorporated in written amendments to this contract.

8. **Personnel**

   The Consultant represents that he/she has, or will secure at his/her own expense, all personnel required in performing the services under this contract. Such personnel shall not be employees or have any contractual relationship to the Village/City/County.

   All services required hereunder will be performed by the Consultant or under his supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state or local law to perform such services.

   None of the work or services covered by this contract shall be subcontracted without prior written approval of the Village/City/County. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this contract.
9. **Assignability**
   The Consultant shall not assign any interest on this contract, and shall not transfer any interest on this contract (whether by assignment or notation), without prior written consent of the Village/City/County thereto: Provided, however, that claims for money by the Consultant from the Village/City/County under this contract may be assigned to a bank, trust company, or other financial institutions without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the Village/City/County.

10. **Reports and Information**
    The Consultant, at such times and in such forms as the Village/City/County may require, shall furnish the Village/City/County such periodic reports as it may request pertaining to the work or services undertaken pursuant to this contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this contract.

11. **Findings Confidential**
    All of the reports, information, data, etc., prepared or assembled by the Consultant under this contract are confidential and the Consultant agrees that they shall not be made available to any individual or organization without prior written approval of the Village/City/County.

12. **Copyright**
    No reports, maps, or other documents produced in whole or in part under this contract shall be subject of an application for copyright by or on behalf of the Consultant.

13. **Compliance With Local Laws**
    The Consultant shall comply with all applicable laws, ordinances and codes of the state and local governments and the Consultant shall save the Village/City/County harmless with respect to any damages arising from any tort done in performing any of the work embraced by this contract.

14. **Title VI of the Civil Rights Act of 1964**
    No person shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

15. **Section 109 of the Housing and Community Development Act of 1974**
    No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied benefits of or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

16. **Section 3 Compliance in the Provision of Training, Employment and Business Opportunities**
    a. The work to be performed under this contract is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons
residing in the area of the project.

 **b.** The parties to this contract will comply with the provisions of said Section 3. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these provisions.

 **c.** The consultant will send to each labor organization or representative or workers with which he/she has collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his/her commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

 **d.** The Consultant will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for, or receipt of federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The Consultant will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

 **e.** Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its consultants and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 2 CFR Part 135.

 **17. Age Discrimination Act of 1975, As Amended (42 U.S.C. 6101, et.seq.)**

No person will be excluded from participation, denied program benefits or subjected to discrimination on the basis of age under any program or activity receiving federal funding assistance.


No otherwise qualified individual will, solely by reason of his or her handicap, be excluded from participation (including employment), denied program benefits or subjected to discrimination under any program or activity receiving federal assistance funds.

 **19. Executive Order 11246, As Amended.**

This Order applies to all federally assisted construction contracts and subcontracts. The Grantee and subcontractors, if any, will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Grantee and subcontractors, if any, will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin.
20. **Conflict of Interest 2 CFR 200.318**

No officer, employee or agent of the Grantee who will participate in the selection, the award, or the administration of this grant may obtain a personal or financial interest or benefit from the activity or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. It is further required that this stipulation be included in all subcontracts to this contract. Upon written request, exceptions may be granted upon a case by case basis when it is determined that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the recipient's program or project. These exceptions are granted by the Department.

21. **Audits and Inspections**

The Village/City/County, the Department, the State Auditor and HUD or their delegates shall have the right to review and monitor the financial and other components of the work and services provided and undertaken as part of the CDBG project and this contract, by whatever legal and reasonable means are deemed expedient by the Village/City/County, DED, the State Auditor and HUD.

22. **Hold Harmless**

The Consultant agrees to indemnify and hold harmless the Village/City/County, its appointed and elected officers and employees, from and against all loss and expense, including attorney's fees and costs by reason of any and all claims and demands upon the Village/City/County, its elected or appointed officers and employees from damages sustained by any person or persons, arising out of or in consequence of the Consultant's and its agents' negligent performance of work associated with this agreement. The Consultant shall not be liable for property and bodily injury as may result from the negligence of any construction contractor or construction subcontractor.

23. **Governing Law**

This Agreement will be governed by the laws of the State of Nebraska, without regard to that body of law controlling conflicts of law. Any legal proceeding arising out of, or relating to this Agreement shall be instituted in any court of general jurisdiction in the State of Nebraska.

This agreement contains all terms and conditions agreed to by the Village/City/County and the Consultant. The attachments to this agreement are identified as follows:
ATTACHMENT #1

SCOPE OF WORK and FEES for _____________________, NEBRASKA for _____________________ consisting of _____ pages.

ATTACHMENT #2

PAYMENT SCHEDULE for _____________________, NEBRASKA for _____________________ consisting of _____ pages.

WITNESS WHEREOF, the Village/City/County and the Consultant have executed this contract agreement as of the date and year last written below.

VILLAGE/CITY/COUNTY (____________________, Nebraska)
By: _________________________________
Title: _________________________________
Date: _________________________________

CONSULTANT (________________________)
By: _________________________________
Title: _________________________________
Date: _________________________________

APPROVED as to legal form:

Village/City/County Attorney
By: _________________________________
Date: _________________________________
REFERENCES

- 2 CFR Part 200
  
  http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfr/browse/Title02/2cfr200_main_02.tpl

- Title VI, Civil Rights Act of 1964
  
  Full Text: http://www.usdoj.gov/crt/grants_statutes/titlevi.txt
  
  Overview: http://www.hud.gov/progdesc/titl-vi.cfm

- Section 109 of the Housing and Community Development Act of 1974
  
  

- Section 3 of the Housing and Urban Development Act of 1968
  
  Overview: http://www.hud.gov/offices/fheo/progdesc/emp-lowr.cfm
  

- 24 CFR 135
  

- Age Discrimination Act of 1975
  
  

- Section 504 of the Rehab Act of 1973
  
  Overview: http://www.hud.gov/offices/fheo/disabilities/sect504.cfm

- Executive Order 11246
  
  Overview: http://www.hud.gov/offices/fheo/FHLaws/EXO11246.cfm

For additional information regarding Fair Housing Laws, please visit:

http://www.hud.gov/offices/fheo/FHLaws/index.cfm
CHAPTER 8 – PROGRAM INCOME

Program income for the State’s CDBG program is regulated by the provisions of 24 CFR 570.489(e). This regulation should be consulted for definitions and for other guidance concerning program income.

Current guidance on CDBG program income can be found in the current Annual Action Plan that the State submits to HUD on an annual basis.

Program income is defined as gross income received by a State, a unit of general local government, or a subgrantee of the unit of general local government that was generated from the use of CDBG funds, regardless of when the CDBG funds were appropriated and whether the activity has been closed out, except in limited circumstances [See also 24 CFR 570.489(e)(2)]. When program income is generated by an activity that is only partially assisted with CDBG funds, the income must be prorated to reflect the percentage of CDBG funds used.

The State may use up to 3% of the amount recaptured and reportable to HUD each year for administrative expenses under the Nebraska Community Development Block Grant (CDBG) Program, including amounts recaptured and reported to HUD from and during all open grant years.

USES OF PROGRAM INCOME
Program income includes, but is not limited to, the following:

1) Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds except in instances where the proceeds are received more than 5 years after expiration of the grant agreement between the state and the unit of general local government.” [See also 24 CFR 570.489(e)(2)(v)];
2) Proceeds from the disposition of equipment purchased with CDBG funds;
3) Gross income from the use or rental of real or personal property acquired by the unit of general local government or subgrantee of the unit of general local government with CDBG funds, less the costs incidental to the generation of the income;
4) Gross income from the use or rental of real property, owned by the unit of general local government or other entity carrying out a CDBG activity that was constructed or improved with CDBG funds, less the costs incidental to the generation of the income;
5) Payments of principal and interest on loans made using CDBG funds, except in instances where “Payments of principal and interest made by a subgrantee carrying out a CDBG activity for a unit of general local government, toward a loan from the local government to the subgrantee, to the extent that program income received by the subgrantee is used for such payments;” [See also 24 CFR 570.489(e)(2)(iii)];
6) Proceeds from the sale of loans made with CDBG funds, less reasonable legal and other costs incurred in the course of such sale that are not otherwise eligible costs under sections 105(a)(13) or 106(d)(3)(A) of Title I of the Housing and Community Development Act of 1974 (as amended);
7) Proceeds from the sale of obligations secured by loans made with CDBG funds, less reasonable legal and other costs incurred in the course of such sale that are not otherwise eligible costs under sections 105(a)(13) or 106(d)(3)(A) of Title I of the Housing and Community Development Act of 1974 (as amended);
8) Interest earned on funds held in a revolving fund account;
9) Interest earned on program income pending disposition of the income;

10) Funds collected through special assessments made against nonresidential properties and
properties owned and occupied by households not of low and moderate income, if the special
assessments are used to recover all or part of the CDBG portion of a public improvement; and

11) Gross income paid to a unit of general local government or subgrantee of the unit of general
local government from the ownership interest in a for-profit entity acquired in return for the
provision of CDBG assistance.

12) The State CDBG objective for program income is to provide adequate financing for local
development to ensure Nebraska’s economic prosperity and to use all resources in a timely
manner. The State is seeking to provide a policy for use of program income that coordinates
local and State resources to the fullest extent possible. The State is responsible for ensuring that
program income at the State and local levels is used in accordance with applicable federal laws
and regulations.

**PROGRAM INCOME AND “CONTINUING THE SAME ACTIVITY”**

Federal regulations also allow the State to require the return of program income provided the local
government has an opportunity to retain the program income if the program income will be used to
continue the activity from which is was derived. The State is permitted to define “continuing the
same project activity.”

For the purposes of program income, “continuing the same project activity” will be defined as:

- For local governments with existing program income in an existing Local ED Revolving Loan
  Fund, or who are currently utilizing the NDO process, continuing the same project activity
  will include providing assistance for the same CDBG eligible activities as defined in the
  grantee’s new Department-approved Local Program Income Reuse Plan (also known as a
  Local Reuse Plan).

- For newly awarded economic development grantees (including those units of general local
government awarded new CDBG funds during the current Program Year for new CDBG
eligible activities), program income that was generated from the use of CDBG funds for the
above mentioned newly awarded activities may be deposited into an existing Local ED
Revolving Loan Fund or a new Local ED Revolving Loan Fund. Any program income that is
deposited in this manner, continuing the same project activity will include providing
assistance to the same business for the same activity for which it was originally funded.

- For newly awarded economic development grantees (including those units of general local
government awarded new CDBG funds during the current Program Year for new CDBG
eligible activities), program income that was generated from the use of CDBG funds for the
above mentioned newly awarded activities may utilize the NDO process. In the instance
where the NDO process is utilized, continuing the same project activity will include
providing assistance for the same CDBG eligible activities as defined in the grantee’s
Department-approved Local Program Income Reuse Plan (also known as a Local Reuse
Plan).

- For grantees with eligible housing activities under Title I of the Housing and
Community Development Act of 1974 (as amended), continuing the same project
activity will include activities for owner occupied rehabilitation, down payment
assistance, and rental rehabilitation that will meet a national CDBG objective.
The following information pertains specifically to Economic Development Program Income, Housing Program Income, and Other CDBG Program Income.

ECONOMIC DEVELOPMENT PROGRAM INCOME AND THE STATE’S REVOLVING LOAN FUND
CDBG program income may be retained by local governments, utilized through the NDO process, or returned to the Department of Economic Development. Any CDBG program income that has been returned to the Department is utilized within the State’s program income Revolving Loan Fund (also known as the State RLF). The State provides CDBG funds to local governments (in the form of new CDBG projects) for specific eligible CDBG activities that would meet the necessary criteria under the Economic Development Program category. Funds are awarded to each local government for a specific identified purpose to then either grant funds to a Community-based Development Organization (also known as a NDO) to undertake a project that utilizes a business loan consistent with the Community Development Act Section 105(a)(15) requirements or for a community to provide a loan to a business.

In both instances mentioned above, projects funded within the State RLF must meet CDBG requirements that include meeting the CDBG National Objective of low to moderate income jobs for the purposes of job creation or job retention.

When a community applies for ED resources, the Department will determine whether or not CDBG funds from the Annual Allocation or the State RLF are appropriate for the project.

In general, when the community is requesting ED resources for the purposes of infrastructure development then those projects would be funded through the Annual Allocation. Projects for infrastructure development include both public infrastructure (i.e. activities for community owned or controlled infrastructure) and also for private infrastructure (i.e. streets, and other infrastructure improvements located on privately owned property). Infrastructure projects provide resources utilizing performance based loans which may include forgivable loans that are not paid back if a business complies with a CDBG National Objective and other CDBG requirements and also grants to communities where no CDBG funds are paid back. Other non-infrastructure related projects are funded through the State RLF.

Overall, when an Economic Development project includes non-infrastructure related activities that utilize a business loan consistent with the Community Development Act (as mentioned above), or a direct loan to a business by a community, then the State RLF will be used. When an ED project includes infrastructure related activities that do not utilize business loans consistent with the Community Development Act (as mentioned above), or use direct loan to businesses by a community, then the Annual Allocation will be used. The above mentioned process is consistent with the CDBG requirements of 24 CFR 570.489(f)(2).

ECONOMIC DEVELOPMENT PROGRAM INCOME AND UNITS OF GENERAL LOCAL GOVERNMENT
The unit of general local government (also known as the local government) has the following options for utilizing CDBG program income that local government may receive. These options include:
- Returning the program income funds to the Department;
- Using the program income within an existing Local ED Revolving Loan Fund;
- Establishing a Local ED Revolving Loan Fund; or
- Utilizing the NDO process.
Below are the specific requirements that relate to the options each unit of general local government have for their use of program income.

- **Returning the program income funds to the Department**
  Units of general local government may return the program income they receive to the Department. The process for returning program income funds includes: 1) sending a cover letter that clearly notes the previous CDBG grant number where the funds originated and that these CDBG program income funds are being returned; and 2) sending a check payable to the “Nebraska Department of Economic Development” to the Department for the amount of CDBG funds that the community is returning. Any future program income payments a community may receive, and will be returning to the Department, should be collected by the unit of local government and those funds should be returned to the Department once there is a reasonable balance (i.e. returned every six months, or every year, depending on whether or not there is a reasonable balance).

  If a unit of local government wishes to return program income that is in an Existing Local ED Revolving Loan Fund, and wishes to discontinue the Local ED Revolving Loan Fund, then the process for returning program income funds includes:

  1) Sending a cover letter that clearly notes that the funds being returned are from the community’s Local ED Revolving Loan Fund and that the local government is discontinuing the Local ED RLF;
  2) Information on any outstanding loans (including the amounts of those loans, copies of the amortizations schedules, etc.);
  3) Sending a check payable to the “Nebraska Department of Economic Development” to the Department for the amount of CDBG program income funds that the community is returning; and
  4) Any subsequent program income payments that the local government may receive that were intended to be deposited would also be returned to the Department.

  If a unit of local government wishes to return program income that is in an Existing Local ED Revolving Loan Fund, but wishes to continue to operate the Local ED Revolving Loan Fund, then the process for returning program income funds includes:

  1) Sending a cover letter that clearly notes that the funds being returned are from the community’s Local ED Revolving Loan Fund;
  2) Information on any outstanding loans (including the amounts of those loans, copies of the amortizations schedules, etc.);
  3) Sending a check payable to the “Nebraska Department of Economic Development” to the Department for the amount of CDBG program income funds that the community is returning; and
  4) Any subsequent program income payments that the local government may receive would be deposited in the Existing Local ED Revolving Loan Fund.

- **Using the Program Income within an Existing Local ED Revolving Loan Fund**
  In order to retain CDBG program income, and the local government chooses to utilize an existing Local ED RLF, the local government will do so by completing the following steps:

  1) The unit of local government must provide the Department with a written Notice of
Intent to use a Local Economic Development Revolving Loan Fund (Local ED RLF) in order to reuse program income for CDBG eligible activities which are consistent with the definition of “continuing the same project activity” as defined above.

2) The local government must administer the Local ED RLF locally and employ the services of a Nebraska CDBG Certified Administrator to administer the Fund.

3) The local government will develop and adopt a Revised Local Reuse Plan. The Local Reuse Plan must include:
   a. A detailed description of the unit of local government;
   b. A description of who will administer the Local ED RLF, and certify that the entity administering the Local ED RLF has CDBG Certified Administrators;
   c. A description of the priorities of the program income projects that may be approved by the unit of local government which will be consistent with the definitions of “continuing the same project activity”;
   d. A Certification that the local government will comply with the Local Reuse Plan that must include, but will not be limited to, the following:
      i. The local government who is retaining the CDBG program income within a Local ED RLF will comply with all applicable CDBG rules and regulations;
      ii. The local government understands that the Local ED RLF funds are federal and subject to all applicable CDBG rules and regulations;
      iii. The local government must complete the proper resolution, public hearings, and environmental review for each additional project funded through the Local ED RLF;
      iv. The local government understands that funds must be used to significantly benefit the residents of the community that previously received the initial CDBG grant;
      v. The local government understands that Local ED RLF funds from a community are solely for the benefit of the community that established the Local ED RLF and that these funds cannot be provided to any regional ED program that would assist other communities;
      vi. The local government understands that all projects will consist of ED activities that benefit low-to-moderate income persons, specifically low- to- moderate jobs.
      vii. The local government understands that all projects funded through the Local ED RLF must meet a CDBG National Objective; and
      viii. The local government understands that the Department must approve this Local Reuse Plan.

4) The Local Reuse Plan must be approved by the Department and, upon approval, the Department will enter into a contract with each local government to operate the Local ED Revolving Loan Fund. The contract will include a process for compliance monitoring and closeout of the Local ED Revolving Loan Fund. Monitoring will occur at least one time during the contract period. Closeout of the contract will require the local government to clear any monitoring findings and submit final reports, including, but not limited to, job creation information and final financial reports.

At any time during the contract period, local governments will have the option to
discontinue operating the Local ED Revolving Loan Fund and return the program income funds to the Department. The Department will apply the funds to the State CDBG Revolving Loan Fund.

**Funds in a Local ED Revolving Loan Fund are federal and are subject to all applicable CDBG rules and regulations.**

In no case shall a Local ED RLF have a balance that exceeds $750,000. Any amount in excess of $750,000 shall be returned to the State.

The local government will also be required to comply with the following CDBG requirements that include:

1) If the initial activity, which generated the program income and is defined as “continuing the same project activity”, has not been completed prior to the first receipt of program income, all program income received must be applied to the current grant activity prior to requesting additional CDBG funds.

2) Miscellaneous program income, generated by activities that are not defined as “continuing the same project activity”, must be applied to an open CDBG ED grant prior to requesting additional CDBG funds, or returned to the State.

3) Program income funds used from the Local ED Revolving Loan Fund must be consistent with the requirements of Revised Local Reuse Plan that must be approved by the Department prior to the local government approving any new applications for activities.

4) All program income within the Local ED Revolving Loan Fund must be locally monitored and the amount of program income within the Local ED RLF must be reported to the Department. Status updates concerning the outstanding loans or leases shall be submitted on a semi-annual basis. This semi-annual reporting includes, but is not limited to, loans made, payments received, proposed and actual jobs created, and amendments to the original loan or lease agreement, as required by the Department.

5) All program income earned, as a result of CDBG grant activities, is subject to all requirements of Title I of the Community Development Act of 1974 (as amended) regardless of whether the original grant is open or closed when the program income is received. In addition, all program income expended from the Local ED Revolving Loan Fund is subject to all requirements of Title I of the Housing and Community Development Act. This includes all second and subsequent generation loans made from the Local ED RLF.

6) Local governments that are currently operating a Local ED Revolving Loan Fund and choose to discontinue the operation of the Local ED Revolving Loan Fund can return the funds to the Department by following the requirements for “Returning the program income funds to the Department” as noted above.

In addition, the State will schedule monitoring visits with all local governments who have operated or continue to operate a Local ED Revolving Loan Fund. The State will review loans from previous Program Years. The monitoring visits will be conducted either via desktop monitoring or onsite monitoring. The State will review local projects for compliance with all
CDBG rules and regulations. Findings of non-compliance will result in the State taking appropriate corrective actions appropriate for the specific compliance issues discovered.

**ESTABLISHING A LOCAL ED REVOLVING LOAN FUND**

In order to retain CDBG program income, and the local government chooses to establish a Local ED RLF it will do so by completing the following steps:

1) The unit of local government must provide the Department with a written Notice of Intent to use a Local Economic Development Revolving Loan Fund (Local ED RLF) in order to reuse program income for CDBG eligible activities which are consistent with the definition of “continuing the same project activity” that is defined for new ED projects as noted above and includes “providing assistance to the same business for the same activity for which it was originally funded.”

2) The local government must administer the Local ED RLF locally and employ the services of a Nebraska CDBG Certified Administrator to administer the Fund.

3) The local government will develop and adopt a Local Reuse Plan. The Local Reuse Plan must include:
   a. A detailed description of the unit of local government;
   b. A description of who will administer the Local ED RLF, and certify that the entity administering the Local ED RLF has CDBG Certified Administrators;
   c. A description of the priorities of the program income projects that may be approved by the unit of local government which will be consistent with the definitions of “continuing the same project activity”;
   d. A Certification that the local government will comply with the Local Reuse Plan that must include, but will not be limited to, the following:
      i. The local government who is retaining the CDBG program income within a Local ED RLF will comply with all applicable CDBG rules and regulations;
      ii. The local government understands that the Local ED RLF funds are federal and subject to all applicable CDBG rules and regulations;
      iii. The local government must complete the proper resolution, public hearings, and environmental review for each additional project funded through the Local ED RLF;
      iv. The local government understands that funds must be used to significantly benefit the residents of the community that previously received the initial CDBG grant;
      v. The local government understands that Local ED RLF funds from a community are solely for the benefit of the community that established the Local ED RLF and that these funds cannot be provided to any regional ED program that would assist other communities;
      vi. The local government understands that all projects will consist of ED activities that benefit low-to-moderate income persons, specifically low-to-moderate jobs.
      vii. The local government understands that all projects funded through the Local ED RLF must meet a CDBG National Objective; and
      viii. The local government understands that the Department must approve this Local Reuse Plan.

4) The Local Reuse Plan must be approved by the Department. This Local Reuse Plan
must be made using a Department-approved form within 90 calendar days from the
date of the local government’s Notice of Approval letter. If the local government’s
Local Reuse Plan is not submitted to the Department within the 90-day period, the
Department will require all program income be returned to the State.

The Department must approve this Local Reuse Plan and, upon approval, will enter into a
contract with each local government to operate the Local ED Revolving Loan Fund. The
contract will include a process for compliance monitoring and closeout of the Local ED
Revolving Loan Fund. Monitoring will occur at least one time during the contract period.
Closeout of the contract will require the local government to clear any monitoring findings
and submit final reports, including, but not limited to, job creation information and final
financial reports.

At any time during the contract period, local governments will have the option to
discontinue operating the Local ED Revolving Loan Fund and return the program income
funds to the Department. The Department will apply the funds to the State CDBG Revolving
Loan Fund.

**Funds in a Local ED Revolving Loan Fund are federal and are subject to all applicable CDBG
rules and regulations.**

**In no case shall a Local ED RLF have a balance that exceeds $750,000. Any amount in excess
of $750,000 shall be returned to the State.**

The local government will also be required to comply with the following CDBG requirements
that include:

1) If the initial activity, which generated the program income and is defined as
“continuing the same project activity”, has not been completed prior to the first
receipt of program income, all program income received must be applied to the
current grant activity prior to requesting additional CDBG funds.

2) Miscellaneous program income, generated by activities that are not defined as
“continuing the same project activity”, must be applied to an open CDBG ED grant
prior to requesting additional CDBG funds, or returned to the State.

3) Program income funds used from the Local ED Revolving Loan Fund must be
consistent with the requirements of the Local Reuse Plan that must be approved by
the Department prior to the local government approving any applications for
activities.

4) All program income within the Local ED Revolving Loan Fund must be locally
monitored and the amount of program income within the Local ED RLF must be
reported to the Department. Status updates concerning the outstanding loans or
leases shall be submitted on a semi-annual basis. This semi-annual reporting
includes, but is not limited to, loans made, payments received, proposed and actual
jobs created, and amendments to the original loan or lease agreement, as required
by the Department.

5) All program income earned, as a result of CDBG grant activities, is subject to all
requirements of Title I of the Community Development Act of 1974 (as amended)
regardless of whether the original grant is open or closed when the program income is received. In addition, all program income expended from the Local ED Revolving Loan Fund is subject to all requirements of Title I of the Housing and Community Development Act. This includes all second and subsequent generation loans made from the Local ED RLF.

6) Local governments that are currently operating a Local ED Revolving Loan Fund and choose to discontinue the operation of the Local ED Revolving Loan Fund can return the funds to the Department by following the above requirements for “Returning the program income funds to the Department” noted above.

In addition, the State will schedule monitoring visits with all local governments who have operated or continue to operate a Local ED Revolving Loan Fund. The State will review loans from previous Program Years. The monitoring visits will be conducted either via desktop monitoring or onsite monitoring. The State will review local projects for compliance with all CDBG rules and regulations. Findings of non-compliance will result in the State taking appropriate corrective actions appropriate for the specific compliance issues discovered.

- **Utilizing the NDO Process**

  A unit of general local government may seek to form a sub-grantee relationship with a local nonprofit organization to carry out the CDBG activities on behalf of the local government. The local government funded by the State for an ED project, or a local government with an existing Local ED RLF, would grant the CDBG funds awarded to a Nonprofit Development Organization (NDO), such as a community development organization or a local economic development corporation. The NDO must be recognized (through an application process) by the State according to the requirements of 24 CFR 570.204 to carryout funded activities through a contract with the local government grantee for activities in which it retains a direct and controlling involvement and responsibilities for the provision of financial assistance to the community’s ED project.

  The activity carried out by the NDO must meet the requirements of Section 105 (a)(15) of the Housing and Community Development Act (HCDA). Section 105 (a)(15) provides the provision, which allows as eligible assistance to neighborhood based nonprofit organizations, local development corporations, and nonprofit organizations serving the development needs of communities in non-entitlement areas to carry out neighborhood revitalization and community economic development projects.

  The NDO process includes, but is not limited to, the following:

  - The local government, which is a recipient of State CDBG funds, makes a loan to a for-profit business for economic development activities in accordance with the State’s program requirements.
  - The local government executes an agreement with the NDO, which executes the loan agreement for the CDBG funds loaned to the for-profit business. The NDO, the local nonprofit organization, would use the repayment of the funds from the for-profit business to make additional loans, such as for economic development activities.
  - The repayment of the CDBG loan is made to the NDO, and not to the local government, and the NDO retains the payments for future use through a Revolving Loan Fund (RLF), which includes a NDO Reuse Plan approved by the Department through the NDO designation application process. The approved NDO Reuse Plan
must ensure that activities funded by the RLF meet broad based economic
development investments. The funds repaid to the NDO to continue economic
development activities would not be considered program income.
  o The NDO reinvests in the community through its established RLF, which can fund
additional loans in the service area of the NDO.

For new CDBG Economic Development grants, the local government grantee and the NDO
would submit a proposal to the State authorizing the approval of an arrangement between
the local government and the NDO for the NDO to carry out the funded activities on behalf
of the local government and for repayments to go to the NDO’s RLF. The designated NDO
must have already received approval from the Department and will have an approved NDO
Reuse Plan in place.

As an example of this process, the NDO would carry out the activities of
the grant awarded to the local government for assistance to the for-
profit business. During this period, the local government would ensure
that all CDBG rules and regulations were followed for this initial loan.
The repayments from the business to the NDO’s RLF would not be
considered program income. Subsequent loans by the NDO using those
funds repaid to the RLF would only have to meet those requirements in
the Department approved NDO Reuse Plan established by the NDO.
Funds would be reinvested in broad based economic development
activities.

Local governments currently operating a Local ED Revolving Loan Fund (RLF) may choose to
enter into an agreement with a designated NDO to carry out activities with the Local ED
Revolving Loan Fund. The NDO must be designated by the Department with a Department-
approved NDO Reuse Plan. The NDO must also include the local government in its service
area. Once the funds are repaid to the NDO, the funds would no longer be subject to the
CDBG federal rules and regulations, providing a pool of Revolving Loan Fund dollars subject
only to the requirements of the NDO Reuse Plan.

It will be the responsibility of the local government, in coordination with the NDO, to
determine the entity responsible for carrying out the activities of the ED project and the
entity who will be responsible for administering the project. In some instances there may be
one entity carrying out the project activities and a separate entity administering the grant.
Grant administration and carrying out CDBG activities on behalf of the local government
grantee are two separate activities.

**HOUSING PROGRAM INCOME**
The unit of general local government has the following options for utilizing CDBG housing program
income that unit of local government may receive. These options include:

1) Returning the program income funds to the Department;
2) Retaining the program income and using it for CDBG eligible housing related activities;
3) Using the program income within an existing Local Housing Revolving Loan Fund; or
4) Establishing a Local Housing Revolving Loan Fund.
Below are the specific requirements that relate to the option that the unit of general local government has chosen for its use of program income.

- **Returning the program income funds to the Department**
  Units of general local government may return the program income they receive to the Department. The process for returning program income funds includes: 1) sending a cover letter that clearly notes the previous CDBG grant number where the funds originated and that these CDBG program income funds are being returned; and 2) sending a check payable to the “Nebraska Department of Economic Development” to the Department for the amount of CDBG funds that the community is returning. Any future program income payments a community may receive, and will be returning to the Department, should be collected by the unit of local government and those funds should be returned to the Department once there is a reasonable balance (i.e. returned every six months, or every year, depending on whether or not there is a reasonable balance).

  If a unit of local government wishes to return program income that is in an Existing Local Housing Revolving Loan Fund, and wishes to discontinue the Local Housing Revolving Loan Fund, then the process for returning program income funds includes:

  1) Sending a cover letter that clearly notes that the funds being returned are from the community’s Local Housing Revolving Loan Fund and that the local government is discontinuing the Local Housing RLF;
  2) Information on any outstanding loans (including the amounts of those loans, copies of the amortizations schedules, etc.);
  3) Sending a check payable to the “Nebraska Department of Economic Development” to the Department for the amount of CDBG program income funds that the community is returning; and
  4) Any subsequent program income payments that the local government may receive that were intended to be deposited would also be returned to the Department.

  If a unit of local government wishes to return program income that is in an Existing Local Housing Revolving Loan Fund, but wishes to continue to operate the Local Housing Revolving Loan Fund, then the process for returning program income funds includes:

  1) Sending a cover letter that clearly notes that the funds being returned are from the community’s Local Housing Revolving Loan Fund;
  2) Information on any outstanding loans (including the amounts of those loans, copies of the amortizations schedules, etc.);
  3) Sending a check payable to the “Nebraska Department of Economic Development” to the Department for the amount of CDBG program income funds that the community is returning; and
  4) Any subsequent program income payments that the local government may receive would be deposited in the Existing Local Housing Revolving Loan Fund.
Retaining the program income and using it for CDBG eligible housing related activities

In order to retain CDBG program income that is not in an existing Local Housing RLF, the unit of local government will maintain their program income in a Local CDBG Program Income Account and adopt a Local Reuse Plan that includes a detailed description of the local government, and includes administration and priorities of the program income projects to be approved by the local government which are consistent with the definition of “continuing the same project activity” as described above.

A local government’s Local Reuse Plan must state that all projects will consist of activities that benefit low-to-moderate income persons, specifically low-to-moderate income housing as defined within the local government’s Department-approved Local Reuse Plan, as part of the local government’s contractual requirements with the Department.

At any time during the contract period, a local government will have the option to discontinue utilizing the housing program income and return it to the Department. The Department will apply the funds to the State CDBG Economic Development Revolving Loan Fund (also known as the State Revolving Loan Fund).

Local program income funds are federal and are subject to all applicable CDBG rules and regulations.

In no case shall a local government’s program income account have a balance that exceeds $750,000. Any amount in excess of $750,000 shall be returned to the State.

The local government will be responsible for reporting housing program income to the Department twice a year (July and December) and these reports will be reviewed by Department staff.

If at the end of the calendar year in which the unit of local government has reported, the total balance of the Local CDBG Program Income Account is $35,000 or less, these funds will no longer be considered program income, and will no longer require any additional reporting to the Department.

The local government will also be required to comply with the following CDBG requirements that include:

1) If the initial activity, which generated the program income and is defined as “continuing the same project activity”, has not been completed prior to the first receipt of program income, all program income received must be applied to the current grant activity prior to requesting additional CDBG funds.

2) Miscellaneous program income, generated by activities that are not defined as “continuing the same project activity”, must be applied to an open CDBG housing grant prior to requesting additional CDBG funds, or returned to the State.

3) Program income funds used for additional activities must be consistent with the requirements of the Local Reuse Plan that must be approved by the Department prior to the local government approving any new applications for activities.

4) All program income within the Local CDBG Program Income Account must be locally monitored and the amount of program income within that account must be reported to the...
Department. Status updates concerning the program income funds shall be submitted on a semi-annual basis. This semi-annual reporting includes, but is not limited to, loans made, payments received, housing activities, and amendments to the original loans, as required by the Department.

5) All program income earned, as a result of CDBG grant activities, is subject to all requirements of Title I of the Community Development Act of 1974 (as amended) regardless of whether the original grant is open or closed when the program income is received. In addition, all program income expended from the Local CDBG Program Income Account is subject to all requirements of Title I of the Housing and Community Development Act. This includes all second and subsequent generation loans made from the Local CDBG Program Income Account.

6) Local governments that are currently utilizing a Local CDBG Program Income Account and choose to discontinue the operation of that Local Account can return the funds to the Department by following the above requirements for “Returning the program income funds to the Department” noted above.

In addition, the State will schedule monitoring visits with all local governments who have operated or continue to utilize a Local CDBG Program Income Account. The State will review project activities from previous Program Years. The monitoring visits will be conducted either via desktop monitoring or onsite monitoring. The State will review local projects for compliance with all CDBG rules and regulations. Findings of non-compliance will result in the State taking appropriate corrective actions appropriate for the specific compliance issues discovered.

- **Using the program income within an existing Local Housing Revolving Loan Fund**

In order to retain CDBG program income that is in an existing Local Housing RLF, the unit of local government will have to certify and ensure that the Local Housing RLF is properly established in order to meet the Department requirements. This Local Housing RLF would be utilized for the purposes of retaining CDBG program income, and reusing that program income, for the purposes of carrying out specific housing activities, which in turn, generate payments to the RLF for use in carrying out additional housing activities.

If the local government chooses to utilize an existing Local Housing RLF it will do so by completing the following steps:

1) The unit of local government must provide the Department with a written Notice of Intent to use a Local Housing Revolving Loan Fund (Local Housing RLF) in order to reuse program income for CDBG eligible activities which are consistent with the definition of “continuing the same project activity” as defined above.

2) The local government must administer the Local Housing RLF locally and employ the services of a Nebraska CDBG Certified Administrator to administer the Fund.

3) The local government will develop and adopt a Revised Local Reuse Plan. The Local Reuse Plan must include:
   a. A detailed description of the unit of local government;
   b. A description of who will administer the Local Housing RLF, and certify that the entity administering the Local Housing RLF has CDBG Certified Administrators;
   c. A description of the priorities of the program income projects that may be
approved by the unit of local government which will be consistent with the definitions of “continuing the same project activity”;

d. A Certification that the local government will comply with the Local Reuse Plan that must include, but will not be limited to, the following:

i) The local government who is retaining the CDBG program income within a Local Housing RLF will comply with all applicable CDBG rules and regulations;

ii) The local government understands that the Local Housing RLF funds are federal and subject to all applicable CDBG rules and regulations;

iii) The local government must complete the proper resolution, public hearings, and environmental review for each additional project funded through the Local Housing RLF;

iv) The local government understands that funds must be used to significantly benefit the residents of the community that previously received the initial CDBG grant;

v) The local government understands that Local Housing RLF funds from a community are solely for the benefit of the community that established the Local Housing RLF and that these funds cannot be provided to any regional housing program that would assist other communities;

vi) The local government understands that all projects will consist of housing activities that benefit low-to-moderate income persons;

vii) The local government understands that all projects funded through the Local Housing RLF must meet a CDBG National Objective; and

viii) The local government understands that the Department must approve this Local Reuse Plan.

4) The Local Reuse Plan must be approved by the Department and, upon approval, will enter into a contract with each local government to operate the Local Housing Revolving Loan Fund. The contract will include: a requirement for the local government to develop program guidelines specific to the CDBG eligible activities that will be undertaken with the program income funds; and a process for compliance monitoring and closeout of the Local Housing RLF. Monitoring will occur at least one time during the contract period. Closeout of the contract will require the local government to clear any monitoring findings and submit final reports, including, but not limited to, housing activity information and final financial reports.

At any time during the contract period, local governments will have the option to discontinue operating the Local Housing Revolving Loan Fund and return the program income funds to the Department. The Department will apply the funds to the State CDBG Economic Development Revolving Loan Fund (also known as the State Revolving Loan Fund).

**Funds in a Local Housing Revolving Loan Fund are federal and are subject to all applicable CDBG rules and regulations.**

In no case shall a Local Housing RLF have a balance that exceeds $750,000. Any amount in excess of $750,000 shall be returned to the State.

The local government will also be required to comply with the following CDBG requirements that include:
1) If the initial activity, which generated the program income and is defined as “continuing the same project activity”, has not been completed prior to the first receipt of program income, all program income received must be applied to the current grant activity prior to requesting additional CDBG funds.

2) Miscellaneous program income, generated by activities that are not defined as “continuing the same project activity”, must be applied to an open CDBG housing grant prior to requesting additional CDBG funds, or returned to the State.

3) Program income funds used from the Local Housing Revolving Loan Fund must be consistent with the requirements of Revised Local Reuse Plan that must be approved by the Department prior to the local government approving any new applications for activities.

4) All program income within the Local Housing Revolving Loan Fund must be locally monitored and the amount of program income within the Local Housing RLF must be reported to the Department. Status updates concerning the outstanding loans shall be submitted on a semi-annual basis. This semi-annual reporting includes, but is not limited to, loans made, payments received, activities completed, and amendments to the original loan, as required by the Department.

5) All program income earned, as a result of CDBG grant activities, is subject to all requirements of Title I of the Community Development Act of 1974 (as amended) regardless of whether the original grant is open or closed when the program income is received. In addition, all program income expended from the Local Housing Revolving Loan Fund is subject to all requirements of Title I of the Housing and Community Development Act. This includes all second and subsequent generation loans made from the Local Housing RLF.

6) Local governments that are currently operating a Local Housing Revolving Loan Fund and choose to discontinue the operation of the Local Housing Revolving Loan Fund can return the funds to the Department by following the above requirements for “Returning the program income funds to the Department” noted above.

In addition, the State will schedule monitoring visits with all local governments who have operated or continue to operate a Local Housing Revolving Loan Fund. The State will review project activities from previous Program Years. The monitoring visits will be conducted either via desktop monitoring or onsite monitoring. The State will review local projects for compliance with all CDBG rules and regulations. Findings of non-compliance will result in the State taking appropriate corrective actions appropriate for the specific compliance issues discovered.

- **Establishing a Local Housing Revolving Loan Fund**

In order to retain CDBG program income, the local government may choose to establish a Local Housing RLF. The unit of local government will have to certify and ensure that the Local Housing RLF is properly established in order to meet the Department requirements. This Local Housing RLF would be utilized for the purposes of retaining CDBG program income, and reusing that program income, for the purposes of carrying out specific housing activities, which in turn, generate payments to the RLF for use in carrying out additional housing activities.

If the local government chooses to establish a Local Housing RLF it will do so by
completing the following steps:

1) The unit of local government must provide the Department with a written Notice of Intent to use a Local Housing Revolving Loan Fund (Local Housing RLF) in order to reuse program income for CDBG eligible activities which are consistent with the definition of “continuing the same project activity” as defined above.

2) The local government must administer the Local Housing RLF locally and employ the services of Nebraska CDBG Certified Administrator to administer the Fund.

3) The local government will develop and adopt a Revised Local Reuse Plan. The Local Reuse Plan must include:
   a. A detailed description of the unit of local government;
   b. A description of who will administer the Local Housing RLF, and certify that the entity administering the Local Housing RLF has CDBG Certified Administrators;
   c. A description of the priorities of the program income projects that may be approved by the unit of local government which will be consistent with the definitions of “continuing the same project activity”;
   d. A Certification that the local government will comply with the Local Reuse Plan that must include, but will not be limited to, the following:
      i) The local government who is retaining the CDBG program income within a Local Housing RLF will comply with all applicable CDBG rules and regulations;
      ii) The local government understands that the Local Housing RLF funds are federal and subject to all applicable CDBG rules and regulations;
      iii) The local government must complete the proper resolution, public hearings, and environmental review for each additional project funded through the Local Housing RLF;
      iv) The local government understands that funds must be used to significantly benefit the residents of the community that previously received the initial CDBG grant;
      v) The local government understands that Local Housing RLF funds from a community are solely for the benefit of the community that established the Local Housing RLF and that these funds cannot be provided to any regional housing program that would assist other communities;
      vi) The local government understands that all projects will consist of housing activities that benefit low-to-moderate income persons;
      vii) The local government understands that all projects funded through the Local Housing RLF must meet a CDBG National Objective; and
      viii) The local government understands that the Department must approve this Local Reuse Plan.

4) The Local Reuse Plan must be approved by the Department and must be made using a Department approved form within 90 calendar days from the date of the local government’s Notice of Approval letter. If the local government’s Local Reuse Plan is not submitted to the Department within the 90-day period, the Department will require all program income be returned to the State.

Upon approval of the Local Reuse Plan, the Department will enter into a contract with each local government to operate the Local Housing Revolving Loan Fund. The contract will
include: a requirement for the local government to develop program guidelines specific to the CDBG eligible activities that will be undertaken with the program income funds and will include a process for compliance monitoring and closeout of the Local Housing RLF. Monitoring will occur at least one time during the contract period.

Closeout of the contract will require the local government to clear any monitoring findings and submit final reports, including, but not limited to, housing activity information and final financial reports.

At any time during the contract period, local governments will have the option to discontinue operating the Local Housing Revolving Loan Fund and return the program income funds to the Department. The Department will apply the funds to the State CDBG Economic Development Revolving Loan Fund (also known as the State Revolving Loan Fund).

**DISCONTINUATION OF REGIONAL CDBG HOUSING REVOLVING LOAN FUNDS**

Due to the changes within the CDBG regulations, current Regional CDBG Housing Revolving Loan Funds will no longer be permitted to assist communities throughout a given region. This information was provided within the 2013 Annual Action Plan (See Section 2-18 of 2013 AAP) and continues to be applicable within the 2015 Annual Action Plan.

The CDBG Housing RLF Administrators who are currently operating these Regional Housing Revolving Loan Funds must work directly with the units of general local government who have previous Housing program income within these Regional RLFs to evaluate the best option for each community on what to do with the community’s previous Housing program income that can no longer be utilized through a regional approach.

There are two options available for funds within these Regional Housing RLFs. These include:

1) Returning the funds to the Department. Program income returned to the State will be committed to the State Revolving Loan Fund and shall be distributed according to the requirements of Title I of the Community and Development Act of 1974 (as amended). For more information see “Returning the program income funds to the Department” above.

2) Depositing local funds into a Local Housing Revolving Loan Fund. The Regional RLF Administrator would be required to determine the amount of funds available to each unit of general local government from the Regional RLF in order for each community to be able to determine whether or not program income funds should be returned to the State or whether those program income funds should be deposited into an existing or newly created Local Housing RLF or whether other options, as noted above, are chosen by the local government. For more information on the choices for local governments’ use of their program income see above.

**OTHER CDBG PROGRAM INCOME**

Program income generated from other CDBG activities including those under the Community Development Priority, including Comprehensive Revitalization, CIS, Public Works, Water/Wastewater, Planning, and Downtown Revitalization would follow the above mentioned steps with the need for any necessary adjustments related to non-economic development or non-housing activities.

**REPORTING ON PROGRAM INCOME**

Local governments are required to report on program income earned from all CDBG projects on a
semi-annual basis (report periods ending June 30th and December 31st). The June 30th Program Income Report is due July 15th and provides program income reporting for the preceding period between January 1st through June 30th. The December 31st Program Income Report is due January 15th and provides program income reporting for the preceding period between July 1st through December 31st.

Economic Development (ED) program income is reported separately by using the form titled “Program Income Report for Economic Development Projects”.

Housing program income is reported separately by using the form titled “Program Income Report for Housing Projects”.

In order to report other program income from non-ED or non-housing projects, please contact your Program Representative.

Mail Program Income Reports to the Department at:

Department of Economic Development
Housing and Community Development Division
P.O. Box 94666
Lincoln, NE 68509.

Grantees must retain a copy of each Program Income Report in their files.

Grantees must use the current forms for reporting by obtaining them from the Department’s website, www.neded.org.

Below are examples of the current Program Income forms.
Economic Development Program Income Report
I. GENERAL INFORMATION
1) Grantee
2) Grant #
3) Business
4) Loan Amount Interest Rate Loan Term

II. LOAN REPAYMENTS
1) Balance of Loan Repayments Brought Forward
2) Loan Repayments This Reporting Period:

<table>
<thead>
<tr>
<th>Payment #</th>
<th>Date Due</th>
<th>Date Rec’d</th>
<th>Amount</th>
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3) Total This Period
4) Total Loan Repayment to Date

III. LOAN STATUS
Are all loan repayments current? Yes No
If “NO”, attach explanation which identifies the number of days delinquent or if the business has defaulted on the loan.

IV. GRANTEE CONTACT PERSON
Name
Address
City, ST, Zip code
Phone
Email

If using a CDBG Certified Administrator to administer the RLF please provide:

Name
Address
City, State, Zip code
Phone #
Email

V. REVOLVING LOAN FUND
1) Beginning Balance
2) Receipts This Period:
   a) Loan Repayments
   b) Interest Earned
   c) Other Explanation:
   d) Total Receipts
3) Balance Available
4) Obligations This Period:
   a) Administration
   b) Loans or Grants
   c) Total Obligations
5) Ending Balance

Number of months since the last loan or grant was made from the CDBG Revolving Loan Fund:

Date last loan or grant was made:

If the number of months since the last loan or grant was made from the CDBG Revolving Loan Fund has been more than 24 months the balance must be remitted to DED.

It is advisable, but not required, that CDBG Economic Development Revolving Loan Funds be administered by a CDBG Certified Administrator.

VI. FINANCIAL INSTITUTION
Name
Address
City, ST, Zip code

I certify that the best of my knowledge and belief the information contained in this report is true and correct.

Signature of Chief Elected Official
Typed Name
Title
Date
<table>
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<tr>
<th>Business</th>
<th>Loan Amount</th>
<th>Interest Rate</th>
<th>Loan Term</th>
<th>Date Loan Made</th>
<th>Receipts this Period</th>
<th>Total Payments Received to Date</th>
<th>Total Future Payments Due</th>
<th>Status of Loan</th>
<th>Projected Jobs</th>
<th>Actual Jobs</th>
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Housing Program Income Report
## I. GENERAL INFORMATION

| Grant Number(s): |  
|---|---|---|
| Original Local Reuse Plan Approval Dates (Board/DED): | Revised Reuse Plan Approval Dates (Board/DED): |  
| Address, Email Address, Phone |  
| Grantee Contact Person |  
| CDBG Administrator |  
| Bank |  
| Preparer: |  

### CDBG PROGRAM INCOME REUSE:

#### PROGRAM INCOME REUSE PLAN

1) Beginning Balance:  
2) Receipts this Period:  
   a. Loan Repayments:  
   b. Interest Earned:  
   c. Total Receipts:  
3) Balance Available:  
4) Expenditures this Period:  
5) Ending Balance:  
6) TOTAL AMOUNT PROGRAM INCOME RECEIVED (January 1 through Dec. 31st of reporting year):  
   [For December Reporting Period include supporting bank statement documenting the exact amount of Program Income received for Calendar Year.]

#### REVOLVING LOAN FUND

1) Beginning Balance:  
2) Receipts this Period:  
   a. Loan Repayments:  
   b. Interest Earned:  
   c. Other:  
   d. Total Receipts:  
3) Balance Available:  
4) Obligations this Period:  
   a. Administration:  
   b. Loans or Grants:  
5) Total Obligations:  
6) Ending Balance:
### II. PROGRAM INCOME REUSE CLIENT INFORMATION:

<table>
<thead>
<tr>
<th>Client (Last Name)</th>
<th>Eligible Activity</th>
<th>Total Expenditures</th>
<th>General Admin Expenditures</th>
<th>Project Start Date</th>
<th>Project Completion Date</th>
<th>Form of Assistance</th>
<th>Terms of Assistance</th>
<th>Affordability Period</th>
<th>Status [Current, Delinquent, # Days in Default]</th>
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### III. REVOLVING LOAN FUND CLIENT INFORMATION:

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<thead>
<tr>
<th>Client (Last Name)</th>
<th>Total Loan Amount</th>
<th>Annual Interest Rate</th>
<th>Monthly P&amp;I Payment</th>
<th>Amortization Period</th>
<th>Loan Inception Date</th>
<th>Loan Expiration Date</th>
<th>Receipts Since Inception</th>
<th>Balance of Loan Due:</th>
<th>Status [Current, Delinquent, # Days in Default]</th>
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#### CERTIFICATION:

I certify, to the best of my knowledge and belief, the information contained in this Report is true and correct.

______________________________  ______________________  ______________________  __________
Signature of Chief Elected Official  Typed Name  Title  Date

CHAPTER 9 – CONSTRUCTION AND LABOR STANDARDS

The purpose of this chapter is to provide information about the federal requirements for construction and labor standards.

STATUTORY PROVISIONS

The five statutory provisions that must be followed for construction and labor standards on all CDBG funded projects are as follows:

- **Section 110, Chapter 69, Title 42, Housing and Community Development Act of 1974 (42 USC 5310)**

  Provides that “All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 USC 276a-276a-5): Provided that this section shall apply to the rehabilitation of residential property only if such property contains not less than 8 units.”

- **Davis-Bacon Act (DBA) (40 USC 276A-276A-5)**

  Provides that contracts in excess of $2,000 to which the United States is a party for the construction, alteration, and/or repair, including painting and decorating of public buildings or public works, which involve the employment of laborers and/or mechanics, shall contain provisions with respect to minimum wages, fringe benefits, payments without deductions or rebates, withholding funds from contractors to ensure compliance with the wage provisions, and termination of the contract or debarment for failure to adhere to the required provisions.

- **Contract Work Hours and Safety Standards Act (CWHSSA) (40 USC 327-333).**

  CWHSSA provides that work in excess of 40 hours per week, which occurs on the job site, shall be compensated for at rates not less than one and one-half times the basic rate of pay. CWHSSA applies to both direct federal contracts and indirect federally-assisted contracts except where the assistance is solely in the nature of a loan guarantee or insurance. CWHSSA applies to prime contracts valued above $100,000. CWHSSA also applies to maintenance laborers and mechanics employed by public housing authorities.

- **Copeland Act (Anti-Kickback Act) (40 USC 276c)**

  Makes it a criminal offense for any person to induce, by any manner whatsoever, any person employed in the construction, prosecution, completion, or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he/she is entitled under his contract of employment. The Act also requires contractors on covered projects to submit weekly a “Statement of Compliance” certifying that the contract has paid the required wages.

- **Fair Labor Standards Act of 1938, as Amended (FLSA), (29 USC 201, et.seq.)**

  Establishes minimum wage, overtime pay (40 hour workweek), recordkeeping, and child labor standards. When prevailing rates apply, in general all the above statutory provisions apply except to the rehabilitation of residential property only if such property contains no less than eight (8) units.
- **Davis-Bacon (DBA) Compliance**
  
  Davis-Bacon applies when:
  - CDBG funds are used to fund “in whole or in part” construction contracts of more than $2,000
  - Demolition activities to be followed by on-site construction
  - Installation of equipment that is considered more than an incidental amount (12%) of the overall project cost

  Davis-Bacon does NOT apply:
  - CDBG funds used to fund non-construction “soft costs” (land and building acquisition, equipment, engineering services, etc.)
  - CDBG-funded demolition with no on-site construction contemplated

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**LABOR STANDARDS PROCEDURES OVERVIEW**

Grantees must develop a compliance and enforcement program that ensures all applicable labor standard requirements are met. The grantee, the grant administrator, and the engineer must work together to ensure compliance with Davis-Bacon and related acts. The grantee must designate someone as the Labor Standards Compliance Officer (LSCO) with the overall responsibility to coordinate and ensure compliance with all appropriate labor standards regulations and maintenance of an accurate filing system. The final responsibility for compliance rests with the grantee.

**Labor Standards Compliance Officer (LSCO) Responsibilities:**

- Secure applicable general wage determination
- Ensure all applicable wage rates and labor standard provisions are included in the bid specifications and contract documents
- Monitor contractor compliance, to include (but not limited to):
  - Receive and review weekly payrolls submitted by contractor and subcontractors
  - Assure all federal and state posters are properly displayed at the project work site
  - Conduct employee interviews with all wage classifications
- System for Award Management (https://www.sam.gov/)
  - Verify that contractor/subcontractor are on the system for award management prior to award of contract
  - Verify contractor/subcontractor company name; or
  - Verify contractor/subcontractor owner by name
Establish Construction and Labor Standards Filing System
The following list contains major steps for the grantee to take in properly organizing construction and labor standards documents.

1) All land and/or easement acquisition documentation, if applicable.
2) Preliminary design and cost estimates
3) Wage determination
4) Final design and cost estimates
5) Construction bid package
6) Approval of bid documents by authorities having jurisdiction over the project
7) Proof of publication for bid advertising. This file may also include letters utilized to specifically solicit for minority/women contractor participation.
8) Wage determination verification 10 days prior to bid opening
9) Bid opening minutes and bid tabulations
10) Verification of contractor and/or owner eligibility (https://www.sam.gov/)
11) Written recommendation for award of contract
12) Executed construction contract(s). MUST include contracts with subcontractors.
13) Pre-construction conference minutes or evidence of meeting with contractor
14) Notification to the Department of contract award (LSE7 Notice of Award due within 10 days after award)
15) Contractors/subcontractors weekly payrolls and evidence of review. (Note: copies of the first, third, and fifth (1, 3, 5) payrolls from each contractor must be sent to the Department.)
16) Verification of posters at job site; submit a picture to the Department with the first payroll
17) Other related correspondence

Bid Requirements, Procedures, Provisions
The regulations to be followed in the bid process include the following:
- HUD CPD 570.502 Retention and Access Requirements for Records
- Code of Federal Regulations 2CFR Part 200 Chapter 300 Procurement
- Safe Construction in Nebraska Brochure

Acquisition Procedures
The grantee must have finalized all land acquisition, right-of-ways and easements necessary for carrying out the project prior to bid advertising. The grantee or architect/engineer must also notify all public utilities, gas, water, electrical, sewer or drainage services that might have any underground installations within the project area. A copy of any such plat/diagram received must be included in the bid and contract document.

Bid Package Procedures
The architect/engineer will normally prepare the technical bid specifications. These specifications must provide a clear and accurate description of the technical requirements for materials, products and/or services to be provided and under which the work is to be performed. The plans and specifications must be stamped by an architect/engineer registered by the state and in accordance with Nebraska statutes. Refer to the Safe Construction in Nebraska brochure, which is located at http://www.ea.ne.gov/PDFs/scbrochure.pdf. It is important that the grantee and certified grant administrator be involved in the bid process.
Cost Estimate Format
The bid package must include cost and pricing formats. Generally the street, water, sewer, utility and landscaping project will be unit price contracts, while building type contracts will be lump sum. For unit cost contracts, the bid specifications should delineate each type of item, estimating quantity, unit price and estimated total cost.

Wage Determinations
The grantee should determine, at least 30 days prior to advertising for bids, if a general wage determination is required for the specific project.

General Wage Determination
A general wage determination generally applies to heavy construction (such as public facilities), highway construction, building, and residential.

The grantee, through the certified grant administrator, is responsible for obtaining the correct wage determination for their project. The wage determinations can be accessed at http://www.wdol.gov.

Steps to Access Wage Determinations

1) Website:  http://www.wdol.gov
2) Select State
3) Select County where project is located
4) Select Construction Type (heavy, highway, building, residential). Description of construction types are located at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbook/s/sech/13441
5) Print wage determination to be included in bid documents and a copy for the file
6) Ten (10) days prior to bid opening, check wage determination to make sure it has not been updated

It is recommended that the grantee sign up for “Alerts” to ensure that the correct wage determination is in effect at the time of bid opening. Updates to wage decisions are typically published on Fridays. If a wage determination is updated 10 days prior to bid opening, an addendum to the bid documents will be required and all entities who have received a bid package will need to be provided with the updated wage determination.

The general wage determination is in effect for the life of the project unless a contract is not awarded within 90 days of the bid opening. If a contract is not awarded within 90 days of bid opening, then a new wage determination is required.

Bid Package Requirements
The grantee may download the “Construction Compliance Packet-Bid Documents” from the Department website, http://www.neded.org/community/grants/applications/cdbg-forms. These documents must be included in the bid package:

- Attachment 1 Bonding and Insurance Requirements;
- Attachment 3 Civil Rights and Equal Opportunity Provisions;
- Attachment 3a Certification of Bidder Regarding Section 3 and Segregated Facilities;
- Attachment 3b Contractor Section 3 Plan;
- Attachment 4 Special Equal Opportunity Provisions;
- Attachment 5 Access to and Maintenance of Records; and
- Attachment 6 Clean Air and Water Acts Required Clauses. In addition,
- HUD 4010 must also be included; this form can be found at:

The “Construction Compliance Packet-After Award” is located on the Department’s website, http://www.neded.org/community/grants/applications/cdbg-forms. The information contained here identifies documents that need to be submitted to the Department once the contract is awarded and also the documents that need to be shared with the contractor at preconstruction. Documents can be downloaded using the links that are provided. Forms that are available include:
- “Contractors Guide to Davis-Bacon Wage Requirements and Certified Payrolls”;
- Contract Work Hours and Safety Act (CWHSSA);
- Payroll Form WH347;
- Employee Interview Form HUD-11; and
- Multiple posters required to be posted at the work site (Notice to All Employees; Equal Employment Opportunity is the Law; You Have a Right to a Safe and Healthful Workplace, and other posters as mandated by the Nebraska Department of Labor. In addition, the wage determination and all additional wage classifications must also be prominently posted at the work site and accessible to all employees.

**Attorney Review**

The Department recommends that the grantee’s attorney review the bid package in its entirety to ensure compliance with applicable state and local laws. If the project falls under the jurisdiction of a state or other outside agency (i.e. State Fire Marshal, Health Department, etc.), the bid package should also be reviewed by the appropriate agency.

**Bids Advertised**

Once bid documents are prepared and the current wage determination is secured, the grantee must solicit bids through public advertising. Bid advertisements must conform to state law and local ordinance, with respect to schedule and number of times advertised. In addition, the grantee may also solicit bids from firms, if it maintains a list of bidders.

**Verification of Wage Determination**

*Ten days prior to the opening bid date*, the grantee must check online at http://www.wdol.gov to determine if there have been any modifications or replacement of the general wage determination previously issued. The grantee must print the wage determination as documentation that the verification has been made in the allotted time. This is important because if the wage determination has changed, the grantee is liable for any difference in the increased wages for the project if the contractor is not provided with the new wage determination. Updates to wage decisions are typically published on Fridays.

**Bid Amendments**

If bid documents are amended during the advertisement period, an addendum to the bid documents must be included in the bid documents and sent to all bidders who have received bid documents. If a
wage determination modification or new wage determination is published prior to bid opening, the grantee must send them as an addendum to all contractors who received the original bid package.

**Bid Opening and Evaluation**
All bids received must remain sealed and in a safe place until the bid opening. All bids received should be logged in with the time, date of receipt, name of offeror, and procurement number.

The public bid opening should be conducted in a business-like manner. The bids should be read aloud during the bid opening meeting. The apparent low bidder will be determined during the bid opening. However, the bids also must be reviewed for both technical and legal responsiveness. In addition, the bidders must be evaluated as having the capacity to furnish products and/or services required. Minutes of the bid opening, a tabulation of the bids, and copies of all bids received should be placed in the contract file.

**WHEN BIDS ARE HIGHER THAN COST ESTIMATES**

**Negotiation Procedures**
When the lowest bid exceeds the amount allocated for the project, the grantee may negotiate with the low bidder in accordance with Nebraska statutes to bring the contract within the available funding level. The grantee can reject all bids or provide needed funds from other sources or through reallocation of CDBG funds. If the grantee has reason to believe available funds are likely to be inadequate for the full scope of work proposed, the grantee should request deductible alternatives in the bid document so that the project can proceed in a timely fashion and not require a second solicitation.

**Deductible Alternatives**
If deductible alternatives are requested, the bid document must specify the method and order in which alternatives will be applied in determining the low bid. Drawings also must clearly show the alternative. For example, if the project was for 1,500 linear feet of street construction, sidewalks, street lighting, and replacement of sanitary sewer lines, 300 linear feet of sidewalks might be a deductible alternative. The desirability of using this method when cost estimates are very close to the amount of available funds (or if cost estimates are based on roughly comparable projects) cannot be overestimated. Failure to do so may require modification of bid packages and a repetition of the entire process with delays in project implementation.

If this method is not used and the bid exceeds the amount allocated, the grantee can provide the additional funds from other sources.

**CONTRACT AWARD/CONTRACTOR RESPONSIBILITIES/NOTICE TO PROCEED**

Citation
- Code of Federal Regulations 2 CFR 200 Chapter 300 Procurement, 2 CFR 200.325 (Bonding Requirements)
- Code of Federal Regulations 2 CFR 200.318 (i) (Retention and access requirements for records)
- HUD CPD 570.502(a)(16) (Retention of Records)

**Verifying Contractor**
Prior to award of the contract, the grantee must check the System for Award Management (http://sam.gov) to make sure the proposed prime contractor and all subcontractors are not on the
federal list of debarred, suspended, or ineligible contractors. The grantee must check the company, as well as the owner of the construction company. The grantee must print the result(s) of the search and retain in their files.

**Contract Award Procedures**
The contract must be awarded to the lowest responsible bidder. The successful bidder must have employees who will perform activities on the project. If the contract is awarded to other than the low bidder, the grantee must prepare a written statement explaining why each lower bidder was deemed non-responsible or nonresponsive. To be responsive, the bidder must have submitted a written Section 3 plan, if the contract equals or exceeds $100,000.

Following award of the contract, the contract documents and applicable bonding and insurance must be completed and executed. Contract documents include all the items contained in the bid package, as well as the executed contract, bid proposal, contractor certifications, and bond and insurance forms.

**The Notice of Contract Award (LSE 7) Must Be Sent To The Department Within 10 Days Of Award.**
The Notice of Contract Award includes the project name and location, the number of the applicable wage determination, the name of the business awarded the contract, the contract amount, and the name of the person identified by the municipality as responsible for labor standards compliance. If there are multiple contracts with the grantee, a separate LSE7 must be submitted for each contractor.

**Meet with Contractor**
Prior to the start of construction, the grantee must meet with the principal contractor and all available subcontractors to instruct them on their responsibilities under the Labor Standards provisions. This meeting can take place at the preconstruction conference. Written documentation of the meeting must be placed in the file. Attachment 10 is a sample of the items to be discussed at the meeting.

Below is a list, not all-inclusive, of items to be discussed:
- Davis Bacon (including submission of weekly payrolls)
- Employee interviews, using the HUD-11 Form (Spanish or English)
- Posters for the job site including, but not limited to the Employee Rights Under the Davis-Bacon Act (WH1321), Job Safety and Health Protection (OSHA 3165), and Equal Opportunity Employment, other posters as required by the Department of Labor
- Copy of the wage determination and additional classification approvals, which MUST be posted at the job site
- Written contract(s) between prime contractor and all subcontractors
- Written contract(s) between subcontractors and subcontractors and any independent contractors

**Additional Worker Classifications and Wage Rates**
The preconstruction conference or similar meeting provides a time to review the wage determination to see if any additional classifications and wage rates will be required. If any wage classification(s) is not listed in the wage determination, and are to be used, an additional wage classification request (Attachment 11 and HUD 4230A) must be submitted to the Department. [NOTE: Attachment 11 is located in Chapter 9 of the Administration Manual. HUD 4230A is located online at: www.hud.gov/offices/adm/hudclips/forms/files/4230a.doc ] The request is to include:
- A letter from the awarded contractor stating what is paid hourly; generally, you will want to select the employee who is receiving the lowest wage rate for the classification being added
(wages and bona fide fringe benefits) to the employees in the needed classifications (this work cannot be performed just in any classification in the wage determination)

2) A description of the work to be performed for each wage classification,
3) A statement on whether employees are union or non-union, and
4) Documentation that the interested parties and contractors, agree on the proposed classification and wage rate.

The request cannot involve wage rates for apprentices or trainees. Refer to Attachment 11 for an example of the information required to be sent to the Department. Upon receipt of the information, the Department will issue a temporary additional wage classification. The Department will forward the information to DOL. Once the Department receives confirmation, the grantee will be notified. In the interim, the contractor and/or subcontractor(s) must continue to pay the employee the rate outlined in the request. If the DOL approval rate is higher than the recommended rate, the contractor must pay restitution to all workers impacted by the DOL approval.

**Wage Rate Exceptions**

Apprentices and trainees may work at less than prevailing wage rates only if they are registered in a bona fide apprenticeship program that has been approved by DOL. If you have apprentice(s) listed on the payroll, please review page 2-6 in *Davis-Bacon Labor Standards: A Contractors Guide to Prevailing Wage Requirements for Federally Assisted Construction Projects.* Nebraska does not have a State Apprenticeship Council (SAC). If apprentices are used on the job site, each apprentice is required to be registered for an U.S. DOL-approved apprenticeship program. Apprenticeship programs can be verified at:  http://oa.doleta.gov/bat.cfm

**Notice to Proceed**

Following execution of the contract documents and completion of the preconstruction conference, the grantee will issue a “Notice to Proceed” to each prime contractor to begin work. The Notice to Proceed must establish the construction start date, scheduled completion date, and the basis for assessing liquidated damages. The construction period and basis for assessing liquidated damages must be consistent with these sections of the contract documents.

**COMPLIANCE /MONITORING/PAYMENTS**

**Citation**

- Code of Federal Regulations 2 CFR 200.328. “Monitoring and reporting program performance,” except paragraphs (b) through (D) and paragraph (f)
- Code of Federal Regulations 2 CFR 200.420 (allowable costs)
- Labor Standards Regulations (HUD 4010)
- Contract Work Hours and Safety Standards Act (CWHSSA)
- Davis-Bacon Act & Related Acts
- Copeland Act (Anti-Kickback)

**Monitoring**

Construction contracts are monitored to ensure compliance with technical specifications and federal standards. Grantees are to maintain adequate cost and budget controls and process necessary contract changes to bring the contract to completion.
Progress Procedures
Upon receiving the Notice to Proceed, the contractor must submit a cost breakdown showing the amount assigned to each portion of work. This breakdown is not required when per unit prices form the basis of payment under the contract. This breakdown must be reviewed by the grantee and architect/engineer and used as the basis for requests for payment. The breakdown should be submitted within ten days of the Notice of Proceed.

Payroll Verification
The grantee must obtain original signed weekly payrolls (no pencil) from all general contractor(s) and subcontractor(s) accompanied by the statement of compliance (WH347). Payrolls should be submitted within seven working days of the end date on the payroll form.

Local labor compliance officer responsibilities (as outlined in HUD Handbook 1344-1, Rev. 2):

1) Review payrolls against the wage determination for the project; request correction of any errors that may be encountered
2) Ensure correct wage classification and wage rates are being used
3) Ensure proper payment of overtime compensated at one and one-half times the basic rate of pay or current rate of pay if it is higher than the Davis-Bacon Rate + Standard Hourly Fringe Benefit.
4) Review deductions for non-permissible deductions
5) Ensure that the ratio of laborers to mechanics is in sync
6) Statement of compliance is signed by the owner or a documented owner approved official of the company
7) Ensure contractor is paying weekly
8) Ensure payrolls are being provided weekly
9) Local labor compliance officer should initial for verification
10) Ensure original payroll’s (with original signatures) are on file
11) Ensure compliance with the DBRA Checklist

The checklist for payroll review, based on DBRA, is included in the attachments at the end of this chapter. This should be used to check compliance on each payroll.

Clarification Concerning Laborers/Mechanics
The local labor compliance officer should be cognizant of the number of laborers reported on a payroll. If there is a high ratio of laborers on the payroll(s) and you have not visited the job site, you should visit the site to verify that the laborers are classified correctly. It is also advisable to be cognizant of a high ratio of a mechanic classification. Request list of duties for workers and if warranted ensure workers are reclassified and restitution is paid.

The Occupational Outlook Handbook is the government's leading source of career information including job descriptions. You can access the occupational handbook here: http://www.bls.gov/ooh/

“O”Net Online (http://online.onetcenter.org/), which is sponsored by the U.S. Department of Labor, is another good source for researching job duties in relation to worker classification. For example, “O”Net summarizes the Construction Laborer 47-2061.00 as such: Perform tasks involving physical labor at construction sites. May operate hand and power tools of all types: air hammers, earth tampers, cement mixers, small mechanical hoists, surveying and measuring equipment, and a variety of other equipment.
and instruments. May clean and prepare sites, dig trenches, set braces to support the sides of excavations, erect scaffolding, and clean up rubble, debris and other waste materials. May assist other craft workers.

**Clarification Concerning Payroll Deductions**

When reviewing submitted payrolls it is important to look at the type of deductions. If there are deductions for either miscellaneous or other categories, these categories must be explained on the Statement of Compliance form. If the deductions do not fall into the categories listed below, there should be a written, dated authorization letter signed by the employee stating what the deduction is for and the amount of the deduction.

The following information can be found on page 2-11 of the Davis-Bacon Labor Standards: A Contractor’s Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects:

g. Deductions - Show the amounts of any deductions from the gross earnings. “Other” deductions should be identified (for example, Savings Account or Loan Repayment). Any voluntary deduction (that is, not required by law or by an order of a proper authority) must be authorized in writing and dated by the employee or provided for in a collective bargaining (union) agreement. A written letter dated and signed by the employee is required and must accompany the first payroll on which the ‘other’ deduction appears.

Only one employee authorization is needed for recurring (e.g., weekly) other deductions. Written employee authorization is not required for income tax and Social Security deductions.

The following is quoted from 29 CFR 3.5 (http://law.justia.com/cfr/title29/29-1.1.1.4.0.1.5.html)

(d) Any deduction constituting a contribution on behalf of the person employed to funds established by the employer or representatives of employees, or both, for the purpose of providing either from principal or income, or both, medical or hospital care, pensions or annuities on retirement, death benefits, compensation for injuries, illness, accidents, sickness, or disability, or for insurance to provide any of the foregoing, or unemployment benefits, vacation pay, savings accounts, or similar payments for the benefit of employees, their families and dependents: *Provided, however, That the following standards are met:* (1) The deduction is not otherwise prohibited by law; (2) It is either: (i) Voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for the obtaining of or for the continuation of employment, or (ii) provided for in a bona fide collective bargaining agreement between the contractor or subcontractor and representatives of its employees.

**Payroll Verification Submitted to the Department**

The grantee must submit a copy of the first, third, and fifth (1,3,5) completed payroll forms from each contractor and subcontractor to the Department. Any discrepancies must be reported to the contractor and the Department, along with the steps taken or being taken to resolve discrepancies. These discrepancies should either be resolved or in the process of being resolved before the payrolls are submitted to the Department. **Failure to provide corrected payrolls can result in payment being withheld from contractor/subcontractor.**
On-Site Visits/Interviews
Site visits should be made to confirm that all required posters, the correct wage determination(s) and additional wage classifications and wage rates, are prominently posted and accessible to all employees at the job site.

In addition, a site visit provides the opportunity to observe the employee performing the wage classification listed for that specific time period and conduct on-site interviews. HUD-11, Record of Employee Interview (http://portal.hud.gov/hudportal/documents/huddoc?id=11.pdf), is to be used for all interviews. The Department encourages the labor compliance officer or another appropriate person to visit the construction site a minimum of three (3) times to verify that the posters and wage determination(s) are posted and to conduct the employee interviews. Documentation must be provided to reflect the appropriate display of all posters and wage determinations. All information received from the on-site interviews must be compared to the information contained in the applicable contractor’s payrolls. The reviewer must sign and date the interview form for proper verification of review.

The Labor Standards Compliance Officers in the field will complete the Department’s Davis Bacon & its Related Acts checklist for every payroll they review. Original forms will be retained in the grantee file and copies of the checklist for payroll(s) 1, 3, & 5 and others upon specific request will be submitted to the Department.

Construction Management
During construction, the grantee is responsible for construction management. This may be done by the architect/engineer, and if so, should be included in the scope of services identified in the professional services contract. Construction management must include inspection and general supervision of construction, in order to check the contractor’s work for compliance with the drawings and specifications and quantity and quality control. Written inspection reports must accompany the contractor’s requests for partial payment.

- General Supervision must include monitoring construction to alert the grantee as to need for adjustments in design as dictated by actual field conditions and the preparation of contract amendments affecting alignment, detail, or dimensions shown on drawings.
- Quality Control must include quality tests as necessary to verify conformity with technical specifications concerning minimum quality requirements.
- Quantity Control must include verification of in-place quantities and other records reflecting the as-built facility.
- Certification of Pay Estimates - Inspection reports, copies of field measurement notes, and test results used to verify contractor’s periodic pay estimate for partial payment should be attached to and filed with the periodic estimate for partial payment.
- General construction management may include other responsibilities, not limited to providing horizontal and vertical control in the form of benchmarks and baselines to be used by the contractor in staking the construction, reviewing and approving of shop drawings, and coordinating the project.

Payment Procedures
On completion of agreed upon quantities of work, the contractor may submit to the grantee, requests for partial or progress payments. Written inspection reports must accompany the contractor’s requests for partial payment. Inspection reports, copies of field measurement notes, and test results used to
verify contractor’s periodic pay estimate for partial payment should be attached to and filed with the periodic estimate for partial payment.

On receipt of Certificates for Partial Payment and necessary documentation, the grantee must check Equal Opportunity and Labor Standards compliance files to ensure that all payrolls have been received and checked and any necessary restitution paid and that employee interviews (Form HUD-11) have been conducted and all discrepancies corrected. The grantee may then pay the contractor the amount requested, or up to 90% of the amount requested, depending on contract (the 10% would be retained until final completion and acceptance of the work).

Change Orders
The construction inspector and/or architect/engineer must prepare change orders. Change orders are generally permissible under state law. The cumulative cost of all such orders should not exceed 25 percent of the original contract price and these changes are not to constitute a major alteration of the original scope of work. Each change order must be accompanied by a supporting statement that describes why the change is necessary, cost estimates, and any needed plans and specifications. The grantee must approve and authorize change orders before they are given to the contractor. Change orders should be kept to an absolute minimum.

Acceptance of Work
Before final payment approval, the contractor must complete the conditions in the bid contracts. The contract may request an acceptance of work from the grantee that indicates the work has been completed according to the contract. The grantee must place the acceptance of work in the contract file. Change orders and receipts for project payments must be filed. The files must be reviewed by the grantee for completeness before the acceptance of work form is approved. The contractor must file an as-built plan with the grantee to receive project approval. The grantee can then issue an acceptance of work and final payment less any funds retained after the contractor has completed the project and files are complete.

The contractor should file the acceptance of work from the grantee at the designated location. The grantee should require the contractor to submit lien waivers from all subcontractors, if any. The lien waivers must be submitted from the materials and labor subcontractor at the contractor prior to filing an acceptance of work form. The subcontract lien waivers must be placed in the grantee’s contract files after the filing of the acceptance and upon submission of a clean lien certificate by the contractor; the grantee may release the retained funds to the contractor. If any claims or liens remain, the grantee must take appropriate action for disposition of retained funds and all claims against the bonds in accordance with state law. A completion of the project, the grantee must also prepare and submit to the Department a final Wage Compliance report (LSE 9).

Project Closeout
The Department will not sign-off or approve project closure if the project has outstanding labor issues. It must be ensured that the grantee/sub-recipient has all payrolls, restitution payments, HUD ills and/or discrepancies resolved prior to close out of any CDBG project.

Complaints
Complaints for violations of labor standards that occur on the prevailing wage job sites of any projects should be documented in an interview with the worker who has suffered the violation being documented. The HUD-4731 Complaint Intake Form, which is filled out by the labor compliance officer
or the grant administrator, is to accompany the interview that cites the violation. The complaint will then be reviewed by the Department and by HUD. This information should be sent by the grant administrator to the program representative from the Department. The worker’s option to file a complaint should be made publically known on the job site, in the area where the wage determinations have been posted. The contact information of the grant administrator and the labor compliance officer should also be made easily accessible, in the event that workers may have labor standards related questions.
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Federal Labor Standards Complaint Intake Form ............................................. HUD-4731

DBRA Checklist

DOL/HUD Documentation
- Making Davis-Bacon Work: Contractor’s Guide to Prevailing Wage Requirements for Federally-Assisted Construction
- Instructions for WH-347

Federal Posters:
- Notice to All Employees WH-1321
- Instructions for “Notice to All Employees” Poster
- Job Safety and Health Protection OSHA 3165* (English) (Spanish)
- Instructions for Posting “Job Safety and Health Protection Poster (English) (Spanish)
  *The OSHA 3165 poster also contains Whistleblower protections that must also be posted
- Equal Employment Opportunity (English) (Spanish)
- Instructions for “Equal Opportunity” Poster (English) (Spanish)
- Employee Polygraph Protection Act (English) (Spanish)
- Instructions for EPPA Poster (English) (Spanish)
- Uniformed Services Employment and Reemployment Rights Act (English)
  (Not currently available in Spanish)
- Instructions for USERRA Poster (English) (Not currently available in Spanish)
- E-Verify Participation (English) (Spanish)
- Right to Work (English) (Spanish)
State Posters:
- “Notice to All Employees” – Nebraska Department of Labor (English) (Spanish)
- Discrimination in Employment Housing, Public Accommodations is Prohibited by State Law (English) (Not currently available in Spanish)
- Unemployment Insurance Advisement of Benefit Rights (English) (Spanish)
- 3-in-1 State Labor Law Poster (English) (Spanish)
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All links below may not be up to date. Go to the HUD Portal (http://portal.hud.gov/hudportal/HUD) or the US Department of Labor website (http://www.dol.gov/) to verify that you are utilizing the most up to date information and documents.

#### Contract Documents

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#### Labor Standards Enforcement Forms

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#### DOL/HUD Forms

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#### DOL/HUD Documentation

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#### Posters

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Nebraska Department of Labor Posters.............................................. https://dol.nebraska.gov/LaborStandards/RequiredPosters

Non DOL/HUD Documentation
Safe Construction in Nebraska Brochure.............................................. www.ea.ne.gov/PDFs/scbrochure.pdf
NEDED/CRD CDBG Library & Forms.............................................. www.neded.org/community/grants/documentslibrary-a-forms
(h) Bonding requirements. For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold*, the awarding agency may accept the bonding policy and requirements of the grantee or subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

*fixed at 41 U.S.C. 403(11) (currently set at $150,000)
CIVIL RIGHTS AND EQUAL OPPORTUNITY PROVISIONS

The law provides that, “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

Section 109 of the Housing and Community Development Act of 1974, As Amended.
The law requires that, “[n]o person in the United States shall on the ground of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this chapter. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.] or with respect to an otherwise qualified handicapped individual as provided in section 794 of Title 29 also shall apply to any such program or activity.”

Age Discrimination Act of 1975, As Amended (42 U.S.C. 6101, Et, seq.).
The law provides that, “no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.”

“Section 504 provides that no otherwise qualified individual with a disability shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

The law provides that, “to the greatest extent feasible, recipients of HUD funds (and their contractors and subcontractors) provide jobs and other economic opportunities to low-income persons, particularly public housing residents. Section 3 helps create employment for low-income persons and contracting opportunities for businesses that are owned by low-income people or that provide employment to low-income people.”
CERTIFICATION OF BIDDER REGARDING SECTION 3 AND SEGREGATED FACILITIES

Name of Prime Contractor

Project Name and Number

The undersigned hereby certifies that:

(a) Section 3 provisions are included in the contract.

(b) A written Section 3 plan was prepared and submitted as part of the bidding proceedings (if bid equals or exceeds $100,000).

(c) No segregated facilities will be maintained.

Name & Title of Signer (Print or Type)

Signature

Date
CONTRACTOR
Section 3 Plan

A. _______________ agrees to implement the following specific affirmative action steps directed at increasing the utilization of lowest income residents and businesses within the Village/City/County of _______________.

B. To ascertain from the locality’s CDBG program official the exact boundaries of the Section 3 covered project area and where advantageous, seek the assistance of local officials in preparing and implementing the affirmative action plan.

C. To attempt to recruit from within the city the necessary number of lower income residents through local advertising media; signs placed at the proposed site for the project; and community organizations and public or private institutions operating within or serving the project area, such as Service Employment and Redevelopment (SER), Opportunities Industrialization Center (OIC), Urban League, Concentrated Employment Program, Hometown Plan, or the U.S. Employment Service.

D. To maintain a list of all lower income residents who have applied either on their own or on referral from any source, and to employ such persons, if otherwise eligible and if a vacancy exists.

E. *To insert this Section 3 plan in all bid documents, and to require all bidders and subcontractors to submit a Section 3 affirmative action plan that includes utilization goals and the specific steps planned to accomplish these goals.

F. *To insure that subcontractors (typically let on a negotiated rather than bid basis in areas other than Section 3 covered project areas), also are let on a negotiated basis, where feasible, when let in a Section 3 covered project area.

G. To formally contact unions, subcontractors and trade associations to secure their cooperation for this program.

H. To insure that all appropriated project area business concerns are notified of pending sub contractual opportunities.

I. To maintain records, including copies of correspondence, memoranda, etc., that document all above affirmative action steps have been taken.

J. To appoint or recruit an executive official of the company or agency as Equal Opportunity Officer to coordinate the implementation of the Section 3 plan.

K. *Loans, grants, contracts and subsidies for less than $100,000 will be exempt.

A.
SPECIAL EQUAL OPPORTUNITY PROVISIONS

A. Activities and Contracts Not Subject to Executive Order 11246, as Amended
   (Applicable to Federally assisted construction contracts and related subcontracts $10,000 and under)
   During the performance of this contract.
   (1) The Contractor shall not discriminate against any employee or applicant for employment because
       of race, color, religion, sex, or national origin. The contractor shall take affirmative action to
       ensure that applicants for employment are employed, and that employees are treated during
       employment, without regard to their race, color, religion, or national origin. Such action shall
       include, but not be limited to: employment upgrade, demotion, or transfer; recruitment or
       recruitment advertising; layoff or termination; rates of pay, or other forms of compensation; and
       selection for training, including apprenticeship.

   (2) The contractor shall post in conspicuous places, available to employees and applicants for
       employment, notices to be provided by contracting officer setting forth the provisions of the
       nondiscrimination clause. The contractor shall state that all qualified applicants will receive
       consideration for employment without regard to race, color, religion, sex, or national origin.

   (3) Contractors shall incorporate foregoing requirements in all subcontracts.

B. Executive Order 11246 (contract/subcontracts above $10,000)
   1. SEC. 202. Except in contracts exempted in accordance with Section 204 of this order, all Government
      contracting agencies shall include in every government contract hereafter entered into the following:
      During the performance of this contract:
      (1) The contractor will not discriminate against any employee a applicant for employment
          because of race, color, religion, sex, or national origin. The contractor will take affirmative
          action to ensure that applicants are employed, and that employees are treated during
          employment, without regard to their race, color, religion, sex or national origin. Such action
          shall include, but not be limited to: employment upgrade, demotion, or transfer; recruitment
          or recruitment advertising; layoff or termination; rates of pay, or other forms of
          compensation; and selection for training, including apprenticeship. The contractor agrees to
          post in conspicuous places, available to employees and applicants for employment, notices to
          be provided by the contracting officer setting forth the provisions of the nondiscrimination
          clause.

      (2) The contractor will, in all solicitations or advancements for employees placed by or on behalf
          of the contractor, state that all qualified applicants will receive consideration for employment
          without regard to race, color, religion, sex or national origin.

      (3) The contractor will send to each labor union or representative of workers with which he has a
          collective bargaining agreement or other contract or understanding, a notice, to be provided
          by the [Contract Compliance Officer], advising the labor union or workers' representative of
          the contractor's commitments under Section 202 of Executive Order No. 11246 of September
          24, 1965, and shall post copies of the notice in conspicuous places available to employees and
          applicants for employment.

      (4) The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965,
          and the rules, regulations, and relevant orders of the U.S. Secretary of Labor.

      (5) The contractor will furnish all information and reports required by Executive Order No. 11246
          of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or
pursuant thereto, and will permit access to their books, records, and accounts by the [Department] and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract, or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the [Department and the] Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction [by the Department], the contractor may request the United States to enter into such litigation to protect the interests of the United States [italics added]."
ACCESS TO AND MAINTENANCE OF RECORDS

The Consultant/Contractor agrees to maintain such records and follow such procedures as may be required under HUD Community Planning and Development (CPD) subpart J, 570.502 (paragraph a. 16.) and 2 CFR 200.318(i) and any such procedures that the Department may prescribe. In general such records will include information pertaining to the contract, obligations and unobligated balances, assets and liabilities, outlays, equal opportunity, labor standards (as appropriate), and performance.

All such records and all other records pertinent to this contract and work undertaken under this contract shall be retained by the Consultant/Contractor or grantee for a period of three years after the final audit of the grantee’s CDBG project, unless a longer period is required to resolve audit findings or litigation. In such cases, the grantee shall request a longer period for record retention.

The grantee, the Department and duly authorized officials of the state and federal government shall have full access and the right to examine any pertinent documents, papers, records and books of the Consultant/Contractor involving transactions to this local program and contract.

Conflict of Interest
From 2 CFR 200.318(c)(1), no officer, employee or agent of the grantee who will participate in the selection, the award, or the administration of this grant, may obtain a personal or financial interest or benefit from the activity or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. It is further required that this stipulation be included in all subcontracts to this contract. Upon written request, exceptions may be granted on a case-by-case basis when it is determined that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the recipient’s program or project. These exceptions are granted by the Department.
CLEAN AIR AND WATER ACTS – REQUIRED CLAUSES

This clause is required in all third-party contracts involving projects subject to the Clean Air Act (42 U.S.C. s/s 7401 et seq. (1970)), the Federal Water Pollution Control Act (33 U.S.C. 1251 et. seq.), and the regulation of the Environmental Protection Agency with respect to 40 CFR32 as amended. It also should be mentioned in the bid document.

During the performance of this contract:

(1) The CONTRACTOR will certify that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the List of Violating Facilities issued by the Environmental Protection Agency pursuant to 48 CFR 9.40 and 40CFR32.20.

(2) The CONTRACTOR agrees to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 U.S.C. 7414) and Section 308 of the Clean Water Act, as amended (33 U.S.C. 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

(3) The CONTRACTOR agrees that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, and Environmental Protection Agency, indicating that a facility utilized, or to be utilized for the contract is under consideration to be listed on the Environmental Protection Agency List of Violating Facilities.

(4) The CONTRACTOR agrees that it will include or cause to be included the criteria and requirements in Paragraphs (1) through (4) of this section in every nonexempt subcontract and require every subcontractor to take such action as the government may direct as a means of enforcing such provisions.
The following Labor Standards requirements were discussed and reviewed with ______ representing ______ who will undertake this project.

- Prevailing wages as set forth in the Davis-Bacon Act must be paid on this project. Required wage rates are contained in Wage Determination_______Mod#_______Date_______
- Overtime provisions as listed in the Contract Work Hours and Safety Standards Act must be followed. Time and a half must be paid to any worker employed in excess of 40 hours on the job site on all directly-funded prime contracts of $100,000 or higher.
- The Wage Determination and Wage Poster must be prominently displayed on the job site for the duration of the construction.
- Verify eligibility of all subcontractors and prime contractors via www.sam.gov
- Employees must be paid on a weekly basis.
- All workers on the job site must be eligible to work in the U.S. – either e-verified or I-9 verified.
- Payrolls covering all workers on the project must be submitted to ________________ on a weekly basis, from the time the work begins until it is completed, and no later than seven days following completion of the workweek. No payroll is needed if no work is performed, but payrolls must be numbered with the last one marked “Final”.
- To ensure cooperation, employees are to be informed that onsite interviews will be conducted by the Labor Standards Compliance Officer, ___. Contractors are to ensure workers understand conditions of pay on federally assisted projects and who the Standards Compliance contact is if needed.
- Proper certification from the U.S. Department of Labor, Bureau of Apprenticeship and Training, will be required whenever apprentices are employed.
- Written contract(s) with all subcontractors to include amount of contract, HUD Form 4010, Federal Labor Standards (such as wage determinations), and all CDBG requirements.
- Withholding of payments may occur if all applicable provisions are not followed.
- Underpaid workers must be paid proper wages through restitution.
- Liquidated damages $10/per day/per worker/per violation may be assessed for each violation of the Contract Work Hours and Safety Standards Act.
- Federal Labor Standards provisions apply to the general contractor and to all subcontractors on the project. The prime contractor is responsible for payment of employees of the subcontractors in compliance with labor standards provisions.
- Wage restitution may be due to employees for failure to observe the proper ratio of journeymen to apprentices, or for allowing apprentices to work alone or for misclassification of workers.
- Written authorizations for signature on the statement of compliance is required from owner, president, or authorized officer as documented in writing by the owner/president.
- Written, dated, and signed authorizations from workers are required for all “other” payroll deductions.
- A listing of contractors to be utilized on this project must be provided to. Any debarred, suspended or ineligible contractors may not be used.
The Labor Standards Compliance Officer must be informed of the construction start and end dates on the project.

Subcontractors must have contracts with independent contractors – scope of work, payment amount, and wage decision.

Only trades indicated in the General Wage Determination can be utilized on the project. Additional classifications will be needed for any non-listed trades.

Davis-Bacon language (HUD Form 4010) and the wage decision must be included in all project contracts including lower tier contracts.

The Labor Standards Compliance Officer needs to review the prime contract for inclusion of Labor Standards Provisions.

The following material was provided to the General Contractor on this project:

- Wage Determination # NE_____________ Mod# _______ Dated ________________
- Appropriate Posters to be Posted at the Job Site (State & Federal)
- Payroll Form Template
- Federal Labor Standards Provisions HUD Form 4010
- Sample Payrolls
- HUD-11, Record of Employee Interview (Spanish and English)

It is acknowledged that the above mentioned Labor Standards Regulations information was discussed and the related documents were transmitted to ________________________________ of ________________________________.

______________________________  ________________________________
Pre-Award Official                  Contractor
Title: ________________________________
**REQUEST ADDITIONAL WAGE CLASSIFICATION EXAMPLE**

Information to include

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<tr>
<th>(Amount/Fringe Per Hour), (Amount/Fringe Per Hour), etc.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>(Amount)</th>
<th>(Employee Name)</th>
<th>(Description Of Work Performed)</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>(Employee Name)</th>
<th>(Description Of Work Performed)</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>(Non/Union)</th>
<th>This employee is a(n)</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>(Non/Union)</th>
<th>This employee is a(n)</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Contractor Name (Printed)</th>
<th>Contractor Title (Printed)</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Contractor Name (Printed)</th>
<th>Contractor Title (Printed)</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Contractor Signature</th>
<th>Contractor Title</th>
<th>Date Signed</th>
</tr>
</thead>
</table>

Part (4) of requested information.
I [Employee Name] agree to the above written information stating my wage classification to be [Wage Classification] at the wage rate of [Wage Rate] in addition I am receiving the following bona fide benefits per hour [Amount/Fringe Per Hour].

Employee Signature ___________________________ Date ____________

Contractor Signature __________________________

Date

Please provide a written description of the activity(ies) to be performed by the wage classification.
<table>
<thead>
<tr>
<th>FROM (name and address of requesting agency)</th>
<th>PROJECT NAME AND NUMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rebecca Schademann</td>
<td></td>
</tr>
<tr>
<td>Nebraska Department of Economic Development</td>
<td></td>
</tr>
<tr>
<td>PO Box 94666</td>
<td></td>
</tr>
<tr>
<td>Lincoln, NE 68509-4666</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LOCATION OF PROJECT (City, County and State)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>BRIEF DESCRIPTION OF PROJECT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CHARACTER OF CONSTRUCTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
</tr>
<tr>
<td>Building</td>
</tr>
<tr>
<td>Heavy</td>
</tr>
<tr>
<td>Highway</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>WAGE DECISION NO. (include modification number, if any)</th>
<th>WAGE DECISION EFFECTIVE DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>COPY ATTACHED</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>WORK CLASSIFICATION(S)</th>
<th>HOURLY WAGE RATES</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>BASIC WAGE</td>
</tr>
<tr>
<td></td>
<td>FRINGE BENEFIT(S) (if any)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>PRIME CONTRACTOR (name, address)</th>
<th>SUBCONTRACTOR/EMPLOYER, IF APPLICABLE (name, address)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Check All That Apply:
- The work to be performed by the additional classification(s) is not performed by a classification in the applicable wage decision.
- The proposed classification is utilized in the area by the construction industry.
- The proposed wage rate(s), including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage decision.
- The interested parties, including the employees or their authorized representatives, agree on the classification(s) and wage rate(s).
- Supporting documentation attached, including applicable wage decision.
<table>
<thead>
<tr>
<th>Check One:</th>
<th>FOR HUD USE ONLY</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Approved, meets all criteria. DOL confirmation requested.</td>
<td>LR2000:</td>
</tr>
<tr>
<td>☐ One or more classifications fail to meet all criteria as explained in agency referral. DOL decision requested.</td>
<td>Log in:</td>
</tr>
<tr>
<td></td>
<td>Log out:</td>
</tr>
</tbody>
</table>

**Rebecca Schademann**  
Agency Representative  
(*Typed name and signature*)

___  
Date  

___  
(402) 471-3172  
Phone Number  

Chapter 9 - Construction & Labor Standards.doc  

HUD-4230A (8-03) PREVIOUS EDITION IS OBSOLETE
Employers engaged on HUD-assisted construction projects subject to Davis-Bacon wage requirements must pay no less than the wages determined to be prevailing by the Secretary of Labor to all laborers and mechanics engaged on the construction work. On occasion, the applicable Davis-Bacon wage decision does not contain all of the work classifications and wage rates needed to complete the construction work. This information collection facilitates the addition of needed work classifications and wage rates for the construction work involved. This form is used by HUD and local agencies administering HUD programs to report employer request(s) for additional classification and wage rates so that an appropriate wage rate can be approved by the Department of Labor for the construction work. This information collection is required by Department of Labor regulations at 29 CFR 5.5. While no assurances of confidentiality are pledged to respondents, HUD generally discloses these data only in response to a Freedom of Information request.

Instructions

General:
Contractors/Employers: Do not need to complete this form. Submit a written, signed request to the responsible contracting agency naming the work classifications and the wage rates, including any fringe benefits, that are proposed.

Local Agency Staff: Complete items 2 through 10. Submit one copy of this form to the responsible HUD Labor Relations Office with a copy of the applicable Davis-Bacon wage decision and the written request from the employer naming the work classifications and wage rates that are proposed. (The employer’s request must be made in writing and must be signed.)

1. For HUD or State CDBG Office use. Enter the name and address of HUD Office (or State CDBG office) submitting the report and to which the DOL reply should be sent.
2. Enter the name and number of the project or contract involved.
3. Enter the location of the project involved: city, county and state.
4. Describe the construction involved, e.g., new construction or rehabilitation, number and type of buildings, number of stories, number of units (as applicable). For example, New construction: 3 – 4-story buildings; 120 units.
5. Enter the character of construction as defined by DOL for Davis-Bacon prevailing wage rate purposes.
6. Enter the number of the Davis-Bacon wage decision applicable to the construction work. Include the number of wage decision modifications (if any) applicable to the work.
7. Enter the effective date of the wage decision for the project. (See DOL regulations at 29 CFR 1.6.)
8. Enter the work classifications and corresponding hourly basic wage rates and fringe benefit rates (if any) requested.
10. If the requesting employer is not the prime contractor, enter the name and address of the subcontractor/employer making the request.
Remainder of Form: HUD Labor Relations/State CDBG use.

HUD Labor Relations/State CDBG Staff: Evaluate the employer’s request against the criteria for approval (see DOL Regulations, 29 CFR Part 5, and related contract labor standards provisions). The criteria are reflected in “checklist” form to ensure that each factor is considered and to ensure that supporting documentation, including a copy of the applicable wage decision, is attached. Check the box next to each criterion that is met; do not check the box next to any criterion that is not met.

If the request meets all criteria, check the appropriate box, enter the name and telephone number of the HUD/State CDBG agency representative, and sign and date the form. Submit one copy of the completed form to the DOL with a copy of the applicable Davis-Bacon wage decision and the written request from the employer involved.

If the request fails to pass all criteria, check the appropriate box, enter agency contact information, and sign and date the form. Submit one copy of the completed form to the DOL with a copy of the applicable Davis-Bacon wage decision, the written request from the employer involved, and a cover letter explaining how the employer’s request failed to meet one or more of the criteria.

Submission of Report

Completed forms shall be sent to: Branch of Construction Wage Determinations, U.S. Department of Labor, 200 Constitution Avenue, NW, Room S-3014, Washington, DC 20210.

HUD-4230A (8-03) PREVIOUS EDITION IS OBSOLETE
<table>
<thead>
<tr>
<th><strong>LSE7 Notice of Contract Award</strong></th>
<th>this form must be completed within 10-days after contract award. The form must be filled out for the General Contractor &amp; Sub-contractor(s) working on the CDBG awarded project.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. CDBG Grant Number</td>
<td>CDBG Grantee</td>
</tr>
<tr>
<td>2. Fed Wage Determination #</td>
<td>Modification #</td>
</tr>
<tr>
<td>3. Bid Opening Date</td>
<td></td>
</tr>
<tr>
<td>4. Contract Award Date</td>
<td>Contract Amount</td>
</tr>
<tr>
<td>5. Contractor Name &amp; Address</td>
<td>Description of Work</td>
</tr>
<tr>
<td>6. Subcontractor</td>
<td>Brief Description of Work (i.e. electrician)</td>
</tr>
<tr>
<td>7. Labor Standards Designee</td>
<td>Address</td>
</tr>
<tr>
<td>8. Signature</td>
<td>Date Signed</td>
</tr>
</tbody>
</table>

Individuals, who are hearing and/or speech impaired and have a TDD, may contact the department through the Statewide Relay System by calling (800) 833-7352 (TDD), or (800) 833-0902 (voice). The relay operator should be asked to call DED at (800) 426-6505, or (402) 471-3111.

Submit the LSE7 form to: Rebecca Schademann, Labor Standards Specialist, Nebraska Department of Economic Development, Housing and Community Development Division P.O. Box 94666, Lincoln, NE 68509-4666 Telephone: (402) 471-3172 or (800) 426-6505, Fax: (402) 471-3778, email: rebecca.schademann@nebraska.gov
## FINAL WAGE COMPLIANCE REPORT

Community Development Block Grant (CDBG)  
Nebraska Department of Economic Development

<table>
<thead>
<tr>
<th>Grantee:</th>
<th>Project Completion Date:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>CDBG Grant:</th>
<th>U.S. DOL Wage Rate Determination No:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Program Rep:</th>
</tr>
</thead>
</table>

1. While you or your representative were reviewing the contractor’s weekly payrolls, were any laborers or mechanics paid less than the minimum wage rate plus fringe benefits as specified in the Secretary of Labor’s Wage Determination No. that applied to this project?  
   - No  
   - Yes

2. If yes, provide the following information:
   a. Total Amount of Restitution Paid (difference between what was first paid and what was required to be paid): $______
   b. Method of Restitution:  
      - Paid by Contractor
      - Paid by City with Funds Withheld From Payment to Contractor
   c. Contractor or Subcontractor Name  
      - Name of Affected Employees  
      - Amount of Restitution Paid to Employee  
      - Nature of Violation Leading to Restitution

---

Signed – Local Labor Compliance Officer  
Printed name - Local Labor Compliance Officer  
Date

CDBG Manual 9-35  
Revised July 2015
## Davis Bacon & its Related Acts (DBRA) Checklist

### Preparation

<table>
<thead>
<tr>
<th>Checklist Items</th>
<th>Yes</th>
<th>No</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Have all Contractors (Prime &amp; Sub(s)) had their eligibility verified?</td>
<td>☐</td>
<td>☐</td>
<td>If no, go to <a href="http://www.sam.gov">www.sam.gov</a> to verify and print results for file</td>
</tr>
<tr>
<td>Do you have a list showing all Contractors and Subs on file?</td>
<td>☐</td>
<td>☐</td>
<td></td>
</tr>
<tr>
<td>Have Prime and Sub contractors verified the work eligibility of each worker?</td>
<td>☐</td>
<td>☐</td>
<td>E-verify or I-9 paper based verification must be performed and documented. Work eligibility should be on file.</td>
</tr>
<tr>
<td>Is there a construction start date letter on file for the Prime and Subcontractor?</td>
<td>☐</td>
<td>☐</td>
<td></td>
</tr>
<tr>
<td>Have you received the first set of payrolls within 7 to 10 days of the contract start date?</td>
<td>☐</td>
<td>☐</td>
<td>This applies to contractors and sub-contracts</td>
</tr>
<tr>
<td>If the Prime contractor had Subs- did the Prime contractor review the Sub payrolls before submitting them to you?</td>
<td>☐</td>
<td>☐</td>
<td></td>
</tr>
<tr>
<td>Are payrolls for ALL contractors received weekly and within 7 days from the completed work week?</td>
<td>☐</td>
<td>☐</td>
<td></td>
</tr>
</tbody>
</table>

### Have payrolls been reviewed to ensure the following:

<table>
<thead>
<tr>
<th>Checklist Items</th>
<th>Yes</th>
<th>No</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>The top portion of the WH347 is totally completed</td>
<td>☐</td>
<td>☐</td>
<td></td>
</tr>
<tr>
<td>Are there no work week payrolls?</td>
<td>☐</td>
<td>☐</td>
<td>If there are no work week payrolls you will need a signed statement from the contractor of those dates not worked.</td>
</tr>
<tr>
<td>Are payrolls sequentially numbered?</td>
<td>☐</td>
<td>☐</td>
<td></td>
</tr>
<tr>
<td>Is the work ending week date block inclusive of dates in column 4?</td>
<td>☐</td>
<td>☐</td>
<td></td>
</tr>
<tr>
<td>Is there a name for each worker (on job site) transcribed in column 1?</td>
<td>☐</td>
<td>☐</td>
<td></td>
</tr>
<tr>
<td>Is there a 4-digit ID number for each worker?</td>
<td>☐</td>
<td>☐</td>
<td></td>
</tr>
<tr>
<td>Checklist Items</td>
<td>Yes</td>
<td>No</td>
<td>Comments</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------------</td>
<td>-----</td>
<td>----</td>
<td>------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Is the work ending week date block inclusive of dates in column 4?</td>
<td>☐</td>
<td>☐</td>
<td></td>
</tr>
<tr>
<td>Is there a name for each worker (on job site) transcribed in column 1?</td>
<td>☐</td>
<td>☐</td>
<td></td>
</tr>
<tr>
<td>Is there a 4-digit ID number for each worker?</td>
<td>☐</td>
<td>☐</td>
<td></td>
</tr>
<tr>
<td>Does the work classification in column 2 match a classification on the wage decision?</td>
<td>☐</td>
<td>☐</td>
<td>If employee is not classified as one of the approved classifications found on the wage decision they will need to change/conform to a trade on the wage decision. If it is not possible to change or conform the trade, then you must submit the HUD 4230A form (in word format) to the Department in order to request the needed classification for the job.</td>
</tr>
<tr>
<td>Does column 4 reflect correct pay and dates worked for each worker?</td>
<td>☐</td>
<td>☐</td>
<td></td>
</tr>
<tr>
<td>Does column 4 reflect the correct standard (s) hours and overtime (o) hours for each worker for this job site?</td>
<td>☐</td>
<td>☐</td>
<td>NOTE: Overtime for prevailing wage jobs are based on &quot;where&quot; the worker hit the 41st hour. Overtime for the prevailing wage jobs is paid for 40+ hours on the prevailing wage job site.</td>
</tr>
<tr>
<td>Are total hours calculated and entered in column 5?</td>
<td>☐</td>
<td>☐</td>
<td></td>
</tr>
<tr>
<td>Are the workers hourly rates of pay entered in column 6?</td>
<td>☐</td>
<td>☐</td>
<td>Check to see if the company pays fringe benefits. If they do- has the company provided an itemized fringe list for each worker that shows the hourly value of each fringe benefit per worker and have they provided the details of who provides any fringe benefits that are paid into plans?</td>
</tr>
<tr>
<td>Is the rate of pay equal to and/or in excess of the total prevailing wage?</td>
<td>☐</td>
<td>☐</td>
<td></td>
</tr>
<tr>
<td>Does the rate of pay X hours = total in the top half of column 7?</td>
<td>☐</td>
<td>☐</td>
<td></td>
</tr>
<tr>
<td>Did worker work other jobs during this pay period?</td>
<td>☐</td>
<td>☐</td>
<td>If yes, is the total gross amount entered in the bottom half of column 7</td>
</tr>
<tr>
<td><strong>Deductions</strong>- are there “other” deductions reflected on the sheet?</td>
<td>☐</td>
<td>☐</td>
<td>Some deductions are not allowable regardless of employee authorization; please call Rebecca Schademann if you have questions 402/471-3172</td>
</tr>
</tbody>
</table>

Some deductions are not allowable regardless of employee authorization; please call Rebecca Schademann if you have questions 402/471-3172.
<table>
<thead>
<tr>
<th>Checklist Items</th>
<th>Yes</th>
<th>No</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Does entry in column 9 equal the result of the total deductions subtracted from the 2nd half of column 7 (gross amount from all jobs)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Is there a statement of compliance for each weekly payroll?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Is the statement of compliance complete?</td>
<td></td>
<td></td>
<td>Box 4a and/or 4b must be marked. Description of other deductions and bona-fide plans listed.</td>
</tr>
<tr>
<td>Is the statement of compliance signed by the owner or another authorized person?</td>
<td></td>
<td></td>
<td>If it is not signed by the owner, there must be a written statement on file that is signed and dated by the owner, authorizing signage of such documents.</td>
</tr>
<tr>
<td>If the payroll form and SOC are company-created, was the WH348 language used verbatim?</td>
<td></td>
<td></td>
<td>The statement of compliance language needs to be duplicated exactly as is found on the WH348.</td>
</tr>
<tr>
<td>Are there whiteouts, scratches, or markups on the payroll forms?</td>
<td></td>
<td></td>
<td>If yes – not acceptable</td>
</tr>
<tr>
<td>Has the payroll been completed using non-erasable ink?</td>
<td></td>
<td></td>
<td>If no—not acceptable</td>
</tr>
<tr>
<td>Are the signatures on the Statement of Compliance original?</td>
<td></td>
<td></td>
<td>If no—not acceptable</td>
</tr>
<tr>
<td>Are there more laborers (non-skilled workers) reflected on payroll for work requiring skilled labor?</td>
<td></td>
<td></td>
<td>If yes—question via written correspondence and get clarification on the duties of each worker.</td>
</tr>
<tr>
<td>Are there 1099 workers on payrolls?</td>
<td></td>
<td></td>
<td>If yes—contracts with those workers inclusive of all CDBG language need to be on file. Get copies of contracts between subs and these workers.</td>
</tr>
<tr>
<td>Do all Prime and sub-contractor contracts hold the required CDBG language?</td>
<td></td>
<td></td>
<td>Example: scope of work defined, implementation schedule, proper wage decision included, and the HUD 4010</td>
</tr>
<tr>
<td>Did you review the payrolls before submitting them to the State?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Did you perform an on-site interview with workers and record the responses on the HUD-11?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Checklist Items</td>
<td>Yes</td>
<td>No</td>
<td>Comments</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------------</td>
<td>-----</td>
<td>----</td>
<td>------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Did you compare interview data to the applicable payroll where the given worker is reflected?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Did you correct any discrepancies in interview and payroll data and sign the HUD-11?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Are there apprentices on the project?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>If yes, are all of the appropriate documents on file?</td>
<td></td>
<td></td>
<td>This documentation includes the payroll classification of the apprentice, the individual registration form for each apprentice, and the following pages from the Apprenticeship Program Standards: title page, pages for appropriate apprentice ratios, apprentice levels and percentages of pay and fringe benefits, and the Signatory Page.</td>
</tr>
<tr>
<td>Were apprentices paid properly?</td>
<td></td>
<td></td>
<td>If they were not paid according to the standards outlined in their program, then they may be owed restitution or must be paid journeyman's wages.</td>
</tr>
</tbody>
</table>
CHAPTER 10 – PROPERTY ACQUISITION

Task #1  Review laws, regulations and process flowchart
Task #2  Determine what properties will be acquired
Task #3  Determine ownership of properties to be acquired
Task #4  Establish a file for each property to be acquired
Task #5  Notify owner of interest in acquiring the real property
Task #6  Obtain appraisal(s) for each property
Task #7  Establish and offer just compensation
Task #8  Complete acquisition, condemn property or decide not to acquire
Task #9  Special procedures for donations

The Uniform Relocation and Real Property Acquisition Policies Act (URA) covers the attainment of real property for a federally assisted program or project. This includes permanent interests, as well as permanent and temporary easements necessary for the project. A permanent interest can include purchase, long-term lease (50 years or more), donation, or otherwise.

TASK #1: REVIEW LAWS, REGULATIONS, & PROCESS FLOW CHART

Laws and Regulations

- Uniform Relocation and Real Property Acquisition Policies Act (URA) of 1970, as amended (42 USC 4601 et seq.)
- Title 49 of the Code of Federal Regulations Part 24, as amended, is the government-wide regulation that implements the URA
- Section 104(d) of the Housing and Community Development Act provides minimum requirements for federally funded programs or projects when units that are part of a community's low-income housing supply are demolished or converted to a use other than low- or moderate-income dwellings.
- Relocation Assistance Act (LB254, March 27, 1989), RRS of Nebraska
- For additional information and HUD Handbook 1378, which provides policy and guidance on implementing the URA, see http://www.hud.gov/relocation
- For additional information and brochures for business relocation, see www.hud.gov, in the search box type in 1041 cpd; 1043 cpd.
- For complete URA Federal Register site, see http://edocket.access.gpo.gov/2005/pdf/05-6.pdf
- Process Flow Chart (Attachment 1)

The objectives of the URA are (1) to ensure owners of real property to be acquired for CDBG-assisted projects are treated fairly and consistently, encourage and expedite acquisition by agreements with such owners, and minimize litigation; and (2) to ensure that persons displaced from their homes or places of business as a direct result of CDBG-assisted activities are treated consistently and equitably so that they do not suffer disproportionate injury as the result of a project designed for the benefit of the public as a whole.

The URA and the government-wide rule implementing the URA (49 CFR Part 24) applies to all federally assisted activities that involve the acquisition of real property or the displacement of persons, including displacement caused by rehabilitation and demolition activities. If CDBG assistance is used in any part of the project, the URA would govern the acquisition of real property for the activity and any resulting
displaced, even if local funds were used to pay the acquisition costs. Private persons, corporations or businesses that acquire property or displace persons for a CDBG assisted project are subject to the URA.

Under the URA all persons (defined as any individual, family, partnership, corporation, or association) displaced (moves from real property or moves his/her personal property from the real property) as a direct result of acquisition, rehabilitation or demolition for a CDBG-assisted project are entitled to relocation payments and other assistance under the URA. CDBG grantees have the responsibility to minimize displacement that results from CDBG funded projects.

The timing of an acquisition can also make it subject to the URA. Acquisition that takes place on or after the date of submission of a CDBG application to fund an activity on that property is subject to the URA, unless the Grantee shows that the acquisition was unrelated to the proposed activity. Also, an acquisition that took place before the date of submission of the application can be subject to the URA if the Department determines that the acquisition was intended to support a subsequent CDBG activity.

The URA provisions apply when acquiring full fee title, fee title subject to retention of a life estate or a life use, long-term leases with a lease term (including options for extension) of 50 years or more, and to permanent or temporary easements necessary for the project. However, the Agency may apply these regulations to any less-than-full-fee acquisition that, in its judgment, should be covered. Acquisition requirements do not apply to temporary easements or permits needed solely to perform work intended exclusively for the benefit of the property owner, which work may not be done if agreement cannot be reached.

The relocation assistance provisions are applicable to tenants that must move as a result of an acquisition, such tenants are considered displaced persons. However, acquisition provisions do not apply to:

1) Acquisitions by an entity that has the power of eminent domain and meets all of the following conditions:
   o No specific site or property needs to be acquired and several properties could be acquired for project purposes, although the Agency may limit its search for alternative sites to a general geographic area (not to be construed to be a small, limited area). Where an agency wishes to purchase more than one site within a general geographic area on this basis, all owners are to be treated similarly.
   o The property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the property within the area is to be acquired within specific time limits. The Agency will not acquire the property through eminent domain because negotiations fail to result in an amicable agreement, and the owner is so informed in writing.*
   o The Agency will inform the owner in writing of what it believes to be the market value of the property. (Appraisals are not required but Agencies must have some reasonable basis for their determination of market value. Since these transactions are voluntary, accomplished by a willing buyer and a willing seller, negotiations may result in agreement for the amount of the original estimate, an amount exceeding it, or for a lesser amount. Agencies shall not take any coercive action in order to reach agreement on the price to be paid for the property.)*
   o If tenants are displaced, the tenants are provided relocation assistance.
* Documents verifying Agency will not use eminent domain and fair market value of the property are copied and sent to Department for permanent file. Handbook 1378; Appendix 31

2) Programs or projects undertaken by an Agency or person that does not have the authority to acquire property by eminent domain, provided that such Agency or person shall:
   - Prior to making an offer for the property, clearly advise the owner that it is unable to acquire the property if negotiations fail to result in an agreement; and
   - Inform the owner in writing of what it believes to be the market value of the property. (Appraisals are not required but Agencies must have some reasonable basis for their determination of market value. Since these transactions are voluntary, accomplished by a willing buyer and a willing seller, negotiations may result in agreement for the amount of the original estimate, an amount exceeding it, or for a lesser amount. Agencies shall not take any coercive action in order to reach agreement on the price to be paid for the property.)
   - If tenants are displaced, the tenants are provided relocation assistance.

3) The acquisition of real property from a Federal Agency, State, or State Agency, if the Agency desiring to make the purchase does not have authority to acquire the property through condemnation.

The enactment of the Relocation Assistance Act on March 27, 1989 brought Nebraska law into compliance with the federal government-wide rule. This chapter does not address this statute because it essentially mirrors the federal law and the interpretation of state law is considered to be a local matter.

**TASK #2: DETERMINE WHAT PROPERTIES WILL BE ACQUIRED**

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

**Common Deficiencies**
- Acquisition of property (regardless of the type of interest acquired or funding source used) without following acquisition procedures which include submitting copies of documentation to the Department for the permanent file.

**TASK #3: DETERMINE OWNERSHIP OF PROPERTIES TO BE ACQUIRED**

Conduct title search as the first step in determining ownership of properties to be acquired. In the case of public improvement activities, be sure to verify that the property to be improved is in the public domain. Sometimes rights-of-way are privately owned.

**Common Deficiencies**
- Undertaking public improvements without properly acquiring necessary easements or rights-of-way.
**TASK #4: ESTABLISH A FILE FOR EACH PROPERTY TO BE ACQUIRED**
The grantee must establish and maintain a file for each property to be acquired and include copies of all acquisition documents. Files must be kept for at least ten years after program closeout. The Acquisition File Checklist (Attachment 2) identifies the required file elements.

**Common Deficiencies**
- Separate files not established
- Documentation incomplete
- Copies of documents not sent to the Department.

**Supporting Materials**
- Acquisition File Checklist (Attachment 2)

**TASK #5: NOTIFY OWNER OF INTEREST IN ACQUIRING THE REAL PROPERTY**
As soon as feasible, the Agency (political subdivision, instrumentality or person which has the authority to acquire property with or without the power of eminent domain) shall notify the owner in writing of the Agency’s interest in acquiring the real property and the basic protections provided to the owner by law. This general information notice and any applicable HUD relocation notice should be personally served or sent by certified or registered first-class mail with return receipt requested. If it is hand delivered, receipt should be signed and dated by the property owner. A copy of this notice must also be sent to any tenants in residence. The notice should contain information about the grantee’s land acquisition policies. If the recipient does not read or understand English, the grantee must provide translations and assistance. Each notice must indicate the name and telephone number of a person who may be contacted for further information.

**Common Deficiencies**
- Waiting too long in the acquisition process before notifying owners/tenants of the grantee’s interest
- Absence of HUD informational brochure or written statement of land acquisition procedures
- Copies of acquisition documents not sent to the Department for the permanent file.

**Supporting Materials**

**TASK #6: OBTAIN APPRAISAL(S) FOR EACH PROPERTY**
Before the initiation of negotiations the real property to be acquired shall be appraised, except as provided in 24.102(c)(2) and noted below. The property owner, or the owner’s designated representative, shall be given the opportunity to accompany the appraiser during the appraiser’s inspection of the property. The appraiser should have no interest in the property or be related to or in business with anyone having an interest in the property to be acquired. The appraiser should be reputable and professional. The grantee should adhere to adopted procurement procedures, request statements of qualifications from a number of appraisers, review those qualifications, and employ only qualified appraisers. A minimum of one appraisal is required; however, if the project is potentially controversial (as with an unwilling seller or a conflict of interest involving a public official) or where property values are high, it is recommended that two independent appraisals be conducted.
The grantee will then execute a professional services contract with an independent appraiser. The contract must specify the content requirements for the appraisal.

Before the appraisal is undertaken, the grantee or the appraiser selected must formally invite the property owner to accompany the appraiser during inspection of the property. This notice must be in writing and a copy placed in the property acquisition file. Once the appraisal has been prepared and submitted to the grantee, a qualified staff appraiser or an independent fee review appraiser must review it. The review must be written and should focus on determining the adequacy of the appraiser’s supporting data, and the soundness of the appraiser’s opinion of fair market value. The review appraiser should be required to visit appraised property. The reviewer must set forth in written form a recommendation as to the fair market value of the property. If the review appraiser disagrees with the fair market value of the original appraisal, the grantee can use the review appraiser’s recommended fair market value if the review appraiser prepares an appraisal report to support the recommended fair market value or the grantee may secure an additional appraisal and review.

**EXCEPTIONS:** An appraisal is not required if: the owner is donating the property and releases the Agency from its obligation to appraise the property or the Agency determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the anticipated value of the proposed acquisition is estimated at $10,000 or less (up to $25,000 maximum if no Conflict of Interest is determined), based on a review of available data. Also, in the event the acquisition is voluntary (no threat of *eminent domain*), there is no requirement for an appraisal but fair market value does need to be established and the owner informed in writing of the amount along with notice of no threat of *eminent domain*. When an appraisal is determined to be unnecessary, the Agency shall prepare a waiver valuation (valuation process and product produced). The person performing the waiver valuation must have sufficient understanding of the local real estate market to be qualified to make the waiver valuation. An Agency official must still establish an amount believed to be just compensation to offer the property owner(s).

**Common Deficiencies**
- Failure to use a competitive process to select the appraiser
- Failure to execute a professional service contract in compliance with CDBG regulations
- Failure to secure an independent appraisal
- Failure to invite property owner to accompany appraiser during property inspection
- Failure to review appraisals
- Failure to submit copies of supporting documents to the Department
- Failure to notify owner in writing of fair market value and no threat of *eminent domain* in the case of voluntary acquisition

**Supporting Materials**
- Sample Appraisal Agreement, HUD Handbook 1378 @ [http://www.hud.gov/relocation](http://www.hud.gov/relocation)
- Sample Invitation to Accompany an Appraiser (Attachment 3)
- Sample Review of Appraisal (Attachment 4)

**TASK #7: ESTABLISH AND OFFER JUST COMPENSATION**
Before the initiation of negotiations, the Agency shall establish an amount which it believes is just compensation for the real property. This amount shall not be less than the approved appraisal of the market value of the property, taking into account the value of allowable damages or benefits to any
remaining property. An Agency official must establish the amount believed to be just compensation (24.104). Promptly thereafter, the Agency shall make a written offer to the owner to acquire the property for the full amount believed to be just compensation. Along with the initial written purchase offer, the owner shall be given a written Statement of the Basis for the Offer of Just Compensation. In addition to the amount of just compensation, the offer must specify the date on which negotiation for the sale of the property will begin, which may or may not be the same date as the written offer. As with all notices, its receipt must be documented. If the property is occupied, the grantee must issue a general information notice to the tenants describing the grantee’s general relocation policies. For more detail on relocation procedures, see Chapter 11 - Relocation.

The written Statement of the Basis for Just Compensation must include:

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

If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the Agency shall offer to acquire the uneconomic remnant along with the portion of the property needed for the project. See 24.2(a)(27).

**Basic Negotiation Procedures**

The Agency shall make all reasonable efforts to contact the owner or the owner’s representative and discuss its offer to purchase the property, including the basis for the offer of just compensation and explain its acquisition policies and procedures, including its payment of incidental expenses (24.106). The owner shall be given reasonable opportunity to consider the offer and present material which the owner believes is relevant to determining the value of the property and to suggest modifications in the proposed terms and conditions of the purchase. (In order to satisfy this requirement, Agencies must allow owners time for analysis, research and development, and compilation of a response, including perhaps getting an appraisal. The needed time can vary significantly, depending on the circumstances, but thirty (30) days would seem to be the minimum time these actions can be reasonably expected to require. Regardless of project time pressures, property owners must be afforded this opportunity.) The Agency shall consider the owner’s presentation. Documentation of negotiation proceedings should be placed in the project acquisition file.

**Common Deficiencies**

- Failure to notify owners on a return receipt requested basis or to secure documentation of receipt if hand-delivered
- Inadequate documentation

**Supporting Materials**

- Sample Statement of the Basis for the Offer of Just Compensation (Attachment 5)
- Sample Written Offer to Purchase (Attachment 6)
TASK #8: COMPLETE ACQUISITION, CONDEMN PROPERTY OR DECIDE NOT TO ACQUIRE

Depending upon whether the Agency and the property owner can reach an agreement on an acquisition price, the Agency will either complete the acquisition process, initiate condemnation proceedings, or decide not to acquire the property.

Willing Seller

Following successful negotiations, a contract of sale must be prepared and executed and transfer documents secured. The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and an authorized Agency official approves such administrative settlement as being reasonable, prudent, and in the public interest. When CDBG funds pay for or participate in acquisition costs, a written justification shall be prepared, which states what available information, including trial risks, supports such a settlement.

Before requiring the owner to surrender possession of the real property, the Agency shall pay the agreed purchase price to the owner. The Agency must also reimburse the owner for recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property and similar expenses incidental to conveying the real property to the Agency (however, the Agency is not required to pay costs solely required to perfect the owner’s title to the real property), penalty cost or other charges for prepayment of any preexisting recorded mortgage entered into in good faith encumbering real property, and the pro rata portion of any prepaid real property taxes which are allocable to the period after the Agency obtains title to the property or effective possession of it whichever is earlier. At the conclusion of the settlement, the grantee must provide the owner with a Statement of Settlement Costs that identifies all settlement costs regardless of whether they are paid at, before, or after closing, and must clearly separate charges paid by the owner. The Statement of Settlement Costs must be dated and certified as true and correct by the closing attorney or other person handling the transaction. A receipt for purchase price must be secured by the grantee. Whenever feasible these costs should be paid directly by the grantee rather than as a reimbursement to the owner.

Condemnation Proceedings

Condemnation is the legal process by which a fee simple title to property is acquired through the process of eminent domain. The initial steps involved in condemnation are the same as those in purchases except instead of arriving at a voluntary purchase, the entity must acquire the property by filing condemnation against the property owner because a mutually agreed upon price cannot be determined.

The following steps are required to acquire property through eminent domain:

1) Formally terminate negotiations in writing
2) File condemnation suit with appropriate court in accordance with State law
3) Deposit, as directed by the court, the amount of court-determined just compensation in an escrow account
4) Proceed with payment to the property owner in accordance with court instruction

Decide Not To Acquire

If the Agency decides not to acquire the property at any time after informing the property owner of
their interest, it must notify the owner and all tenants in residence in writing of its intention not to acquire the property. Any person moving from the property thereafter will not be eligible for relocation payments and assistance. This notice should be sent within 10 days of the grantees determination not to acquire.

Common Deficiencies
- Failure to provide a written statement of settlement costs
- Failure to provide a written Notice of Intent Not to Acquire
- Failure to provide copies of documents to Department for permanent file.

Supporting Materials
- Sample Notice of Intent Not to Acquire (Attachment 7)

TASK #9: SPECIAL PROCEDURES FOR DONATION
The procedure to be followed for donations is somewhat different from the normal acquisition process. If a property is to be donated, the grantee should send a General Information Notice and secure an appraisal or waiver thereof. The grantee must then prepare a Statement of the Basis for the Offer of Just Compensation (Attachment 5). An owner whose real property is being acquired may, after being fully informed by the Agency of the right to receive just compensation for such property, donate such property or any part thereof, any interest therein, or any compensation paid therefore, to the Agency as such owner shall determine.

The Agency is responsible for ensuring that an appraisal of the real property is obtained unless the owner releases the Agency from such obligation, except as provided in 24.102(c)(2). The purpose of the appraisal waiver provision is to provide a technique to avoid the costs and time delay associated with appraisal requirements for low-value, non-complex acquisitions. However, the Agency must have a reasonable basis for the “waiver valuation” and an Agency official must still establish an amount believed to be just compensation to offer the property owner.

If donations are being made by the elderly, very poor, functionally illiterate or non-English speaking persons, the grantee should take special care to document the efforts made to insure the owner-occupant understood their rights in order to demonstrate the owner was not persuaded or coerced into the decision.

Common Deficiencies
- Failure to secure Appraisal Waiver for donation
- Failure to prepare Waiver Valuation
- Failure to identify tenant-occupied property and properly notify tenants of their benefits as required by the URA
- Failure to submit copies of documents to Department for permanent file.
Acquisition Process Under the URA*

1. PLAN PROJECT
   - ESTIMATE COSTS AND STAFFING NEEDS.
   - HOLD PUBLIC HEARINGS.
   - DECIDE ON PLAN OF ACTION.

2. PROJECT APPROVED
   - ESTABLISH ORGANIZATION AND TRAIN STAFF.
   - ESTABLISH MANAGEMENT CONTROL SYSTEM AND PROCEDURES FOR COORDINATING ACQUISITION AND RELOCATION.
   - ESTABLISH RECORDKEEPING PROCEDURES. (PARA. 6-3)

3. INFORM OWNER
   - INDICATE INTEREST IN ACQUIRING THE PROPERTY.*
   - INDICATE BASIC PROTECTIONS UNDER LAW AND GENERAL ACQUISITION PROCEDURES*. (PARA. 5-2b)
   - INFORM OWNER IN WRITING EMINENT DOMAIN WILL NOT BE USED AND THE FAIR MARKET VALUE OF THE PROPERTY.

4. BASIC PREPARATION
   - OBTAIN PRELIMINARY TITLE EVIDENCE.
   - OBTAIN BOUNDARY SURVEY AND LEGAL DESCRIPTION.
   - OBTAIN APPRAISAL(S). INCLUDE PROPERTY ANALYSIS, IF APPROPRIATE. (OWNER INVITED TO ACCOMPANY APPRAISER). (PARA. 5-2c and 5-3).

5. DETERMINE PURCHASE OFFER
   - REVIEWER EXAMINES APPRAISAL(S), SEEKS NECESSARY CORRECTIONS AND PREPARES STATEMENT EXPLAINING BASIS FOR ACTION. (PARA. 5-4)
   - ESTABLISH JUST COMPENSATION. (PARA. 5-2d)

6. WORK WITH OWNER
   - PROVIDE WRITTEN PURCHASE OFFER OF JUST COMPENSATION TO OWNER. (PARA. 5-2d)
   - PROVIDE SUMMARY STATEMENT OF BASIS FOR OFFER. (PARA. 5-2e)
   - EXPLAIN ACQUISITION PROCEDURES. (PARA. 5-2f)
   - NEGOTIATE PRICE AND OTHER TERMS AND CONDITIONS OF SALE. (PARA. 5-2f)

7A. CONCLUDE NEGOTIATIONS
   - ENSURE PURCHASE AGREEMENT FULLY DETAILS TERMS AND CONDITIONS
   - SEND FINAL WRITTEN OFFER.
   - CONDEMNATION SUIT FILED; ESTIMATE OF JUST COMPENSATION DEPOSITED IN COURT. (PARA. 5-2j) exclude for voluntary acquisition

7B. CONCLUDE SUCCESSFUL NEGOTIATIONS
   - EXECUTE DEED.
   - PAY DEFICIENCY JUDGMENT, IF ANY, AND INCIDENTAL COSTS. (PARA. 5-6)
   - RECORD COURT ORDER. *EXCLUDE FOR VOLUNTARY ACQUISITION

8A. COMPLETE SETTLEMENT
   - COMPLETE SETTLEMENT COST STATEMENT DETAILING PAYMENT OF PURCHASE PRICE AND INCIDENTAL EXPENSES. (PARA. 5-6)

8B. COMPLETE CONDEMNATION
   - COURT TRIAL AND AWARD
   - PAY DEFICIENCY JUDGMENT, IF ANY, AND INCIDENTAL COSTS. (PARA. 5-6)
   - RECORD COURT ORDER. *EXCLUDE FOR VOLUNTARY ACQUISITION

9. FOLLOW-UP
   - EXECUTE LEASE COVERING PERIOD UNTIL RELOCATION IS COMPLETED. (PARA. 5-2m)
   - OBTAIN FINAL TITLE EVIDENCE (E.G., TITLE INSURANCE).
   - MAINTAIN RECORDS TO DEMONSTRATE COMPLIANCE WITH LAW AND REGULATIONS. (PARA. 6-3)
   - EVALUATE PROGRAM, IMPROVE PROCEDURES FOR FUTURE.

March 2011
ATTACHMENT 2

ACQUISITION FILE CHECKLIST

DOCUMENTS TO BE MAINTAINED IN GRANTEE ACQUISITION FILES, COPIED AND SENT IN TO DEPT. FOR PERMANENT FILE. A SEPARATE FILE SHOULD BE ESTABLISHED FOR EACH PROPERTY ACQUIRED.

- 1. Title Search/Clearance of Title
- 2. General Notice of Interest in Acquiring Real Property
- 3. Evidence of Invitation to Accompany Appraiser
- 4. Appraisal Report or Waiver Valuation, Including Donations
- 5. Review Appraisal Report
- 6. Written Statement of Just Compensation and
- 7. Written Offer to Purchase and Evidence of Receipt
- 8. Contract of Sale
- 9. Statement of Incidental Costs
- 10. Receipt for Purchase Price and Copies of Cancelled Checks
- 11. If Donation, Waiver of Relocation Benefits, Not Applicable to Tenants
- 12. If Acquisition Terminated, Notice of Intent Not to Acquire
- 13. If Condemnation, Evidence of Court Deposit of Fair Market Value
- 14. If Condemnation, Court Resolution

VOLUNTARY ACQUISITION:
- Title search/clearance of title
- Letter sent/hand delivered to owner stating they are not eligible for relocation benefits; *fair market value* of property; and no use of *eminent domain* if an amicable agreement cannot be reached; *See attachment 6A and 6B.*
- Copies of documents sent in to Department for permanent file.
INVITATION TO ACCOMPANY APPRAISER

Date

Name
Address

Dear______________________.

I have been requested by the City of______________________to prepare an appraisal of your property on______________________. I will visit the property______________________. If you wish to accompany me, please phone me at______________________to arrange a mutually convenient time.

Sincerely,

Name
Title

cc: City of __________________________
SAMPLE

REVIEW OF APPRAISAL

After reviewing the appraiser’s supporting data and documentation, it is my recommendation that the $XXX,XXX.XX established as a fair market value for the purchase of Lot 8, Square 6, Palmer Extension is sound and accurate. The appraiser’s report is complete and the methods utilized conform to recognized appraisal practices.

The appraisal report documents the determination of fair market value through:

A. Cost Approach

The appraiser estimated the value of the land through the search for vacant land sales. S/he compared land sales with six recent land sales, then adjusted for time and points of difference. In addition, replacement costs for a new living area based on the actual square footage of the area were estimated at a standard rate. Deprecation based on age and observed conditions were subtracted from this total. All mathematical computations are accurate and were reached using sound judgment.

B. Market Data Approach

The appraiser searched for the sale of sixteen properties of which three were comparable to subject property. The Factual Data report is accurate. The sales were adjusted for points of difference.

The qualifications of the appraiser are excellent. Accurate maps and photographs are included in the report.

DATE __________________________ Signature of Review Appraiser

______________________________ Address

______________________________ Telephone Number
Sample

Statement of the Basis for the Offer of Just Compensation

Description and Location of Property

The City of ______________ proposes to purchase land and improvements on ______________ Avenue (Lot ______________ Square ______________) from owner at ______________.

It is a single-family residential unit, which conforms to zoning, present use, surrounding land use, and area trends.

Purpose of Purchase

The City of ______________ intends to use the whole parcel for the construction of a library building adjacent to the Eden Park Community Center Library.

Improvements

It is a one-story single-family residence of wood frame construction with concrete foundation, stucco siding, a tar and gravel roof and aluminum gutters and downspouts.

It contains a living room, kitchen, center hall, two bedrooms and one bath.

Interior finish is hardwood floors, except linoleum in kitchen and bathroom; sheetrock walls and ceilings.

The kitchen has counters and painted wood cabinets. There are no built-in appliances.

Heat is gas-fired, forced air from Atlas, 120,000 BTU furnace.

The house is 25 years old. The design is good. Maintenance is poor.

Declaration of Offer

Based on the two appraisals, the City of ______________ hereby makes you an offer in the amount of $ ______________ for the purchase of your property. This offer is for the fair market value of your property and does not include any considerations of decrease of increase in value attributable to the project for which it is being acquired. It reflects no relocation payments which the owner/tenant may be entitled to receive under the Department of Housing and Urban Development Regulations.

Definition of Fair Market Value

“Fair Market Value is the highest price estimated in terms of money which the property would bring if exposed for sale in the open market, allowing a reasonable time in which to find a purchaser buying with knowledge of all the uses and purposes for which it is adapted and for which it is capable of being used.”

Appraisal Techniques

Two major techniques, cost approach and market data approach, were utilized to determine the fair market value of this property.

Cost Approach

Land:
To estimate the value of the land, as if unimproved, the market searched for vacant land sales, which might throw some light on the value of the subject land.

Estimated Replacement Cost:
To estimate the cost of replacing the home minus depreciation based on age and observed condition,

20% Total by Cost Approach $ ______________

Market Data

To estimate the value of the property by this approach, the market was searched for sales of properties in the area, which might throw some light on the value of the subject property by comparison. After adjusting these sales, approximately six comparable properties, for time and points of difference, the indicated value of the subject property, by comparison is $ __________. $ ______________.

Signature of Authorizing official

______________________________________________________________

DATE

CDBG Manual 10-14 Revised July 2011
SAMPLE
WRITTEN OFFER TO PURCHASE

Date

Name
Address

Dear ________________________ ,

This will introduce to you ________________________, who represents the City of __________________ in the capacity of Right-of-Way Agent and who will discuss with you the acquisition by the City Government of the property, which our records indicate is owned by ________________________. This property is required for the construction of the proposed ________________________ .

We have had the property appraised by a competent and unbiased free appraiser and this report has been thoroughly analyzed by a competent review appraisal analyst and found to be well supported. Based on the appraisal and review, the City hereby makes you a firm offer in the amount of $ ___ for the purchase of your property. Relocation benefits to which you may be entitled are in addition to the acquisition price of your property.

We feel that the above offer is most equitable and we urge your favorable consideration and acceptance of it. If this meets with our approval, the Department’s representative has prepared (conveyance document) and will assist in any way convenient to you in finalizing the acquisition. Negotiations for the purchase of your property begin ________________________ .

Thank you very much for your cooperation and favorable consideration of the offer.

Very truly yours,

________________________
Mayor

Enclosure: Statement of Basis for the Offer of Just Compensation
ATTACHMENT 6A

SAMPLE

VOLUNTARY ACQUISITION NOTICE

Grantee or Buyer Letterhead

Date: ________________

Property Owner: ________________________________

Address: ________________________________

Subject Property: ________________________________

Dear __________________________:

Based on information available at this time, we believe that you are the owner of the subject property listed above, and that you are interested in selling said property. Please be advised that we are interested in acquiring this property if we determine it to be suitable to our planned project.

Our effort to acquire your property is voluntary in nature, and, therefore, without any threat of eminent domain (condemnation). For that reason, we can only consider acquiring your property if we are able to reach an amicable agreement. At this time, we are prepared to offer you $___________ for your property. This offer is contingent on certain conditions being met, and which includes among others:

- The property has a clear title without heirship, title dispute, or other problems.
- You accept our offer, or we agree to a negotiated amount that should not exceed the property’s estimate of fair market value*.

☐ We have determined the estimate of fair market value to be $_________.

☐ We will inform you of what we believe to be the estimate of fair market value before we enter into an agreement to purchase your property.

Please return the attached Seller’s Occupancy Certification form (Attachment 6b) regarding tenant occupancy. Please note that if the property is tenant occupied, our offer is subject to an evaluation of the complexity and cost of relocating the occupant(s).

If you have any questions or need additional information from our staff, please contact our Office.

Sincerely,

________________________________________
Buyer or Buyer’s Representative

Enclosures
I/we, the Seller(s) of the property located at:

Address of Property

City, State Zip

Certify that:

____ This property is vacant land and without any tenant resident or tenant personal property. [If checked here, disregard the remainder statements and return this document to the person indicated as the contact person.]

If the property does have a structure, or has tenant owned personal property, I/we certify that the following “checked” items are applicable: (Please “√” only those items that are applicable.)

____ No tenant(s) has/have occupied the property for a period of one year prior to the date of this purchase or option to purchase contract.

____ This property did have a tenant who moved within the past year who was not asked to move in relation to this proposed acquisition transaction. The reason the tenant (or tenants) moved within the past year is explained on an attached page. (Please attach.)

____ The property is tenant occupied, and I/we agree to allow egress/ingress to the site so that required notices can be delivered to each resident, and that each resident can be surveyed to determine their replacement housing needs and related moving costs.

____ The property is not occupied, but personal property owned by a person other than the owner is located at the site.

____ The property is not tenant occupied, but if a new tenant moves into the property, I/we assume responsibility for providing displacement assistance if we fail to have executed the Move-In Notice that has been provided to us as Attachment B.

Signature of Prospective Seller(s)

_________________________________________ Date: ___________________________

_________________________________________ Date: ___________________________
Sample

NOTICE OF INTENT NOT TO AQUIRE

Date

Name
Address

Dear ________________.

The City of ________________ has determined not to acquire your ____________________________
(address)
property. Any person moving from the premises from the date of this notice will not be eligible for relocation payments or benefits.

Sincerely,

_____________________________
Name

_____________________________
Title

cc: (tenant)
CHAPTER 11 – RELOCATION

REVIEW LAWS AND REGULATIONS AND PROCESS FLOW CHART

Laws and Regulations
- Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) of 1970, as amended (42 USC 4601 et. seq.).
- Section 104(d) HCD Act of 1974, as amended.
- Relocation Assistance Act (LB 254, March 27, 1989) RRS of Nebraska.

This Chapter summarizes the tasks associated with carrying out residential or nonresidential relocation that is the result of acquiring real property for a HOME/CDBG assisted project. The Relocation File Checklist, which outlines the documents to be maintained in the grantee’s relocation files, is Attachment 1. A summary of the changes enacted by the URA is found in Attachment 3.

Definition
Become thoroughly familiar with the relocation process and the benefits and assistance available to displacedes under the Uniform Act and Section 104(d) of the HCD Act.

Procedures
The URA regulations stipulate that persons displaced from their residences or businesses as a result of acquiring real property for a federally assisted project or as a result of the demolition or conversion of a residential unit are entitled to relocation and moving costs payments and other assistance such as counseling, housing referrals and referrals to social service agencies.

Section 104(d) regulations apply only to 1) low-to-moderate income (LMI) persons who become permanently displaced as a result of a federally assisted project or 2) the conversion of a LMI dwelling unit or the demolition of a LMI unit. Conversion occurs when unit is rehabilitated and the rents exceed Fair Market Rents after the rehabilitation or the unit is no longer available for housing.

The regulations define a displaced person as any person who moves from the real property or moves personal property from the real property as a direct result of:
- A written notice of intent to acquire, the initiation of negotiations for, or the acquisition of such real property in whole or in part for a HUD assisted project.
- Rehabilitation or demolition for a HUD assisted project; or
- A written notice of intent to acquire or the acquisition, rehabilitation or demolition of, in whole or in part, other real property on which the person conducts a business or farm operation, for a HUD assisted project.
- Persons not displaced would include, but are not limited to:
  - Persons who move prior to initiations of negotiations; or,
  - Persons not lawfully present in the United States as described in Public Law 105-117; or
  - Persons who initially enter into occupancy of the property after the date of its acquisition for the project; or,
  - Owner-occupants who move as a result of the acquisition (when it meets the definition of voluntary) or the rehabilitation or demolition of the real property which they own
and occupy; tenant-occupants displaced as the result of a voluntary acquisition are covered by the URA, or
  o Owner voluntarily applying for rehab assistance.

Supporting Materials
- Relocation Process Flow Chart (Attachment 2)
- HUD Handbook 1378 (request from the Department)
- Website: www.hud.gov/relocation

IDENTIFY HOUSEHOLDS OR BUSINESSES TO BE DISPLACED, ESTABLISH A FILE FOR EACH, AND ISSUE A GENERAL INFORMATION NOTICE

Definition
Maintain documentation that relocations are being carried out in conformance with the regulations. All documentation for each relocation should be copied and sent to the Department for the permanent file.

Procedures
As early as feasible in the acquisition/relocation process, the grantee should identify individuals or businesses to be relocated and determine if the transaction is voluntary or involuntary. A person scheduled to be displaced is to be furnished with a written general description of the relocation program. The notice must at least inform the individual of the potential for displacement and describe the eligibility and payment procedures. It also must specify that the individual cannot be required to move without a 90-day advance written notice. Other items should also be included.

The grantee must maintain a separate case file on each displaced family or business for three years after project completion or after receipt of final relocation payment, whichever is later. All documents pertaining to displacement must be retained in the case files of the Grantee and copies mailed to the Department for the permanent file. The Relocation File Checklist (Attachment 1) identifies all documents to be maintained and copied.

Common Deficiencies
- Incomplete records.
- Failure to maintain for three years.
- Documents not copied and sent in to Department

Supporting Materials
- Relocation File Checklist (Attachment 1)
- Check with the Department for additional information for business relocation.

PROVIDE NOTICE OF RELOCATION ELIGIBILITY & INFORMATIONAL BROCHURE TO EACH DISPLACED HOUSEHOLD

Definition
The grantee must deliver or send a Notice of Relocation Eligibility (Attachments 4 and 4a) to all owner-occupants or tenants in occupancy promptly after the Initiation of Negotiations, defined as the date that the grantee makes an offer to purchase. This notice establishes eligibility for relocation payments
and assistance.

The notice must:

1) Identify the project and inform the person of his eligibility for relocation payments and other assistance and the effective date of that eligibility.
2) Generally describe the relocation payment(s) for which he/she may be eligible and indicate the estimated amount or range of such payment(s), the basis of the estimate for any replacement housing payment, the basic conditions of eligibility, and the procedures for obtaining the payment(s).
3) Inform him/her that he/she will be given other help (e.g. housing referrals) to facilitate the move.
4) State a specific date as the earliest date the occupant may be required to move or indicate a 30-day advance notice of the date to vacate.

Information Brochure-Attachment 9

**Displacement Not a Notice to Vacate**

In the Notice of Relocation Eligibility it is important for the grantee to emphasize that the notice is not a notice to vacate. The notice should indicate that no one will be forced to move until and unless they have been referred to at least one decent, safe and sanitary comparable house and that the occupants will have a minimum of 90 days notice to vacate after comparable housing has been located and referred. The notice should also contain a grievance procedure which outlines the appeals process including the grounds for filing an appeal, to whom appeals should be filed in the city, appropriate time limits and the right of appeal to the Department (Attachment 5).

This notice and all other notices to displacees must be written in plain, understandable language. They may be either hand delivered, or sent by certified mail. Notices must also contain the name and phone number of a person who may be contacted for answers to questions or other needed assistance.

Keep in mind that mailed notices are appropriate for recipients able to read and understand. If there is any reason to believe the person is functionally illiterate or senile, hand delivery is far more preferable. If a displacee does not speak or read English, notices must be available in appropriate translations. Copies of all notices and evidence of their delivery should be retained in the relocation case files.

**Common Deficiencies**

- Inadequate Notice of Relocation Eligibility.
- Grievance procedure not provided to displacees.
- Translations not provided when appropriate.
- Copies of all documents, correspondence, and notices for each file not sent to the Department for the permanent file.

**Supporting Materials**

- Sample Notice of Displacement—180-Day Homeowners (Attachment 4).
- Sample Notice of Displacement—Tenants (Attachment 4a).
- Sample Grievance Procedure (Attachment 5).
CONTACT DISPLACEES TO PROVIDE INFORMATION AND DETERMINE REPLACEMENT HOUSING AND SOCIAL SERVICE NEEDS

Definition
Determine the housing or business replacement and social services needs of relocatees.

Procedures for Surveys
As soon as the initial notice is delivered or sent out, the grantee must interview each displacee to determine her/his need for assistance. A sample interview format is provided to show the type of information that is required. This survey format generally forms the basis of the Site Occupant Record.

The Site Occupant Record includes data identifying the parcel and dwelling; number of individuals and family units; family composition (including age, sex, location of employment, source and amount of income); veteran status of family members; description of current dwelling (number and type of rooms); length of time of occupancy; amount of housing payment or rent; replacement housing preferences regarding type of tenure, location and willingness to increase monthly payments; and other important characteristics (health/disability problems, special needs such as furniture, public assistance, etc.).

The people conducting these surveys and having personal contact with the individuals to be relocated should be very patient, capable of understanding the distress of the relocatees and of dealing with them in a non-threatening, helpful manner.

Some displacees may be elderly with a huge emotional investment in their present home. In the grantee’s view, it may be a substandard dwelling unit; to the owner, it is a home which contains a lifetime’s memories and mementos. Many will not want to relocate. The counseling and assistance required to serve these people adequately is substantial.

Depending upon the size and experience of the relocation staff, it may be appropriate to provide some counseling and assistance themselves while other social service needs will be best met through referral to public or private agencies. A single family may require a number of social service contacts. Physical and psychological problems may range from alcoholism to nervous breakdown, from unemployment to child abuse.

For this reason, the assigned staff must be aware of the kinds of services available. Staff should also develop the ability to distinguish serious problems which require outside professional assistance. Kinds of services and counseling commonly provided during the relocation process include the following:

Counseling Relocation Services
- Mortgage counseling and Fair Housing Laws.
- Help in completing or understanding forms or documents such as a purchase contract.
- Housekeeping and home maintenance practices.
- Budgeting and money management guidance.
- Recommendations concerning packing and moving.
- Family and personal counseling.
- Assistance in obtaining medical care.
- Help in obtaining clothing, food, furniture or appliances.
- Advice concerning social security, food stamps, welfare or veterans benefits.
Transportation assistance.
Assistance with child care or school adjustment.
Employment counseling and job training.
Senior citizen assistance.
Family planning.
Legal aid.
Financial assistance.

In many cases, especially with regard to the elderly, it may be useful to ask if there are any relatives living in the surrounding area. If permission to contact these relatives can be obtained, these contacts can assist in developing appropriate relocation plans for the person. Some relatives will contribute money to the purchase of a dwelling; others will have special skills (e.g., lawyer, realtor) which can facilitate rehousing transactions. Sometimes, relatives can also encourage cooperation in the disclosure of information necessary to complete claim forms.

At the same time the interviewer is conducting the family survey, he/she should review the relocation process with the relocatees and insure they understand the process.

Special attention must be given to:

1) The assistance to be provided by the grantee.
2) The benefits available.
3) The fact that replacement housing payments cannot be made unless the household relocates into a standard unit.
4) The importance of keeping in touch with the grantee.
5) The need to notify the grantee before they move.

Common Deficiencies
- Family surveys not conducted.
- Counseling services not provided.
- Translations/bilingual assistance not provided when appropriate.
- Copies of all documents, correspondence, notices for each file not sent to Department for permanent file.

IDENTIFY REPLACEMENT HOUSING AND SOCIAL SERVICES RESOURCES, MAKE REFERRALS

Definition
Inventory available resources and assist relocatees in finding suitable replacement housing, assist self relocatees.

Procedures
The primary purpose of the family survey is to provide the data needed to determine replacement housing needs. All replacement housing must be decent, safe and sanitary. The regulations define this to mean that the replacement unit must meet local housing or occupancy codes. The only times that local housing or occupancy codes do not define decent, safe and sanitary are when such codes do not exist or when the replacement unit is Section 8 assisted. In the latter instance, Section 8 Existing Housing Quality Standards define decent, safe and sanitary. The unit should also be free of lead-based paint hazards and of architectural barriers, if serving a handicapped person.
**Comparable Replacement**

In addition to being decent, safe and sanitary, the replacement unit must also be “functionally similar” to the acquired unit with respect to the number of rooms and living space unless additional or larger rooms are needed to meet safe, sanitary and decent criteria (i.e., one person per room; age/sex of children sharing bedrooms and the like). This means that a family of six living in a two-bedroom unit may require a four-bedroom replacement unit to meet local codes or Section 8 standards, if applicable.

Only in unusual circumstances may a comparable replacement dwelling contain fewer rooms than the displacement dwelling. Such may be the case when a replacement dwelling is “adequate to accommodate” the displaced person and is found to be functionally similar to a larger but very rundown substandard displacement dwelling. They may choose a smaller unit, but the grantee must provide reasonable choices of comparable replacement units.

Further, the referral units must be within the financial means of the displaced persons. This is determined by the “make whole” financial means test, as follows:

180-Day Homeowner. The test is met if a person receives the price differential, increased mortgage interest cost and all reasonable incidental expenses, not to exceed $22,500.

90 Day Tenant and 90-179 Day Homeowner. The test is met if a person receives assistance equal to 42 times the increase in rent and utility costs that he or she is required to pay because of the displacement. For 104(d) the tenant receives up to 60 times the increase.

**Last Resort Replacement**

If the grantee finds it cannot identify comparable affordable replacement housing using these standards, and that the inability to relocate occupants will jeopardize the project, it must use other means of assisting displacees under the “Last Resort Replacement Housing” provisions of the regulations.

Such alternatives include rehabilitation of, and/or additions to, an existing replacement dwelling; a replacement housing payment in excess of normal limits; construction of new units; relocation of a replacement dwelling; and removal of barriers to the handicapped in a replacement dwelling.

**Inventory Housing**

Having identified the replacement housing needs, the grantee must begin taking an inventory of available housing resources. In doing this, the grantee must be aware of affirmative action criteria that must be met when relocating low-income and minority persons.

The regulations require that the grantee make comparable replacement housing available to low-income or minority relocatees in areas that do not have concentrations of either low-income or minority households if such opportunities are available.

This means that if there are vacant, standard, affordable units available in middle/upper income areas or predominantly white areas of your community, low-income or minority relocatees must be given replacement housing choices in those areas before the grantee can give such relocatees a 90-day notice to vacate. Furthermore, the regulations require that the grantee make available to low-income and minority families special counseling and related services, e.g., transportation and escort services.
In inventorying available resources, the grantee will be contacting landlords, realtors, and movers. It will read classified ads and tour neighborhoods looking for “For Rent” and “For Sale” signs. Eligible displacees may refuse to apply for public housing, either because they simply do not want to live in it or because they resent the investigation necessary to qualify them (the investigation of their incomes, in particular).

The process of finding suitable housing will involve continuous contact with displacees to solicit information, establish rapport, and provide referrals to housing resources, to accompany displacees to inspect possible dwellings and the like. Up-to-date information on the availability, prices, and rentals of comparable sales and rental housing must be provided. All units must be inspected and certified as being decent, safe and sanitary before being placed on a referral list.

**Relocatees Risk Compensation**

Some relocatees will not wait for the grantee to locate suitable units. They will search for their own units and relocate themselves. Occupants who relocate themselves risk not receiving the compensation to which they are entitled. This can happen because:

1) The occupants do not know they are entitled to benefits and fail to apply.
2) The grantee is unable to trace them to their new quarters.
3) The new quarters are substandard (in which case the relocatees still receive moving expenses).

Self-relocatees who do not inform the grantee of their plans forego a pre-move inspection of their new quarters.

An inspection after the move is made usually proves to be ineffective with regard to procuring needed repairs.

**Replacement Units Meet Standards**

If an individual locates or moves into a replacement unit that is not standard, the grantee must make every effort to upgrade the unit to decent, safe and sanitary standards in order to entitle the relocatee to benefits. This can include making a rehabilitation grant or loan, emergency repairs and the like with HOME/CDBG funds or securing comparable assistance from other sources.

In the event remedial action to bring the unit to code is not available, the grantee must inform such relocatees that if they remain in or move to a substandard unit they will be eligible only for moving expenses and not for replacement housing payments (Attachment 6). The grantee must also inform them that if they move into standard housing within a year from the date they received payment for their acquired dwelling or from the date they moved from the acquired dwelling, whichever is later, and file a claim within 18 months, they will be eligible for a replacement housing payment.

**Common Deficiencies**

- Failure to provide assistance in locating suitable housing.
- Failure to provide replacement housing opportunities outside areas of low-income and/or minority concentration.
- Failure to provide counseling and assistance to relocatees moving into substandard units.
- Failure to document activity including contacts with displacee, addresses of suitable housing, etc. and sending copies of documentation to the Department.
Supporting Materials
- Sample Letter to Relocatee in Substandard Unit (Attachment 6).

SECURE REPLACEMENT HOUSING FOR DISPLACEES

Definition
Complete displacement and the move into replacement housing.

Procedures
The grantee has made a reasonable choice of suitable replacement housing opportunities available to the relocatee. At this point, the grantee may issue the 90-Day Notice to Vacate (Attachment 7). This notice should not be issued before reasonable replacement housing has been made available.

The notice shall either state the earliest date by which the property must be vacated, or state that a second notice will be issued at least 30 days in advance of the date the property must be vacated. The date on which the property must be vacated cannot be less than 90 days after the grantee has made a comparable replacement unit available.

Prior to and following the 90 day notice, the grantee continues to work with the relocatees – inspecting units, certifying they meet decent, safe and sanitary standards; assisting or preparing mortgage applications, sales agreements, or leases as appropriate; assisting or preparing claim forms; processing and verifying claims; documenting claims and making payments.

Common Deficiencies
- Timing and language of 90-Day Notice incorrect
- Replacement housing not located prior to Notice to Vacate
- Grantee has not adhered to requirements early in the process (has not contacted Dept. for guidance)
- Copies of all documentation not sent to the Dept. for the permanent file

Supporting Materials
- Sample 90 Day Notice/30 Day Notice (Attachment 7)

DETERMINE MOVING AND RELATED EXPENSES
Displacees are eligible for two types of relocation payments: moving costs and replacement housing payments.

Moving Costs (Residential)
Moving Costs: All displaced persons, as defined by the regulations, are eligible for moving costs. The displaced person can choose to receive actual moving and related expenses, supported by bills and other documentation, of costs for:
- Transportation up to 50 miles of displacee, family and personal property.
- Packing and unpacking personal property.
- Disconnecting, dismantling, reassembling and reinstalling relocated household appliances and other personal property.
- Storage.
- Insurance in connection with move and storage.
Other costs related to move if approved by grantee as reasonable.

OR

A fixed moving expense and dislocation allowance based on the rooms of furniture, where occupant provides furniture; or where occupant does not provide furniture.

Moving Costs (Non-Residential)

- Transportation up to 50 miles for personal property.
- Packing and unpacking the personal property.
- Disconnecting, dismantling, removing, reassembly and installing relocated and substitute machinery, equipment and other personal property, including connection to utilities available nearby.
- Storage (not to exceed 12 months) if necessary.
- Insurance in connection with moving and storage.
- Professional service charges necessary to planning the move, the moving, and the reinstalling of the personal property.
- Re-lettering signs and replacement stationery if made obsolete by the move.
- Actual direct loss of tangible property.
- Substitute personal property which is used as part of a business, farm operation or nonprofit organization provided that the original property is not moved and that any proceeds from the sale or trade-in of the replaced item is subtracted from the cost of the substitute item.
- Searching for a replacement location (amount not to exceed $1,000).
- Other moving-related expenses if approved by the grantee as reasonable.
- “No-documented self moves” based on the lower of two acceptable bids or estimates obtained by the grantee.

OR

A fixed moving expense allowance computed on the average net earnings for the two-taxable years prior to the date of displacement. The amount is to be not less than $1,000 or more than $20,000 for a business or farm operation. The payment is to be $2,500 for a nonprofit organization. To qualify for a fixed payment in lieu of actual moving cost it must be determined that a business or a nonprofit organization cannot be relocated without a substantial loss of existing patronage or net income and it is not a part of a commercial enterprise having other establishments engaged in the same or similar activity.

Non-residential moving costs are calculated using the form Claim for Actual Moving Costs and Related Expenses (Attachment 7) or Claim for Fixed Payment in Lieu of Actual Moving and Related Expenses.

Re-Establishment Expenses (Non-Residential)

In addition to moving costs, a business may be eligible to receive a payment, not to exceed $10,000, for expenses actually incurred in relocation and reestablishing at a replacement site. These expenses must be reasonable and necessary and include:

- Improvements made to the new site as required by law.
- Modifications to the new site to accommodate the business.
- Costs for construction of new exterior signage.
- Costs of utilities from right-of-way.
- Redecoration/replacement of worn services.
- Licenses, fees and permits when not included in moving expenses.
- Estimated increased operation costs for two years.
- Advertisement of new site.
- Professional services and feasibility studies relating to the new site.

**Replacement Housing Payments**

These payments are available to owner-occupants and tenants who meet the following criteria:

**Owner-Occupants who have:**
- Owned and occupied the acquired dwellings for at least 180 days prior to initiation of negotiations.
- Purchased and occupied decent safe and sanitary comparable units within one year of completing acquisition or date of move from property.
- Filed a claim within 18 months of the time the move is completed.

**Tenants and 90-179 day owners who have:**
- Occupied the acquired units 90 days prior to initiation of negotiations.
- Relocated into decent, safe and sanitary comparable units.
- Filed a claim within 18 months of the time move is completed.

The relocation benefit is based on the difference between what units comparable to the acquired unit are being sold or rented for, and not on the cost of the unit into which the displacee wants to move.

It should be clearly understood by everyone involved in the acquisition/relocation process that the benefits under the URA are “rights” to which the displacee is entitled and that the grantee’s job is to ensure that all displacees receive the maximum amount of benefit to which they are entitled. There are no income or need criteria for benefits. Certain benefits may be prorated for unrelated individuals living together.

In addition to financial assistance, displacees are also entitled to receive housing referrals, counseling and referrals to social service agencies.

**Common Deficiencies**

- Unfamiliarity with the relocation process and the benefits and assistance required for displacees under the URA.
- Copies of documentation not sent in to the Dept. for the permanent file.

**PROCESS CLAIMS AND MAKE PAYMENTS**

**Definition**

Assist or prepare claim forms: process and verify claims; document claims and make payments.

**Procedures**

Relocation claims may be filed up to 18 months following the completion of a move. This means that claims can be filed months, after the conclusion of the grant. Therefore, if there are unsettled relocation cases at the time of close out of the grant, the grantee should show maximum payments for each potential claimant as unpaid costs on the closeout documents otherwise, the Department may cancel the funds remaining in the grant and the grantee would be financially liable for relocation costs. This also highlights the need to try and expedite relocation.
Relocation Claim Forms
- Claim for Moving Costs and Related Expenses-Families and Individuals; and
- Claim for Replacement Housing Payment for 180-Day Homeowner; or
- Claim for Rental Assistance Payment; or
- Claim for Downpayment Assistance.

Payment Responsibility
The grantee is responsible for ensuring that all payments are made in a timely fashion. Payments should be issued within 30 days following submission of sufficient documentation to support the claim.

The regulations further state that advance payments must be made where they would avoid or reduce a hardship. When advance payments are made, the grantee must document that the payment was used for the purpose intended. The grantee should have the recipient sign a letter acknowledging receipt of relocation payments and services (Attachment 8).

Downpayment Payment
Payments for downpayment assistance must be applied to the purchase price of a replacement dwelling and related incidental expenses. Payments for rental assistance to owners or renters need not be applied to housing costs. The rental assistance payment may be made in a lump sum or in installments. The grantee has no right to question the uses to which that payment is put; it need not be accounted for beyond receipt by the claimant.

Denied Claim for Payment
If a person makes a claim for payment and must be denied because the unit is substandard, the grantee must inform the claimant why the claim is being denied, indicate the assistance available for bringing the current unit up to decent, safe and sanitary standards, and the on-going opportunity to qualify for assistance by moving to a standard unit, providing the move is completed within 12 months of the date of removal from the acquired dwelling or receipt of final payment (if owner-occupant), whichever is later; and that the claim is submitted within 18 months of the completion of the move.

Documentation of Non-Payment
In any instance in which payments are not made, the grantee must be able to fully document its efforts to provide payments, the reasons payments were not made, and signed waivers of payment if possible. The regulations mandate that any claim for payment be submitted to the locality within a period of 18 months after displacement. The grantee should strictly adhere to this limitation and fully document its initial notification of this requirement and all subsequent reminders.

Waiver of Relocation
In a voluntary acquisition, owner-occupants are advised in writing 1) the buyer does/does not have eminent domain—will not use if negotiations fail; 2) they are not eligible for relocation benefits; and 3) the fair market value of the property. The grantee provides a form to the owner to sign indicating they understand what their relocation rights and benefits are. Relocation benefits almost always apply for tenant occupants. 11-25: Attachment 10

If relocation has not been completed within 6 months of the date of issuance of the Notice of Relocation Eligibility, the grantee must provide in its files a written explanation of delay and plan for timely completion.
**Common Deficiencies**

- Failure to document claim.
- Inaccurate computation of relocation payments.
- Rental assistance payment not made in a lump sum.
- Copies of all documents not made and sent in to the Department.
- Failure to have signed documentation of the letter given to owner acknowledging 1) no eminent domain used; 2) Fair Market Value; and 3) owner is not eligible for relocation benefits (in a voluntary acquisition).

**Supporting Materials**

- Sample Letter of Acknowledgement of Services Rendered and Payments Received (Attachment 8).
- Sample Letter to Owner Occupant (Attachment 10.)
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ATTACHMENT 1

RELOCATION FILE CHECKLIST

DOCUMENTS TO BE MAINTAINED IN RELOCATION FILES. A SEPARATE FILE SHOULD BE ESTABLISHED FOR EACH HOUSEHOLD OR BUSINESS DISPLACED WITH COPIES MADE AND SENT IN TO THE DEPARTMENT FOR THE PERMANENT FILE

☐ 1. Fully Completed Case Record Form.
☐ 2. Copy of Notice of Relocation Eligibility-Relocation Brochure
☐ 3. Evidence of Referrals to Suitable Replacement Housing or Business Locations.
☐ 5. Copy of 30-Day Notice and Evidence of Receipt, if applicable.
☐ 6. Record of Inspection of Replacement Dwelling and Referral Units.
☐ 7. Copy of each Relocation Claim Form and Supporting Documentation.
☐ 8. Evidence of Verification of Claim and Receipt of Payment.
☐ 9. Appeal, if filed, and disposition.
☐ 10. Copies of Correspondence.
☐ 11. Other Data:

   Specify: If acquisition is voluntary, notice is sent to seller to inform them URA is not triggered, the seller is not eligible for relocation benefits, and the fair market price of the property.

☐ 12. If Relocation is not completed within six months following acquisition of property, explanation of delay and plan for timely completion.

□
Tenant Assistance/Relocation Process (Private-Owner Rental Rehabilitation Under HUD-Assisted Program)

1. GRANTEE* DEVELOPS PROGRAM
   - Prepare program description, including policies for minimizing displacement.
   - Hold public hearings (if applicable).
   - Prepare memorandum of understanding with Housing Agency (if applicable)
   - Submit information to HUD/State (if applicable)
   - Notify property owners of fund availability and distribute application forms.
   - Establish management control system and procedures for coordinating temporary and permanent relocation with rehab work.
   - Establish record-keeping procedures (Chapter 8).**
   - Determine if the transaction is voluntary or involuntary and has triggered URA requirements

2. OWNER/GRAINTEE PROPOSES PROJECT
   - Owner estimates project costs, including relocation costs. (Consults with grantee as necessary.)
   - Owner/grantee prepares application. Grantee or owner sends General Information Notice to tenants cautioning them not to move (Para. 2-3a).
   - Owner submits application (including list of occupants in property) to grantee.
   - Owner informs future tenants about project proposal and its impact on them (e.g., displacement without assistance).

3. GRANTEE REVIEWS APPLICATION
   - Determine tenant needs and preferences. Complete site occupant records (Para. 2-5b).
   - Identify available resources (e.g., comparable replacement dwellings, Section 8 assistance and HOME TBRA).
   - Determine project costs, including relocation costs.
   - Prepare contract agreement between grantee and owner.
   - Prepare notices to be issued to tenants upon execution of agreement.

4. GRANTEE INFORMS AND WORKS WITH TENANTS NOT TO BE DISPLACED (See Para. 2-4a)
   - Issue Notices of Nondisplacement at time of execution of agreement between grantee and owner (Para. 2-3b (1)).
   - Explain assistance to be provided (e.g., Section 8 or Home TBRA) (Para. 2-4a).
   - Explain temporary relocation policies (if applicable). (Para. 2-4b).

5. TEMPORARY RELOCATION (Para. 2-4b)
   - Ensure temporary housing is decent, safe and sanitary and there is no increase in out-of-pocket housing expenses.
   - Reimburse tenant for out-of-pocket moving costs incurred in move to and from temporary housing.
   - Ensure all other conditions are reasonable (e.g., location and duration of temporary housing).

6. TEMPORARY REPLACEMENT PROPERTY AND MOVES
   - Inspect replacement housing before move to ensure it is decent, safe and sanitary (Para. 2-7a).
   - Upon notification of business move: Inspect personal property at displacement site. Inspect personal property at replacement site to ensure it was moved (Para. 4-2b(3)).
   - Issue advance payment when needed (Para. 2-7c).
   - Assist tenant in preparing claims (Para. 2-7a).

7. GRANTEE FOLLOW-UP
   - Deal with complaints quickly and equitably. Assist in preparation of appeals, as appropriate (Para. 1-33).
   - Evaluate program success (include follow-up contacts with affected persons).
   - Improve procedures for future.
   - Maintain records to demonstrate compliance with regulations (Chapter 6).

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* Term “grantee” includes CDBG Entitlement Communities, State CDBG recipients, HOME Participating Jurisdictions and recipients of State Home funds.

** References are to HUD CDBG Manual

11-15
Revised July 2011
**SUMMARY OF SIGNIFICANT CHANGES IN THE UNIFORM RELOCATION ACT (URA)**

<table>
<thead>
<tr>
<th>URA SECTION AMENDED</th>
<th>CHANGE</th>
<th>REMARKS</th>
</tr>
</thead>
<tbody>
<tr>
<td>101(6)(A)</td>
<td>Extends URA coverage to persons as a direct result of rehabilitation, demolition or acquisition by a private entity.</td>
<td></td>
</tr>
<tr>
<td>101(11)</td>
<td>Defines “displacing agency” to include person without power of eminent domain carrying out a program or project with Federal financial assistance that results in displacement.</td>
<td></td>
</tr>
<tr>
<td>202(a)(4)</td>
<td>Adds new payment up to $10,000 for Some expenses to re-establish business expenses to “re-establish a business” mandated by current regulations; as component of payment for actual reasonable documented moving expenses.</td>
<td></td>
</tr>
<tr>
<td>203(a)</td>
<td>Raises ceiling on replacement containing housing payment for 180-day homeowner-occupant from $15,000 to $22,500.</td>
<td>Under present regulations “make whole” financial means test, the payment ceiling has no effect.</td>
</tr>
<tr>
<td>204(a)</td>
<td>Reduces period covered by rental assistance payment from 48 to 42 months. Raises ceiling on total rental containing assistance payment from $4,000 to $5,250.</td>
<td>Under present regulations “make whole” financial means test, the payment ceiling has no effect.</td>
</tr>
<tr>
<td>204(b)</td>
<td>Eliminates present matching requirement for down-payment assistance payment above $2,000. Permits displacing agency to cap cash down payment at amount person would receive if renting a replacement dwelling.</td>
<td>Eliminates existing problem of budgeting for project in which potential downpayment assistance costs are much higher than potential rental assistance costs.</td>
</tr>
<tr>
<td>205(c)(3)</td>
<td>Revises (relaxes) law to require referral to comparable replacement housing before person is ordered meaningful to move.</td>
<td>Significant change. It would permit URA rules that make payment caps under Sections 203 and 204</td>
</tr>
<tr>
<td>301(2)</td>
<td>Permits establishment of procedures for waiving appraisal of low-value property.</td>
<td></td>
</tr>
</tbody>
</table>
NOTICE OF RELOCATION ELIGIBILITY - 180-DAY HOMEOWNERS

Dear __________________

On (date), the (acquiring agency) gave you a written offer to buy the building which you own at (address). The building is the site of (identify project).

This is a NOTICE OF RELOCATION ELIGIBILITY. In order to carry out our plans to develop the (identify project), it will be necessary for you to move sometime in the future. However, you DO NOT NEED TO MOVE NOW. And when you do move, you will be entitled to relocation payments and other assistance in accordance with regulations of the Federal Department of Housing and Urban Development (HUD). The effective date of this notice is (date of initiation of negotiations).

As the owner-occupant of the property, you are eligible to receive either (1) a payment for actual reasonable moving expenses, or (2) if you prefer, a fixed moving expense payment based on the number of rooms with furniture plus a $200 dislocation allowance.

Also, you may be eligible for a replacement housing payment to help you buy or rent a home. Based on a recent review of the offering prices of available decent, safe and sanitary houses that are comparable to yours, we estimate that you should be able to buy a comparable house for approximately $_________. If you owned and occupied your home for at least 180 days prior to (date of initiation of negotiations) and you buy a decent safe and sanitary replacement house, you may receive a replacement housing payment to cover the following three costs:

1. The difference between the amount you were offered for your present home ($_________) and the cost of a decent, and sanitary replacement home. Based on our estimate of the cost of a comparable, decent, safe and sanitary home, you may be eligible for an amount up to $___________ for this purpose.

2. Payment of any costs incidental to the settlement on your new home.

3. The increased cost of interest on the mortgage(s), if any, on your present home.

However, your total replacement housing payment is limited to $22,500, if you buy a replacement home. Should you wish to rent (rather than buy) a comparable house, our best estimate at this time is that you could qualify for a one-time replacement housing payment of $___________ covering rental assistance needs.

I am enclosing a brochure titled, “Relocation Assistance to Displaced Homeowners.” Please read the brochure carefully. It explains your rights and some things you must do to obtain a payment. (For example, to obtain a replacement housing payment you must move to a decent, safe, and sanitary home within one year after you vacate your present home.)

I want to make it clear that you will receive assistance to help you relocate. In addition to payments and housing referrals, counseling and other services are available to you.

A member of this office will soon contact you to determine your needs and preferences and to help you find and relocate to suitable replacement housing. He/She will explain your rights and help you to obtain the relocation payments and other assistance which are rightfully yours.

In the meantime, if you have any questions, please call (name), (title). He/She can be reached at (phone) or (address). We are sure that Mr./Ms. (name) can answer your questions.

Sincerely,
NOTICE OF RELOCATION-RESIDENTIAL TENANTS ONLY

(Date)

Dear __________________________

On (date), the (acquiring agency) submitted a written offer to buy the building at (address). The building is the site of (identify project).

This is a NOTICE OF RELOCATION ELIGIBILITY. Our records indicate that you are occupying this building. In order that we can carry out our plans to develop the (identify project) it will be necessary for you to move sometime in the future. However, YOU DO NOT NEED TO MOVE NOW. And when you do move, you will be entitled to relocation payment and other assistance in accordance with regulations of the Federal Department of Housing and Urban Development (HUD). The effective date of this Notice is (date of initiation of negotiations).

As an occupant of the property, you are eligible to receive either (1) a payment for actual reasonable moving expenses, or (2) if you prefer, a fixed moving expense payment based on the number of rooms with furniture plus a $200, dislocation allowance.

Also, if you occupied your apartment for at least 90 days prior to (date of initiation of negotiations), you may be eligible for a replacement housing payment to help you rent or purchase a home. Based on a recent review of rental costs in the area, it appears that the cost of rent, including utility charges, for available decent, safe, and sanitary apartments similar to yours is presently about $______________ per month. If you must pay that amount to rent another apartment you may receive a one-time rental assistance payment of $______________. Should you choose to buy a home, we estimate that you could qualify for a downpayment assistance payment up to $______________. (Our staff will explain the procedures for computing a payment).

I am enclosing a brochure titled, “Relocation Assistance to Displaced Tenants”. Please read the brochure carefully. It explains your rights and some things you must do to obtain a payment. (For example, to obtain a replacement housing payment, you must move to a decent, safe, and sanitary home within one year after you vacate your present apartment.)

I want to make it clear that you will receive assistance to help you relocate. In addition to payments and housing referrals, counseling and other services are available to you.

A member of this office will soon contact you to determine your needs and preferences and to help you find and relocate to suitable replacement housing. He/She will explain your rights and help you obtain the relocation payments and other assistance which are rightfully yours.

In the meantime, if you have any questions, please call (name), (title). He/She can be reached at (phone) or (address). We are sure that Mr./Ms. (name) can answer your questions.

Sincerely,
GRIEVANCE PROCEDURES

All written appeals, regardless of form, shall be promptly reviewed in accordance with the requirements of applicable law and HUD’s Uniform Act implementing regulations (49 CFR Part 24, Subpart A-G).

Actions Which May be Appealed
You have the right to appeal any action of the (agency) on the following grounds:

   failure to properly determine eligibility for, or the amount of, a relocation or other incidental expenses due under the Uniform Act.

Your acceptance of the amount offered you by this agency does not limit your right to appeal that determination and seek a larger payment.

Time Limits for Initiating an Appeal
The reasonable time limit of ___ * days has been locally established for a person to file an appeal. (*NOTE: time limit shall not be less than 60 days after the notification of determination of the amount of claim to be paid has been received by the claimant).

Right to Representation
You have the right to be represented by anyone of your choice. There is no cost reimbursement for such representation.

Review of Files
You are permitted to inspect and copy all materials pertinent to your appeal, except those classified by this agency as confidential.

Scope of Review
All pertinent justification and other material submitted by you shall be considered in the appeal in order to ensure a fair and full review of the case.

Determination and Notification
Upon receipt of all information submitted by a claimant, a prompt review will be made. A written copy of the determination on the appeal, including explanation of the basis on which the decision was made, will be furnished. Additional information shall be provided on the right to seek judicial review if the claim is not fully granted.

Reviewing Official
The review of appeals shall be made by (name of official). This person was not involved in any of the actions which are being appealed, but has knowledge of the Uniform Act procedures. Additionally, you have the right to appeal the decision on your claim with the Nebraska Department of Economic Development Division of Community and Rural Development, P.O. Box 94666, Lincoln, NE 68509
LETTER TO RELOCATEE IN A SUBSTANDARD UNIT

Date

Dear __________________________:

Relocation regulations established by the Department of Housing and Urban Development will not permit this organization to make a rental assistance payment to you until you move into an apartment or house that meets their definition of “safe, sanitary and decent” replacement unit. Your new apartment does not meet this definition because:

1. The wiring does not meet the City electrical code.

2. A two-bedroom apartment is too small for a family of five (2 adults, 1 16-year-old son, 1 14-year-old daughter and an 11-year-old son).

In order to be eligible for a replacement housing allowance you must move into an apartment or house that meets all these requirements within one year from the date you moved from your old apartment on 4th Street. You have to move into a qualified apartment or house by ______________ to be eligible. Ms. Ellen Smith keeps a list of eligible houses and apartments and will help you find one and will arrange inspections of any apartments or houses you find on your own. Her phone number is 444-5441.

If you moved into a “safe, sanitary and decent house or apartment” by ______________, you would be eligible to receive a rental assistance up to a maximum of $5,250 to cover the difference in the month cost between your old apartment and a new apartment for 42 months, or the difference between your new rent and 25% of your gross monthly income, whichever is less. This payment will be made in a lump sum if you file a claim for benefits within 18 months after the date you move into a safe, sanitary and decent apartment.

In order to receive these benefits, you must relocate into a standard unit. Please contact Ellen Smith and she will help you find and move into a standard unit. She is also available to talk with you about any questions you might have.

Sincerely,
90-DAY NOTICE TO VACATE

Date

Dear

As you know, the city is purchasing your home (apartment). The purchase will be completed on (date, must be no later than 60 days after date of this letter). We have been in contact with you since (date) to help you locate and move into suitable replacement housing. We have referred you to (number) such units.

The house (apartment) you are now living in must be vacated in 90 days by (date, must be at least 60 days after date on this letter). We will send you a second notice 30 days before you must vacate.

If you have any questions or need additional assistance in completing your move, please call Ms. Ellen Smith at 441-4533.

Sincerely,

Mary Simmons
City Secretary

SAMPLE

30-DAY NOTICE TO VACATE

Date

Dear __________________________:

This letter is to inform you that you must vacate this house (apartment) within 30 days, on (date, must be 30 days after date of this letter, and 30 days after City has title).

If you have any questions or need additional assistance to complete your move, please call Ms. Ellen Smith at 441-4533.

Sincerely,

Mary Simmons
City Secretary
LETTER OF ACKNOWLEDGMENT
SERVICES AND PAYMENTS RENDERED

Department of Community Development
City of West Linn
City Hall
West Linn, Lillian 00153

To: _____________________________ Relocation Officer

This is to certify that the Relocation Assistance, Services and Payments rendered by the Department of Community Development at the time of my displacement from ____________ to ____________ were done to my satisfaction.

I further certify that I have received reimbursement of my moving expense and/or Relocation Payment by the Department of Community Development checked below.

MOVING EXPENSE:

_________ Fixed payment of $__________.

_________ Reimbursement of paid receipt from a Mover or Direct Payment to a Mover of $__________.

ADDITIONAL RELOCATION PAYMENTS (Tenants and Certain Others)

_________ Downpayment Assistance of a lump sum of $__________.

_________ Rental Assistance Payment of $__________ in a lump sum.

REPLACEMENT HOUSING PAYMENT (Owner-Occupants)

Replacement Housing Payment in a lump sum of $__________.

___________________________   __________________________
DATE   CLAIMANT

___________________________
BY
Attachment 9
Sample

Introduction

This booklet describes important features of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) and provides general information about public acquisition of real property (real estate) that should be useful to you.

Most acquisitions of real property by a public agency for a Federal project or a project in which Federal funds are used are covered by the URA. If you are notified that your property will be acquired for such a project, it is important that you learn your rights under this important law.

This booklet may not answer all of your questions. If you have more questions about the acquisition of your property, contact the Agency responsible for the project. (Check the back of this booklet for the name of the person to contact at the Agency.) Ask your questions before you sell your property. Afterwards, it may be too late.

General Questions

What Right Has Any Public Agency To Acquire My Property?

The Federal Government and every State government have certain powers which are necessary for them to operate effectively. For example, they have the power to levy taxes and the power to maintain order. Another government power is the power to acquire private property for public purposes. This is known as the power of eminent domain.

The rights of each of us are protected, however, by the Fifth and Fourteenth Amendments of the U.S. Constitution and by State constitutions and eminent domain laws which guarantee that if a public agency takes private property it must pay "just compensation" to the owner. The URA provides additional protections, as explained in this booklet.

Who Made The Decision To Buy My Property?

The decision to acquire a property for a public project usually involves many persons and many determinations. The final determination to proceed with the project is made only after a thorough review which may include public hearings to obtain the views of interested citizens.

If you have any questions about the project or the selection of your property for acquisition, you should ask a representative of the Agency which is responsible for the project.
How Will The Agency Determine How Much To Offer Me For My Property?

Before making you an offer, the Agency will obtain at least one appraisal of your property by a competent real property appraiser who is familiar with local property values. The appraiser will inspect your property and prepare a report that includes his or her professional opinion of its current fair market value. After the appraiser has completed his work, a review appraiser will examine the appraisal report to assure that the estimate is fair and the work conforms with professional appraisal standards.

The Agency must offer you "just compensation" for your property. This amount cannot be less than the appraised fair market value of the property. "Just compensation" for your property does not take into account your relocation needs. If you are eligible for relocation assistance, it will be additional.

What Is Fair Market Value?

Fair market value is sometimes defined as that amount of money which would probably be paid for a property in a sale between a willing seller, who does not have to sell, and a willing buyer, who does not have to buy. In some areas a different term or definition may be used.

The fair market value of a property is generally considered to be "just compensation." Fair market value does not take into account intangible elements such as sentimental value, good will, business profits, or any special value that your property may have for you or for the Agency.

How Does An Appraiser Determine The Fair Market Value Of My Property?

Each parcel of real property is different and therefore no single formula can be devised to appraise all properties. Among the factors an appraiser typically considers in estimating the value of real property are:

- How it compares with similar properties in the area that have been sold recently.
- How much rental income it could produce.
- How much it would cost to reproduce the buildings and other structures, less any depreciation.

Will I Have A Chance To Talk To The Appraiser?

Yes. You will be contacted and given the opportunity to accompany the appraiser on his or her inspection of your property. You may then inform the appraiser of any special features which you believe may add to the value of your property. It is in your best interest to provide the appraiser with all the useful information you can in order to insure that nothing of allowable value will be overlooked. If you are unable to meet with the appraiser, you may wish to have a person who is familiar with your property represent you.

How Soon Will I Receive A Written Purchase Offer?

Generally, this will depend on the amount of work required to appraise your property. In the case of a typical single-family house, it is usually possible to make a written purchase offer within 45 to 60 days of the date an appraiser is selected to appraise the property.
Promptly after the appraisal has been reviewed (and any necessary corrections obtained), the Agency will determine just compensation and give you a written purchase offer in that amount along with a "summary statement," explaining the basis for the offer. No negotiations are to take place before you receive the written purchase offer and summary statement.

What Is In The Summary Statement Of The Basis For The Offer Of Just Compensation?

The summary statement of the basis for the offer of just compensation will include:

- An accurate description of the property and the interest in the property to be acquired.

- A statement of the amount offered as just compensation. (If only part of the property is to be acquired, the compensation for the part to be acquired and the compensation for damages, if any, to the remaining part will be separately stated.)

- A list of the buildings and other improvements covered by the offer. (If there is a separately held interest in the property not owned by you and not covered by the offer (e.g., a tenant-owned improvement), it will be so identified.)

Must I Accept The Agency’s Offer?

No. You are entitled to present your evidence as to the amount you believe is the fair market value of your property and to make suggestions for changing the terms and conditions of the offer. The Agency will consider your evidence and suggestions. When fully justified by the available evidence of value, the offer price will be increased.

May Someone Represent Me During Negotiations?

Yes. If you would like an attorney or anyone else to represent you during negotiations, please inform the Agency. However, the URA does not require the Agency to pay the costs of such representation.

If I Reach Agreement With The Agency, How Soon Will I Be Paid?

If you reach a satisfactory agreement to sell your property and your ownership (title to the property) is clear, payment will be made at a mutually acceptable time. Generally, this should be possible within 30 to 60 days after you sign a purchase contract. If the title evidence obtained by the Agency indicates that further action is necessary to show that your ownership is clear, you may be able to hasten the payment by helping the Agency obtain the necessary proof. (Title evidence is basically a legal record of the ownership of the property. It identifies the owners of record and lists the restrictive deed covenants and recorded mortgages, liens, and other instruments affecting your ownership of the property.)

What Happens If I Don’t Agree To The Agency’s Purchase Offer?

If you are unable to reach an agreement through negotiations, the Agency may file a suit in court to acquire your property through an eminent domain proceeding. Eminent domain proceedings are often called condemnations. If your property is to be acquired by condemnation, the Agency will file the condemnation suit without unreasonable delay.

An Agency may also decide not to buy your property, if it cannot reach agreement on a price, and find another property to buy instead.
What Happens After The Agency Condemns My Property?

You will be notified of the action. Condemnation procedures vary, and the Agency will explain the procedures which apply in your case.

Generally, when an Agency files a condemnation suit, it must deposit with the court (or in an escrow account) an amount not less than its appraisal of the fair market value of the property. You should be able to withdraw this amount, less any amounts necessary to pay off any mortgage or other liens on the property and to resolve any special ownership problems. Withdrawal of your share of the money will not affect your right to seek additional compensation for your property.

During the condemnation proceeding, you will be provided an opportunity to introduce your evidence as to the value of your property. Of course, the Agency will have the same right. After hearing the evidence of all parties, the court will determine the amount of just compensation. If that amount exceeds the amount deposited by the Agency, you will be paid the difference, plus any interest that may be provided by law.

To help you in presenting your case in a condemnation proceeding, you may wish to employ an attorney and an appraiser. However, in most cases the costs of these professional services and other costs which an owner incurs in presenting his or her case to the court must be paid by the owner.

What Can I Do If I Am Not Satisfied With The Court's Determination?

If you are not satisfied with the court judgment, you may file an appeal with the appropriate appellate court for the area in which your property is located. If you are considering an appeal, you should check on the applicable time limit for filing the appeal and consult with your attorney on whether you have a basis for the appeal. The Agency may also file an appeal if it believes the amount of the judgment is too high.

Will I Have To Pay Any Closing Costs?

You will be responsible for the payment of the balance on any mortgage and other liens on your property. Also, if your ownership is not clear, you may have to pay the cost of clearing it. But the Agency is responsible for all reasonable and necessary costs for:

- Typical legal and other services required to complete the sale, recording fees, revenue stamps, transfer taxes and any similar expenses which are incidental to transferring ownership to the Agency.
- Penalty costs and other charges related to prepayment of any recorded mortgage on the property that was entered into in good faith.
- Real property taxes covering the period beginning on the date the Agency acquires your property.
Whenever possible, the Agency will make arrangements to pay these costs directly. If you must incur any of these expenses yourself, you will be repaid—usually at the time of closing. If you later discover other costs for which you should be repaid, you should request repayment from the Agency immediately. The Agency will assist you in filing a claim. Finally, if you believe that you were not properly repaid, you may appeal the decision to the Agency.

**May I Keep Any Of The Buildings Or Other Improvements On My Property?**

Very often, many or all of the improvements on the property are not required by the Agency. This might include such items as a fireplace mantel, your favorite shrubbery, or even an entire house. If you wish to keep any improvements, please let the Agency know as soon as possible.

If you do arrange to keep any improvement, the Agency will deduct only its salvage value from the purchase price you would otherwise receive. (The salvage value of an item is its probable selling price if offered for sale on the condition that the buyer will remove it at his or her own expense.) Of course, if you arrange to keep any real property improvement, you will not be eligible to receive a relocation payment for the cost of moving it to a new location.

**Can The Agency Take Only A Part Of My Property?**

Yes. But if the purchase of only a part of your property reduces the value of the remaining part(s), you will be paid for the loss in value. Also, if any remaining part would have little or no utility or value to you, the Agency will offer to buy that remaining part from you.

Occasionally, a public project will increase the value of the part which is not acquired by the Agency. Under some eminent domain laws, the amount of such increase in value is deducted from the purchase payment the owner would otherwise receive.

**Will I Have To Pay Rent To The Agency After My Property Is Acquired?**

If you remain on the property after the acquisition, you may be required to pay a fair rent to the Agency. Such rent will not exceed that charged for the use of comparable properties in the area.

**How Soon Must I Move?**

If possible, a mutually agreeable date for the move will be worked out. Unless there is an urgent need for your property (e.g., your occupancy would present a health or safety emergency), you will not be required to move without at least 90 days advance written notice.

If you reach a voluntary agreement to sell your property, you will not be required to move before you receive the agreed purchase price. If the property is acquired by condemnation, you cannot be required to move before the estimated fair market value of the property has been deposited with the court so that you can withdraw your share.

If you are being displaced from your home, you will not be required to move before a comparable replacement home is available to you.
Will I Receive Relocation Assistance?

Title II of the URA requires that certain relocation payments and other assistance must be provided to families, individuals, businesses, farms, and nonprofit organizations when they are displaced or their personal property must be moved as a result of a project that is covered by the URA.

The Agency will furnish you a full explanation of any relocation assistance to which you may be entitled. If you have any questions about such assistance, please contact the Agency. In order for the Agency to fulfill its relocation obligations to you, you must keep the Agency informed of your plans.

My Property Is Worth More Now. Must I Pay Capital Gains Tax On The Increase?

Internal Revenue Service (IRS) Publication 544 explains how the Federal income tax would apply to a gain or loss resulting from the sale or condemnation of real property, or its sale under the threat of condemnation, for public purposes. If you have any questions about the IRS rules, you should discuss your particular circumstances with your personal tax advisor or your local IRS office.

I’m A Veteran. How About My VA Loan?

After your VA home mortgage loan has been repaid, you will be permitted to obtain another VA loan to purchase another property. Check on such arrangements with your nearest Veterans Administration Office.

Is It Possible To Donate Property?

Yes. You may donate your property or sell it to the Agency for less than its fair market value. The Agency must obtain an appraisal of the property and offer just compensation for it, unless you release the Agency from these obligations.

Additional Information

If you have any questions after reading this booklet, contact the Agency and discuss your concerns with the Agency representative.

Agency: Address:

Office Hours:

Telephone Number: Person to Contact:
SAMPLE VOLUNTARY ACQUISITION FORM - THIRD PARTY

Note: The Uniform Relocation Act (URA) acquisition requirements for non-profit and private developers are found in Chapter 5 of HUD Handbook 1378, and must be followed if real property is to be acquired as part of a project receiving federal assistance. This is a sample form to be used on your letterhead, and can be revised, as appropriate for your project, and presented to the seller. The form should either be signed by the seller or sent certified mail, return receipt requested, with a copy maintained in your files to document the seller receiving this document.

NAME
ADDRESS
CITY, STATE, ZIP

Dear (Name):

Financial assistance through the ____________ agency name _________ is being sought for this proposed transaction that includes the purchase of real estate known as ______________________________. Federal funds used in this project require my informing you of the following:

1. As a private sector entity proposing acquisition of your property, we have no legal means to acquire your property except a mutual agreement between the buyer and the seller. This is a voluntary, arm's length transaction and there is no threat of Eminent Domain.

2. We have estimated the fair market value of your property to be $_______________.

   This amount was established by (check one):

   ______ the value derived by the County Auditor's most recent records.

   ______ a third party who is familiar with property values in the area (such as a Realtor).

   ______ property appraisal conducted by ____________________________, copy attached.

The URA regulation states: Whenever feasible, this information shall be provided before making the purchase offer. In those cases where there is an existing option or contract, the seller must be provided the opportunity to withdraw from the agreement after this
information is provided.' Therefore, if federal funds remain in the project and this information is being provided to you prior to closing, but after an option or purchase agreement exists, you have the choice of continuing with the contract, renegotiating the contract, or declaring it null and void.

In addition, since this is a voluntary sale, you will not be eligible for relocation assistance as a consequence of this transaction. Also, if any tenants have been displaced for this sale to occur or if tenants currently rent or occupy space on the property, please provide us with that information at this time so we can plan accordingly.

If you have any questions, please contact _______________________________  _______________________________

(Name)  (Phone)

Sincerely,

Received by  _______________________________  Date  _______________________________

Seller(s)

(Obtain seller's signature or send certified mail with return receipt placed in the file)

Revised 2/96
CHAPTER 12 – FINANCIAL

FINANCIAL MANAGEMENT SYSTEM
Grantees should take the following steps to prepare a financial management system for implementation of a CDBG grant:

- Appoint person to be responsible for Financial Management.
- Establish accounting records.
- Set up bank accounts and establish receipting procedures.
- Establish payment schedules and approval procedures.

The financial management system required for grantees and the use and accounting for CDBG funds is governed by:

- 24 CFR Part 570 “Community Development Block Grants”
- 2 CFR 200 Subpart E, "Cost Principles for State, Local, and Indian Tribal Governments";
- 2 CFR 200 Subpart F, "Audits of State and Local Governments";
- 24 CFR Part 85 "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" (only sections as identified in 24 CFR Part 570)
- Department Requirements

The financial management system requirements identified in 24 CFR Part 85.20:

1) **Financial reporting.** Accurate, current, and complete disclosure of the financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the grant or subgrant.

2) **Accounting records.** Grantees and subgrantees must maintain records which adequately identify the source and use of funds provided for financially-assisted activities. These records must contain information pertaining to grant or subgrant awards and authorizations, obligations, un-obligated balances, assets, liabilities, outlays or expenditures, and income.

3) **Internal control.** Effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets. Grantees and subgrantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes.

4) **Budget control.** Actual expenditures or outlays must be compared with budgeted amounts for each grant or subgrant. Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in the grant or subgrant agreement. If unit cost data are required, estimates based on available documentation will be accepted whenever possible.

5) **Allowable cost.** Applicable OMB cost principles, agency program regulations, and the terms of grant and subgrant agreements must be followed in determining the reasonableness, allowability, and allocability of costs.

6) **Source documentation.** Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract and subgrant award documents, etc.

7) **Cash management.** Procedures for minimizing the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by grantees and subgrantees must be followed whenever advance payment procedures are used. Grantees must establish reasonable procedures to ensure the receipt of reports on subgrantees’ cash balances and cash
disbursements in sufficient time to enable them to prepare complete and accurate cash transactions reports to the awarding agency. When advances are made by letter-of-credit or electronic transfer of funds methods, the grantee must make drawdowns as close as possible to the time of making disbursements. Grantees must monitor cash drawdowns by their subgrantees to assure that they conform substantially to the same standards of timing and amount as apply to advances to the grantees. Cash management is the principle behind the Department’s rule that no more than $1,000 CDBG funds can be kept on hand for more than 5 business days.

Definition: Business day means a day when Federal Reserve Banks are open. (Department of the Treasury Fiscal Service, 2002)

An awarding agency may review the adequacy of the financial management system of any applicant for financial assistance as part of a pre-award review or at any time subsequent to award.

THE DEPARTMENT’S REQUIREMENTS
The Department identifies three basic functions that must be served by the financial management system:

1) The financial management system must have an identified procedure for recording all financial transactions.
2) All expenditures must be related to activities proposed in the grant application approved by the Department.
3) All expenditures of CDBG funds should be in accordance with applicable laws, rules, and regulations.

ACCOUNTING RECORDS
Each grantee should determine the accounting records that will assist in providing accurate and complete financial information. The CDBG accounting records may be fully integrated into the grantee’s existing accounting system or may be partially integrated into the existing system with subsidiary ledgers developed as needed to provide the required grant accounting. At a minimum, the grant accounting system must:

1) Clearly identify all receipt and expenditure transactions of the grant; and
2) Provide for budgetary control by tracking expenditures and accrued obligations by approved CDBG activity and by CDBG amount and local match amount.
3) Department staff or the grantee’s auditors should be able to readily trace CDBG transactions through the accounting system. Also, all amounts shown on CDBG reports should reconcile to the grantee’s accounting records.
4) Grantees must be able to report CDBG expenditures by approved activity. Budget balances must be maintained for each approved activity that accounts for CDBG expenses accrued or obligations incurred (e.g. contracted amounts) which have not yet been paid.

SOURCE DOCUMENTATION
Source documents provide information to be transferred to the accounting records. A source document may be a check, invoice, purchase order, time sheet, or contract. All source documents that pertain to the CDBG project should be identified through a code or by using the CDBG grant number. This will assure that the charges against the project are properly recorded in the CDBG accounting records.
Purchase orders should be used when requesting supplies and materials for the project. The purchase order is prepared in the same manner as all other purchase orders for the grantee and should include a reference to CDBG.

Contracts should be kept in a separate file. The signed contract represents an obligation of CDBG funds. When payments are made on the contract, these should be recorded in the contract file on a contract control card. If there are several contracts, a contract register should be used as a management tool.

An invoice or statement for services rendered is typically submitted by a contract seeking payment. The accuracy of the invoice should be verified against purchase orders or contracts.

Time sheets are another important source document. If staff time is charged to the project, time sheets must support the number of hours worked.

Cancelled checks, bank deposit slips, receipts, and other miscellaneous documents represent important source documents which are used in accounting for program expenditures or program income. These source documents must be maintained in the grantee’s files and when possible should be submitted to the Department. The grantee may be required to submit these documents to the Department if the contract specifies that this is a requirement or if you are specifically instructed to do so by your program representative or if the grantee’s project activities meet the following describers for non-project and project activities.

**Source Documentation Submitted Required by the Department**

The Department will require source documentation on all expenditures for non-project activity costs; which include professional services for general administration, planning engineering, architectural, housing management, and all other professional services contracts as requested by the Department’s representative. The grantee will submit a copy of the professional services contract(s) following its execution and prior to the first drawdown request for that activity. The drawdown will not be processed prior to receipt of the executed professional service contract(s). Source documentation will continue to be submitted by the grantee for all subsequent drawdown requests that include payments for services covered by the professional services contracts. The submitted drawdown requests will be validated against the source documentation and the professional services contracted scope of services. The Program Representative may request a desk-top self-certification checklist be submitted by the grantee that accounts for actions and dates related to the professional services contracts. The desk-top self-certification checklist will also serve as a method for conducting CDBG grantee compliance review in regards to the professional services contracts.

The Department will test source documentation on all expenditures that meet a specified threshold. This threshold will include all CDBG requests exceeding 25% of the total CDBG award, any requests for Economic (ED) projects, and all CDBG requests exceeding $100,000.

CDBG disbursements for requests meeting this threshold will still be processed. However, written or email notice requesting additional source documentation may be submitted to the grantee requiring additional source documentation to be submitted to the Department within 30 days. No additional CDBG disbursements will be processed until sufficient source documentation is received and approved by the Program Representative and Department Federal Aid Administrator.

Additionally, two (one (one administrative and one non-administrative) randomly selected CDBG
Disbursements will be tested for each grantee annually. In the same manner, written or email notice may be provided to the grantee requesting submission of additional source documentation within 30 days. No additional CDBG disbursements will be processed until sufficient source documentation is received and approved by the Program Representative and the Federal Aid Administrator.

**RECEIPT PROCEDURES**

In addition to CDBG payments from the Department, cash receipts may also include program income and project funds received from other outside sources. Program income includes funds earned through the repayment of housing rehabilitation loans, sale of property, and other miscellaneous receipts.

The Grantee must be certain that project receipts are adequately safeguarded. This includes providing for proper bonding in accordance with state law of those individuals that handle program funds.

All CDBG project receipts should be promptly deposited to the proper bank account and recorded as a receipt in the accounting system. CDBG funds are to be drawn down only as required to pay immediate obligations. The Department will consider the grantee in violation of the requirement to minimize the elapse of time between receipt and expenditure of CDBG funds, if more than five (5) business days pass between receipt and expenditure.

**ELECTRONIC FUNDS TRANSFER**

All CDBG payments to grantees are by Electronic Funds Transfer (EFT) to a designated local bank account. These payments are made through the Nebraska Information System (NIS), the state accounting system for all federal and state grant payments to local governments and other organizations.

All local governments in Nebraska – cities, villages, counties – have an “electronic address” established by the State Treasurer’s Office which corresponds to a designated local bank account for receipt of funds from the State of Nebraska. This electronic address and corresponding bank account will be used for CDBG grant payments with no additional action required by the local government grantee. However, if the designated local bank account is an interest bearing account, the local government grantee must take further action to transfer CDBG funds to a non-interest bearing account in accordance with CDBG regulations.

If a local government grantee wishes to have CDBG funds deposited directly into a different designated local non-interest bearing bank account, the grantee should complete and submit the State Treasurer ACH Enrollment Form. This form may be downloaded from the State Treasurer website at [http://das.nebraska.gov/accounting/forms/forms.htm](http://das.nebraska.gov/accounting/forms/forms.htm) or from the Department’s website and mailed to the Department upon completion. The Department will review the completed form and forward to State Accounting for action and State Treasurer for information. The State Treasurer is the designated “automated clearinghouse” or ACH for the State of Nebraska.

It is not required that the ACH enrollment form be submitted to receive CDBG funds. If no action is taken by the grantee, the standard electronic address will apply for the receipt of CDBG funds. If a CDBG-designated account (or Department-designated account) has been previously established through submission and processing of an ACH enrollment form, it is not necessary to submit this form for each new CDBG grant; however, it is necessary to submit this form as a change action whenever a bank account in which CDBG funds are currently being deposited has been changed (financial institution or account number).
ACH ENROLLMENT FORM INSTRUCTIONS
If the local government grantee wishes to direct CDBG funds to a different designated local non-interest bearing account, a completed State Treasurer ACH Enrollment Form must be sent to the Department.

Obtain the current ACH Enrollment form from the link on the Department’s website.

BANK ACCOUNTS
Grantees are not required to maintain separate bank accounts for the deposit of CDBG funds except for program income and revolving loan fund (RLF) accounts. However, grantees must be able to reconcile CDBG balances in the depository account.

Since interest may not be earned on the deposit of CDBG funds, grantees must make every effort to avoid earning interest on unexpended CDBG funds. To meet this requirement, grantees may put CDBG funds in a non-interest bearing account or draw down CDBG funds on a reimbursement basis. Under the reimbursement system, the grantee pays all project costs (both the CDBG share and the local share) and reimburses the account for the CDBG share. Using the reimbursement method ensures there are never unexpended CDBG funds on deposit that would accrue interest earnings.

Program income and revolving loan fund accounts should be kept in separate interest bearing accounts. See Chapter 9 – Program Income for information on revolving loan funds.

Bank accounts must be secured by FDIC insurance or bank pledged collateral for the full amount of CDBG funds held in the account. Reconciliation of bank statements should be performed promptly.

PAYMENT PROCEDURES
The grantee must establish a system to review and approve all billings presented for payment under the grant. All invoices need to be reviewed to determine that the costs are accurate, reasonable, and allowable under CDBG regulations. The governing body of the grantee needs to review and approve all payments.

The grantee should determine when CDBG disbursements will be made—weekly, bi-weekly, monthly, quarterly. Identifying a cut-off time when all invoices and vouchers must be submitted will assist in the planning of the grantees request for funds. This timeline must be communicated to contractors and vendors. All parties also need to know that generally it will take about 14 days from the time a drawdown request is approved by the Department until the grantee receives the CDBG funds.

Contractors’ invoices can only be paid after verification has been made of work completed. A list of disbursements to be made will need to be prepared and the total federal cash requirements must be submitted to the Department on the appropriate forms. All payments for expenditures are to be supported by source documentation, i.e., invoices or vouchers and kept on file.

ADMINISTRATIVE COSTS
Administrative Costs are the costs associated with implementation of the grant. These costs most often include: salaries for personnel who devote full or part time to the grant, cost of equipment, supplies used for grant activities, and the cost of administrative services provided by other agencies.

Costs that are administrative in nature but are in direct support of a project activity should be charged
to the project activity and *not to General Administration*.

All administrative costs charged to the project must be documented, i.e., through timesheets, purchase orders, and invoices. 2 CFR 200 Subpart E provides guidelines for determining allowable costs.

Employees paid in whole or in part from CDBG funds need to prepare timesheets indicating the hours worked for each pay period. Timesheets and the hourly payroll costs for each employee will need to be reconciled, and the data generated will be transferred to a voucher statement that indicates the distribution of payroll charges and then placed in the appropriate CDBG grant file.

*General Administrative Costs* for the grant are always reported separate from administrative costs for a particular activity. *General administration costs are those costs directly related to the administration of grant requirements* (e.g. submitting Requests for CDBG Funds, completing Project Status Reports, etc.). The Request for Release of Funds form for General Administrative Cost displays the CDBG account control number 0180 in the upper right hand corner of the form.

**MATCHING FUNDS**
Matching funds committed to the project as a part of the approved CDBG Contract must be accounted for in grant records. The receipt and expenditure of the matching funds must be carefully documented. If matching funds are derived from a source outside the local government the project records should identify the source and amount provided.

**INDIRECT COSTS**
Grantees who will charge indirect costs to the grant must submit a cost allocation plan to the Department and receive prior approval to claim such costs. Guidelines on cost allocation plans can be found in 2 CFR 200 Subpart E.

**REQUESTING CDBG FUNDS**
The request by the grantee for CDBG funds is made using the Request for CDBG Funds form (also often referred to as a draw down request form).

There are 2 separate and distinct Request for CDBG Fund Forms that include:

1) Project Activity Cost are reported on the form that displays a text box found in the upper-right-hand corner holding a control indicator that reads: [CDBG Request Form- Project Acty].

2) The second form is for general administration activity cost only. This form control identifier is [0181] and is displayed in the upper right hand corner of the form.

The grantee must use the correct form when requesting CDBG funds for reimbursement of project implementation costs and general administration. The grantee may not combine project activity costs and general administration costs on one form. Separate requests for the two types may be submitted concurrently.

The Department will return the CDBG Request for Funds form when the incorrect form is submitted. These forms can be downloaded from the Department’s website at [http://www.neded.org/community/grants/documentslibrary-a-forms](http://www.neded.org/community/grants/documentslibrary-a-forms). If a grantee is unable to download the form, it may be requested from the Department. The website and the reverse side of the
form include complete instructions for properly completing the form to request funds.

Grantees will normally receive payment of their requested CDBG funds within two weeks from the time the Department receives the request; provided there are no errors in the request or other reasons for delay. All CDBG payments to grantees are by Electronic Funds Transfer (EFT) to a designated local bank account or to a Department designated electronic address. These payments are made through the Nebraska Information System (NIS) based on the “electronic address” established by the Nebraska State Treasurer. Refer to a prior section of this chapter on Electronic Funds Transfer “automated clearinghouse” (EFT\ACH). The State Treasurer is the designated “automated clearinghouse” or ACH for the State of Nebraska

One copy of the completed Request for CDBG Funds form must be mailed to the Department for processing. The signatures on the form must be original and correspond to those signatures on the current Authorization to Request CDBG Grant Funds form (initially required for Release of Funds) the Department has on file. Grantees must send in a new Authorization to Request CDBG Grant Funds form whenever the individuals authorized to sign Requests for CDBG Funds change.

Please take special note of the following concerning the request, receipt, and expenditure of CDBG funds:

- A request for funds may not be submitted until the grantee has received a Notice of Release of Funds.
- Double and triple check the completed Request for CDBG Funds form before sending it to the Department, as any errors will cause considerable delay in payment.
- Request only the amount of funds needed to pay immediate obligations.
- A request for project activity costs must be submitted separate from general administration. Check to make sure the correct CDBG request for funds form is used. Project Activity Request for Release of Funds will show the language ‘Project Acty’ in the text box located in the top right side of the form. The Request for Release of Funds form for General Administration will show the numeric indicator [0180] in the text box located at the top of the form.
- Effective July 1, 2006 the minimum CDBG project drawdown request is $1,500, with the exception of the final draw request. The minimum CDBG general administration is $500, with the exception of the final general administration draw request. Failure to satisfy these standards will result in the return of the CDBG request for funds.
- The maximum allowable percentage of approved CDBG general administrative activity 0181 costs as contracted that may be requested by the grantee through the CDBG drawdown process is as follows:
  - 50% upon removal of grantee contracted special conditions—-the Department issuance of release of funds certifies that grantee contracted special conditions are met.
  - 90% prior to the submission of project closeout*—no more than 90% CDBG funds may be drawn prior to the grantee submission and the Department’s receipt of closeout documents. The grantee closeout documents are the final financial report, project status report, clearance of monitoring (compliance) report, and if applicable the final wage report, final jobs report, and planning document. The local government recipient may need to submit an audit, or notification of annual audit. The Department holds 10% general administrative CDBG funds until the closeout documentation process for receipt and acceptance of documents is met. [CDBG Planning grants are not subject to the 90% draw maximum for the general administration activity prior to submission of the closeout documents]. *Department may waive 90% rule as warranted.
100% following submission by the grantee and receipt by the Department of all closeout documents. The grantee may submit the CDBG request for the final 10% general administration activity 0181 CDBG funds along with the closeout documents. The Department will process the final 10% general administrative costs following receipt and acceptance of close out documents. The grantee closeout documents are the final financial report, project status report, clearance of monitoring (compliance) report, and if applicable the final wage report, final jobs report, and planning document. The local government recipient may need to submit an audit, or notification of annual audit [CDBG Planning grants are not subject to the 10% hold back for general administration activity.]

- Program income must be disbursed prior to requesting additional non-general administrative funds.
- Federal funds on hand must be disbursed prior to requesting additional funds.
- Grantees may not earn interest on the deposit of federal funds pending disbursement. Any interest earned on federal funds must be returned to the Department of Housing and Urban Development.
- If more than $1,000 is on hand for over five business days, the local government must return the excess amount to the Department.
- The request for payment must be in accordance with the approved budget for the grant contained in the Sources & Uses of Funds section of the grant contract.
- Grantees are required to show local match or other funds in the proportionate amount for each activity as included in the approved budget when requesting funds for an activity.
- The request for funds should show the status of all approved activities even if no funds are requested for one or more activities in a specific request.
- Funds requested must reflect actual eligible cost incurred. Claim exact amounts on each reimbursement or use rounding down to the nearest dollar on individual reimbursements and then claim exact amounts due down to the penny on the final reimbursement request.

**BUDGET AMENDMENT AND FUNDS REALLOCATION**

Grantees must request approval from the Department for any modification or amendment to the CDBG contract. When submitting the request for approval, the grantee must complete and submit the CDBG Contract Amendment Request Form to the Department and attach all appropriate documentation to the form. The required documentation depends upon the type of modification requested and is outlined on the Contract Amendment Request Form. The CDBG Contract Amendment Request Form is available on the Department’s website. Grantees will receive official notice of approval or denial. If modifications/changes are approved, the Department will determine if a contract amendment is necessary or if modifications can be approved via an approval letter.

**CONTRACT RECORDS**

Grantees will enter into contracts that will require record keeping and reporting consistent with the CDBG financial management requirements.

A proper system of management includes:

- A contract file for each signed contract.
- A contracts register to enter each contract into.
- A control card for each contract that tracks invoices and payments.
The file for each contract must contain the following:

- A signed contract and amendments.
- A schedule of payments supported by copies of time sheets; copies of checks or transfer notifications; copies of approved authorization/payment forms; and copies of invoices.
- All project related correspondence.
- Property records (where appropriate).
- Any notice of cancellation, termination or suspension of the contract.
- Final inspection reports.

A contracts register should be used to record all contracts signed. This register will be the summary record for all contracts. The register also indicates which contracts require compliance with other federal requirements.

In conjunction with the contract register a contract card should be established for each contract. This card is used to record all payments on the contract and the percent of the work that has been completed.

**PROPERTY RECORDS AND MANAGEMENT**

During the operation of the CDBG project, there are several different types of real or personal property for which funds may be spent ranging from office supplies to real estate. Property purchased in whole or in part with CDBG funds is governed by 24 CFR Part 570.201, CFR Part 570.505, and 24 CFR Part 85.

All purchases of $300 or more of real or personal property which are made in full or in part with CDBG funds must be recorded in a property management record. Furthermore, any real or personal property of $300 or more purchased in whole or in part with CDBG funds must be authorized as a separate budgetary line item in the application or be approved by separate communication from the Department.

The property management record will consist of a property register that summarizes all property acquisitions and dispositions. This record must be available at the time of the audit. In addition, an accounting of property acquired with grant funds must be made at the time of closeout.

The property register will also include information on the date acquired, a description, identification numbers, purchase order and check numbers, costs, percent of CDBG funds used in the acquisition, where the property is located, the condition, and disposition of the property.

The grantee may also utilize a control card for each acquisition. Disposition of the property can be recorded on the back side of the card.

Records must be kept for real property including land, air rights, easements, water rights, right-of-way, buildings and other real property improvement and any other interests in the real property. An interest in the real property is defined as purchase, long-term lease (15 years or more), donation, or otherwise. Public improvements such as water systems or rehabilitation of facilities owned by others are not considered real property for purposes of record keeping.

Real property does not include moveable equipment, furnishings and other personal property, or machinery. These are not CDBG eligible activities in most circumstances.

The ownership of property purchased with CDBG funds is governed by federal regulation. The title to
real property acquired with CDBG funds vests with the grantee subject to the continuing use of the real property for the authorized purpose. If the property is no longer needed for the authorized purpose, the grantee should contact the Department to determine the options available for using the property for another purpose or for disposal instructions.

**DISPOSITION OF PROPERTY**

*Real Property*
Disposition of real property is governed by 24 CFR 85.31(c). When real property is no longer needed for the authorized purpose, there are three alternatives available to the grantee. First, the grantee may retain title after compensating the Department. The amount to be paid to the Department is calculated by applying the CDBG percentage of participation in the cost of the original purchase to the fair market value of the property. Second, the grantee may sell the property and compensate the Department. The compensation to the Department in this instance is calculated by applying the CDBG percentage of participation in the cost of the original purchase to the proceeds of the sale after deduction of any actual and reasonable selling and repair expenses. Third, the grantee may transfer title to the Department or to a third-party designated or approved by the Department. In this case, the grantee would be compensated with an amount calculated by applying the grantee’s percentage of participation in the purchase of the property to the current fair market value.

*Equipment*
Disposition of equipment is governed by 24 CFR Part 85.32(e). When original or replacement equipment acquired under a grant is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency, disposition of the equipment falls into one of two categories:

1) Items of equipment with a current per-unit fair market value of less than $5,000 may be retained, sold, or otherwise disposed of with no further obligation to the Department;

2) Items of equipment with a current per unit fair market value in excess of $5,000 may be retained or sold and the Department shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the CDBG percentage of the equipment.

If the grantee fails to take appropriate disposition actions, the Department may direct the grantee to take excess and disposition actions.

*Supplies*
Disposition of supplies is governed by 24 CFR Part 85.33(b). If there is a residual inventory of unused supplies exceeding $5,000 in total aggregate fair market value upon termination or completion of the grant and if the supplies are not needed for any other federally sponsored programs or projects, the grantee shall compensate the Department for its share.

*Change in Use of Property*
Real property that was acquired or improved in whole or in part using CDBG funds in excess of $25,000 is subject to 24 CFR 570.505. These standards prohibit a change in use or planned use of a property from that for which the acquisition or improvement was made, unless the grantee provides affected citizens with reasonable notice of, and an opportunity to comment on, any proposed change. In addition, one of the following conditions must be met:
1) the new use of the property meets one of the CDBG national objectives and is not a building for the general conduct of government; or
2) if the use does not meet a national objective, the grantee reimburses the Department in the amount of the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition and/or improvements to the property.

These standards are applicable to the property until five years after closeout of the grant. Once reimbursement of CDBG funds has been made, the property will no longer be subject to any CDBG requirements.

Cash Management- Procedures for minimizing the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by grantees and subgrantees must be followed whenever advance payment procedures are used. Grantees must establish reasonable procedures to ensure the receipt of reports on subgrantees' cash balances and cash disbursements in sufficient time to enable them to prepare complete and accurate cash transactions reports to the awarding agency.

Funds requested must reflect actual eligible cost incurred. Claim exact amounts on each reimbursement or use rounding down to the nearest dollar on individual reimbursements and then claim exact amounts due down to the penny on the final reimbursement request.

Cash management is the principle behind the Department’s rule that no more than $1,000.00 CDBG funds can be kept on hand for more than five business days. Definition: Business day means a day when Federal Reserve Banks are open. (Department of the Treasury Fiscal Service, 2002)

WORK CITED

CHAPTER 13 – REPORTING REQUIREMENTS

The Department requires grantees to report on grant progress through the life of the project. This Chapter describes the reports and due dates for receipt by the Department. Note that not all of the reports are applicable to every project.

Grantees must use current reporting forms that are submitted. The most current forms and instructions are available on the Department’s website.

PROJECT STATUS REPORTS
Grantees must submit Project Status Reports to the Department every six months during the life of the project. The report must be submitted within 15 days after each semi-annual reporting period ends (June 30th and December 31st of each year).

The Project Status Report identifies any accomplishments that have been completing during the reporting period and also beneficiary data regarding CDBG National Objectives.

Failure of the grantee to promptly submit any necessary Project Status Reports for the project may result in the Department stopping processing of any future draw down requests and payments until Reports are received by the Department.

JOB CREATION/RETENTION REPORTS
The Department requires all grantees funded under the Economic Development (ED) category to submit a Job Creation/Retention Report every six months. The report must be submitted within 15 days after each semi-annual reporting period ends (June 30th and December 31st of each year).

Each business assisted with CDBG resources must complete an Employee Certification Form for each employee hired or retained under the terms of the project. The grantee must collect this information and provide a summary within the Job Creation/Retention Report.

PROGRAM INCOME REPORTS
Grantees must report on any CDBG program income earned on a semi-annual basis. The Report must be submitted within 15 days after each semi-annual reporting period ends (June 30th and December 31st of each year).

A separate Program Income Report is completed for Economic Development (ED) projects and a separate Report is completed for Housing projects. For all other projects in which CDBG program income may be earned, contact the grantee’s Department Program Representative for more information.

More guidance on program income is available in Chapter 8 – Program Income.

NOTIFICATION OF ANNUAL AUDIT
Each grantee is required to submit a Notification of Annual Audit form for each year CDBG funds are expended. The form is due no later than 30 days after the end of the recipient’s fiscal year.

See also Chapter 15 Audit for more information on audit requirements.
FINAL REPORTS
After the completion of project activities for any CDBG project, the grantee must submit any necessary final reports within the identified time frames as noted within the reports. Once all information is received and reviewed by the Department, a Certificate of Closeout will be issued.

For more information on the closeout process and final reporting see Chapter 15 Audit and Chapter 16 Closeout
CHAPTER 14 – MONITORING

The Department’s goal in monitoring is to ensure that CDBG-funded projects are implemented in a timely manner, that they meet CDBG National Objectives and proposed outcomes, and that they are managed within the rules of the program.

OBJECTIVES OF MONITORING

There are four primary objectives within a monitoring review that include:
- Document compliance with program rules
- Ensure timely expenditure of CDBG funds and timely closeout of projects
- Track program/project performance
- Identify technical assistance needs

COMPLIANCE REVIEW

In order to ensure that all statutory and regulatory requirements are being met for CDBG funded activities and eligible activities used as CDBG Match, the Department uses various monitoring standards and procedures.

The Department is responsible for ensuring that grantees under the CDBG program carry out projects in accordance with federal and state statutory and regulatory requirements. These requirements are set forth in the grantee’s contract executed between the State and the grantee. The Department provides maximum feasible deference of responsibility and authority to grantees under the program. Whenever possible, deficiencies are rectified through constructive discussion, negotiation, and assistance.

The Department conducts two basic types of monitoring that are determined by the established “Risk Analysis” process. These include: 1) Desktop Monitoring Review and 2) Onsite Monitoring Review. The Department reviews each project in order to verify that the grantee is proceeding in the manner set forth in the CDBG Contract.

The Risk Analysis monitoring plan determines whether a project review is completed through a desktop or onsite monitoring review. The factors used for the Risk Analysis include, but are not limited to, the following:
- Grant award amount;
- Length of time since grantee was monitored;
- Length of time certified administrator was last evaluated;
- Whether the grantee had any significant outstanding audit issues;
- Whether the grantee had any significant outstanding compliance issues; and
- The types of grantee projects previously monitored.

DESKTOP MONITORING

Desktop monitoring is completed offsite by the Department. The Department Program Representative is responsible for overseeing the completion of project activities and to review the grantee’s performance in carrying out the approved project. This review process enables the Department to identify problems requiring immediate attention and to schedule projects for on-site monitoring as needed.
Some items reviewed during a desktop monitoring generally include a review of contract amendments/extensions; CDBG Project Status Reports; draw down requests; and other supporting documentation. The Program Representative utilizes a desktop monitoring review checklist.

Monitoring checklists are utilized to ensure that all issues are addressed. The number of times a project is monitored depends upon the issues that arise during the desktop monitoring.

See also the Desktop Checklist at the end of this Chapter.

ON-SITE MONITORING
On-site monitoring is a structured review conducted by the Department Program Representative at the location where project activities are being carried out or project records are being maintained. In general, a single on-site monitoring visit is conducted during the course of a project, unless determined otherwise by the Risk Analysis process.

Monitoring checklists are utilized to ensure that all issues are addressed. The number of times a project is monitored depends upon the issues that arise during the on-site monitoring.

See also the On-site Checklist at the end of this Chapter.

Overall, the Department uses the following processes and procedures for monitoring projects that receive HUD funds. These include: evaluation on program progress; compliance monitoring; technical assistance; project status reports; monitoring technical assistance visits; special visits; and continued contact with grantees by program representatives.

DESKTOP/OFF-SITE REVIEW PROCESS
The Department uses the following process to undertake and report for desktop monitoring:

1) Program Representative sends notice of forthcoming monitoring and compliance review within the Release of Funds letter. An additional letter requesting submission of a Desktop Monitoring Checklist Completed by Grantee will be issued once the project reaches at or near 45% drawn down. Exhibit A (CDBG Planning Desktop Monitoring Checklist Completed by Grantee) provides an example of the checklist, please be sure to download the most current forms from the website. The Checklists in this chapter were current at time this manual was prepared; however, they are revised continuously to reflect changes in State and Federal regulations.

2) In general, the checklist and supplemental materials may be submitted to the Department once at least 60% of the project funds have been drawn down. The project activities need not be complete at the time of monitoring; however, in some cases the Department may delay monitoring and compliance clearance until that time. Please be careful to follow the checklist and provide the required documentation, providing explanation and additional information where necessary. Materials should be submitted via mail to the attention of your Program Representative.

3) Upon submission of requested materials, Program Representative reviews documentation and conducts desktop monitoring. Exhibit B contains the Desktop Monitoring Checklist that the Program Representative utilizes when monitoring projects off-site.

4) Program Representative submits monitoring report to the grantee. Exhibit C (Example Desktop Monitoring Report) provides an example. In some instances where the materials are submitted incomplete, the Program Representative may contact the local CDBG contact and/or the
Certified Administrator for additional records or explanatory narrative prior to issuing the formal monitoring report. The supplemental information is reviewed and a formal report is issue to the chief elected official.

5) The State generally allows 30-45 days to correct and respond to any findings of deficiency noted in the report (Example of Desktop Monitoring Report Response from Grantee, Exhibit D). The corrective actions should generally follow the recommendations made by the Program Representative. Program Representative will inform the grantee if its response is sufficient to absolve or clear the findings as provided in the report. All monitoring findings must be cleared prior to grant closeout; however, not all Findings can be removed and additional action (e.g. explanatory narrative, submittal of action plan, etc.) may be requested prior to clearance. Exhibit E provides an example of a Final Monitoring Report in response to the supplemental information provided by the grantee.

ON-SITE REVIEW PROCESS
The Department uses the following process to set-up, undertake and report on on-site monitoring visits:

1) Program Representative calls the grant administrator to schedule an on-site visit. Generally, visits are scheduled when 60 percent of the grant amount has been expended.

2) Program Representative sends a letter prior to visit that confirms date and time, the checklists that will be used, and the people and files needed during the visit. Exhibit F contains the Monitoring Checklist that the Program Representative utilizes when monitoring projects on-site. Checklist was current at time this manual was prepared; however, they are revised continuously to reflect changes in State and Federal regulations.

3) Program Representative conducts on-site visit, reviews files, inspects property, completes checklists and writes report. Program Representative discusses their findings with the grantee in an exit conference to correct any problems. Any problems that cannot be corrected will be discussed in the monitoring report.

4) Program Representative submits monitoring report to the grantee within 30 days of visit unless circumstances noted on the checklist would indicate a delayed report would be more appropriate. Exhibit F (Sample State’s Monitoring Report) provides an example.

5) The State generally allows thirty days to correct and respond to the findings of deficiency noted in the report (Example Response to State’s Monitoring Report, Exhibit F). The corrective actions should generally follow the recommendations made by the Program Representative. Program Representative will inform the grantee if its response is sufficient to clear the findings. All monitoring findings must be cleared prior to grant closeout.

FILE PREPARATION
The Department expects the grantee to have all documents needed for review to be available at the site of the visit. All grant records must be maintained and under the control of the grantee. The records must be readily accessible by the Department. Furthermore, all documentation should be well organized for easy review. A good organization approach should be based upon the structure of the monitoring checklist.

MONITORING REPORT
The monitoring report issued to the grantee following a review contains the following as applicable:

1) Compliance areas reviewed, files reviewed, who conducted the review and the date it occurred;
2) A brief description of the specific statute, regulation or requirement examined;
3) The conclusion (i.e. Satisfactory Performance, Concern, Question of Performance, Finding) and basis for the conclusion reached.
   a. A Satisfactory Performance determination is a conclusion that the grantee is meeting its statutory and regulatory responsibilities.
   b. A Concern raises an issue that does not involve a statute, regulation or requirement, but may involve a management suggestion or program improvement.
   c. A Question of Performance is an inconclusive review that raises a question of whether or not a violation of a statute, regulation or requirement has occurred or compliance cannot be demonstrated. In this case the reviewer will first informally discuss the review with the grantee. If a determination of compliance still cannot be made, the reviewer will request additional information, to be provided within a 30-day period, to determine whether a violation did occur. This determination is only for a limited period of time. When the Grantee responds to the question, a final determination will be made.
   d. A Finding is a clear, specific and identifiable violation of a statute, regulation or requirement about which there is no question. The action normally requested is for the grantee to explain, within a 30-day period, what steps it will take to remedy and/or prevent a recurrence of the violation.
Exhibit A
CDBG Planning Desktop Monitoring Checklist Completed by Grantee

CDBG Planning Grant
Performance Review & Monitoring Checklist

The Performance Review Monitoring Checklist for the Community Development Block Grant (CDBG) Planning Grant consists of three sections. Grantee’s are required to complete all sections of this form, provide the additional required documentation asked for, and once completed, the Certified Grant Administrator and the Chief Elected Official’s signature are required to certify this information, where indicated on the form, and then mailed into the Nebraska Department of Economic Development within thirty (30) days of receipt of these instructions.

Below you will find a brief outline of the entire Performance Review Compliance process.

Section One

Section 1– requires you to complete a check-off form to certify that the grantee files contain all required documentation and that regulatory processes have been followed.

Section Two

Section 2– ask the grantee to provide information by answering the direct questions in detail, filling in data as requested, and requiring them to submit the supporting documentation as described.

Section Three

Section 3; the Final Step

This section holds the formal self-certification form that must be signed by the Chief Elected Official and the CDBG Certified Grant Administrator responsible to the local unit of government awarded CDBG planning grant funds.

The Grantee completes the following information: Person Completing Form, Phone Number, and asks that you record the Date Report Completed. Make sure all questions are answered and data has been transcribed in the first two sections of this document before the CEO and Certified Grant Administrator sign the Certification Form; the signatures are validating the information is complete, correct, and that you have submitted all information to the Nebraska Department of Economic Development on time and the originals are on file and available for review at the grantee’s location.

The Program Representative will be responsible for completing: Grantee, CDBG Grant Number.
# CDBG Planning Grant – Performance Review & Monitoring Checklist

<table>
<thead>
<tr>
<th>Grantee:</th>
<th>CDBG Grant #:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contact Person:</td>
<td>DED Program Rep:</td>
</tr>
<tr>
<td>CDBG Certified Admin.:</td>
<td>Monitor Date:</td>
</tr>
<tr>
<td>CA Email:</td>
<td>Monitored by:</td>
</tr>
<tr>
<td>DUNS #:</td>
<td>EIN/Fed. ID #:</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>SAM Validation Date:</th>
<th>Contract Start Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Notice of Approval Date:</td>
<td>Contract End Date:</td>
</tr>
<tr>
<td>Release of Funds Date:</td>
<td>Current Project Status:</td>
</tr>
<tr>
<td>Location of Project:</td>
<td>Extensions:</td>
</tr>
<tr>
<td>Total CDBG Budget: $</td>
<td>Amendments:</td>
</tr>
<tr>
<td>Total Other Budget: $</td>
<td>CDBG Amount Drawn:</td>
</tr>
<tr>
<td>Total Project Budget: $</td>
<td>CDBG Draw % / #: % #</td>
</tr>
</tbody>
</table>

## Planning Product & Final Report Submission Dates

<table>
<thead>
<tr>
<th>___# of copies sent on:</th>
<th>☐ Electronic File sent</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Planning Consultant:</th>
<th>Reviewed:</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Final Financial Report:</td>
<td></td>
</tr>
<tr>
<td>☐ Final Status Report:</td>
<td></td>
</tr>
<tr>
<td>☐ Other</td>
<td></td>
</tr>
</tbody>
</table>

## Project Status Notes:

---

CDBG Manual 14-6 Revised April 2016
Section 1
Instructions
Verify that all documents are on file by placing an X in the boxes provided— provide dates where needed, and answer all questions pertaining to the CDBG awarded to the Local Unit of Government you represent.

**YOUR GENERAL FILES MUST INCLUDE:**

<table>
<thead>
<tr>
<th>Item</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>The CDBG Grant Application</td>
<td></td>
</tr>
<tr>
<td>Current Grantee Information Sheet</td>
<td></td>
</tr>
<tr>
<td>Citizen Participation Plan, date:</td>
<td></td>
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<tr>
<td>Residential Anti-displacement Plan, date:</td>
<td></td>
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<tr>
<td>LMI Survey Records (where available)</td>
<td></td>
</tr>
<tr>
<td>FFATA Form, date:</td>
<td></td>
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<tr>
<td>System for Award Management (SAM) database record, validation date:</td>
<td></td>
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<tr>
<td>Four Factor Analysis/LEP documentation, review date:</td>
<td></td>
</tr>
<tr>
<td>Procurement Procedures &amp; Code of Conduct, date:</td>
<td></td>
</tr>
<tr>
<td>Excessive Force Certification, date:</td>
<td></td>
</tr>
<tr>
<td>Implementation Schedule</td>
<td></td>
</tr>
<tr>
<td>Grant Contract and Associated Amendments/Extensions</td>
<td></td>
</tr>
<tr>
<td>Fair Housing Actions Proposed as provided within Special Conditions:</td>
<td></td>
</tr>
</tbody>
</table>

1st Public Hearing, date conducted: ______________

- Citizen comments/complaints, and general responses
- If there are outstanding complaints provide the details and nature of the issue (attach addt'l pages as necessary):

2nd Public Hearing, date conducted: ______________

Submit the following documentation:

- Copy of Hearing Notice, date: ______
- Copy public notice publication, publish date: ______
- Copy of attendance sheet, comments, and other notes

**YOUR ENVIRONMENTAL REVIEW SECTION HOLDS:**

- Complete Environmental Review Record
- Determination of the Level of Review, date: ______
- Tier II review documentation (where applicable)

**YOUR FINANCIAL FILES INCLUDE:**

**Financial Management**

- Authorization to Request Funds
- Financial Management Certification

- Notification of Single Audit for each Fiscal Year during the grant period. Proved Year(s)

- Copies of Single Grant Audit(s) when required with any correspondence regarding audit findings. Proved the date and specify the grant year(s)
Section 2

Instructions
Answer all questions and submit the requested documents.

Financial Management
Internal Control, Management System & Processes

List the person(s) responsible and the systems used to review, approve, and file all billings for payment under the grant.

Total number of drawdowns: _____  □ Drawdowns were submitted as reimbursement.

Are accounts with CDBG funds interest-bearing?
□ No
□ Yes; explain: ____________________________________________________________________

Has there been any time the balance in the account exceeded $5,000 for more than 10 working days?
□ No
□ Yes; List amounts and number of days for each occurrence:

Submit all documentation that can support all CDBG and matching fund expenditures.
□ Bank Statements
□ Invoices
□ Ledger showing project expenditures
□ Cancelled Checks (If available)

Does the accounting system properly account for the local matching funds and CDBG award percentages paid out to-date?
□ Yes
□ No

□ Local government provided general administrative services.
    For administrative cost submit documentation of administrative expenses:
□ Timesheets
□ __________________________ (other documentation)
**Procurement & Professional Services**

Describe the methods of Procurement (competitive negotiation, competitive sealed bids, small purchase, or non-competitive negotiation) used on all procurements (e.g. planner, administrator) and identify the individuals or firm that prepared the Request for Proposal. Also state the Grantee’s rational for the procurement method (if method was non-competitive negotiation, the grantee must document that only one source could provide the service or item and/or that the competition was determined to be inadequate).

Admin / Prof

- Direct negotiation (documentation attached)
- Competitive negotiation (documentation attached)
- Non-Competitive negotiation (documentation attached*)
- Small purchase (documentation attached)

Grantee procured multiple services (must be consistent with CDBG program policy on multiple-services).

**Procurement & Professional Services (continued)**

Describe the process used to evaluate proposals based on the criteria shown in the Request for Proposals. If a numerical system was used; provide the scoring for each proposal.

Indicate the reason for selection and basis for the selection of contract type:

What efforts were made to obtain goods and services from small, minority-owned, female-owned, or local businesses?
PROCUREMENT DOCUMENTATION:
Please be sure to include the following required items where appropriate *(check all that apply)*.

- Copies of Request for Proposals/Qualifications.
- Documentation of public advertisement of RFP/RFQ
- Listing of firms RFP was directly sent.
- List of proposals received. If not three or more, provide an explanatory narrative.
- A copy of the written evaluation criteria including criteria for judging responsiveness of proposals, reasonable cost and the determination of responsible of firms.
- A copy of the written evaluation of each proposal or statement based on written criteria.
- The written statement explaining the basis for selection and basis for selection of contract type.
- If a numerical system was used, the numerical calculation for each proposal received.
- Copies of all complete and fully executed contracts (e.g. planning and general administration).
Civil Rights

The grantee records must contain the following information to document their compliance with the civil rights requirements.

**Program Beneficiaries**

<table>
<thead>
<tr>
<th>Activity or Program Code:</th>
<th>Direct Beneficiaries</th>
<th>Activity or Program Code:</th>
<th>Direct Beneficiaries</th>
<th>Activity or Program Code:</th>
<th>Direct Beneficiaries</th>
<th>Activity or Program Code:</th>
<th>Direct Beneficiaries</th>
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<tbody>
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<table>
<thead>
<tr>
<th>Male Beneficiaries</th>
<th>Total</th>
<th>Hispanic</th>
<th>Total</th>
<th>Hispanic</th>
<th>Total</th>
<th>Hispanic</th>
<th>Total</th>
<th>Hispanic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Female Beneficiaries</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Beneficiaries with Disabilities</td>
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</tbody>
</table>

1. White
2. Black/African American
3. Asian
4. American Indian/Alaskan Native
5. Native Hawaiian/Other Pacific Islander
6. American Indian/Alaskan Native & White
7. Asian & White
8. Black/African American & White
9. American Indian/Alaskan Native & Black/African American
10. Asian & Black/African American
11. Other Multi-Racial

<table>
<thead>
<tr>
<th>Total</th>
<th>Female head of household</th>
<th>% LMI</th>
<th>Head of Household with disability</th>
<th>% LMI</th>
</tr>
</thead>
</table>

Conclusion: Are there any indications that any person or group was denied benefit on the grounds of race, color, national origin, religion, familial status, sex, or handicap? ☐ Yes ☐ No
Civil Rights (continued)

If you concluded that there were indications that any person or group was denied benefits on the grounds of race, color, national origin, religion, familial status, sex, or handicap; explain.

Section 504
Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in programs and activities conducted by HUD or that receive financial assistance from HUD. Further, Section 504 covers employment discrimination based on disability and requires HUD and HUD-assisted agencies to make reasonable accommodations for the known physical or mental limitations of an employee or qualified applicant.

Instructions
Answer the following questions and provide the dates where directed.

Have you conducted a self-evaluation to assess policies and practices?
☐ Yes ☐ No; List reasons: ____________________________________________________

<table>
<thead>
<tr>
<th>Date of Self Evaluation:</th>
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<tr>
<td>Date of Transition Plan:</td>
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</table>

☐ Grantee has 15 or more employees.

<table>
<thead>
<tr>
<th>Name/title of 504 Coordinator:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Email:</td>
</tr>
<tr>
<td>Phone:</td>
</tr>
</tbody>
</table>

Do you have grievance procedures? ☐ Yes ☐ No

Describe the procedures adopted and implemented to ensure that interested persons, including those with impaired vision, or hearing can obtain information concerning the existence and location of services, activities, and/or facilities.
Section 2
Fair Housing

The grantee records must document what meaningful action was taken to comply with title VIII of the Civil Rights Act of 1968 concerning **affirmatively furthering fair housing**. List the unique activities undertaken by the grantee during the grant period to affirmatively further fair housing, for further guidance see Chapter 5 CDBG Contract of the most current Administration Manual. *Documentation must be provided.*

☐ **Fair Housing documentation attached** (e.g. newspaper clipping, affidavit of publication, meeting and board minutes, contracts and agreements with workshop presenters, sign-in sheets, website screenshots and web addresses, video and audio files, etc. *Please be sure to include impact estimates.*)

Do you have a written civil rights/fair housing complaints policy?
☐ Yes
☐ No; List reasons: ________________________________________________________________

Have you ever received any civil rights/fair housing complaints?
☐ Yes; date(s): ____________________________
☐ No

If yes; explain:


**Limited English Proficiency (LEP)**

Yes / No

☐ ☐ Do you have a designated LEP contact person?

<table>
<thead>
<tr>
<th>Name/title:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Email:</td>
<td>Phone:</td>
</tr>
</tbody>
</table>

☐ ☐ Have you completed a Four Factor Analysis to determine whether there are LEP populations within its service area? Date of completion: _________________

*If no, explain below.*

☐ ☐ Do you have a Language Access Plan (LAP)? Date of plan: _________________

*If no, explain below.*

☐ ☐ Are you providing meaningful access to programs and activities? *If yes, please explain.* *(e.g. translation of Vital Documents, Use of Language Line, etc.)*

☐ ☐ Have your LAP and meaningful access programs been reviewed by DED staff?

☐ ☐ Are you maintaining records regarding local efforts to comply with Title VI LEP Obligations?

*Please explain below.*
Section 3
Instructions
Now that you have completed the first two sections you are ready certify this information by attesting that all of the information is complete, correct, and can be found in your CDBG grant files. In order to certify this information, simply fill out the Certification form below and provide the Chief Elected Official and the CDBG Certified Grant Administrator signatures were designated.

Print out this entire Performance Review checklist and Certification form, double check all pages for completion and mail all of the required supporting documentation to: Nebraska Department of Economic Development, 301 Centennial Mall South, P.O. Box 94666, Lincoln, NE 68509-4666.

Certification Form

<table>
<thead>
<tr>
<th>GRANTEE NAME</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>CDBG GRANT #</td>
<td></td>
</tr>
<tr>
<td>Program Representative:</td>
<td></td>
</tr>
<tr>
<td>Person Completing Form:</td>
<td></td>
</tr>
<tr>
<td>Phone Number:</td>
<td></td>
</tr>
<tr>
<td>Email Address:</td>
<td></td>
</tr>
<tr>
<td>Date Report Completed:</td>
<td></td>
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</table>

PLEASE PROVIDE THE NAME OF AND EMAIL ADDRESS FOR THE FOLLOWING

<table>
<thead>
<tr>
<th>Local Unit of Government Contact/Clerk</th>
<th>Email</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fair Housing Representative</td>
<td>Email</td>
</tr>
<tr>
<td>CDBG Certified Grant Administrator</td>
<td>Email</td>
</tr>
<tr>
<td>Chief Elected Official</td>
<td>Email</td>
</tr>
</tbody>
</table>

Reminder: submit all final reports upon completion of the CDBG planning grant:
- Final Financial Report
- Final Project Status Report
- 2 Copies of Final Product, or one copy and one electronic copy

I hereby certify that all of the information provided to the Nebraska Department of Economic Development described within the completed Performance Review and Monitoring Checklist as required is accurate, complete, and will be maintained in our CDBG grant files for 10 years after the grant closeout date and that these files will be available for review upon request.

<table>
<thead>
<tr>
<th>Chief Elected Official</th>
<th>Title</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>CDBG Certified Administrator</td>
<td></td>
<td>Date</td>
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</table>
### Exhibit B
Program Representative Desktop Monitoring Checklist

**DESKTOP PERFORMANCE REVIEW MONITORING CHECKLIST**
Program Representatives Portion

<table>
<thead>
<tr>
<th>Field</th>
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<tbody>
<tr>
<td>Grantee:</td>
<td>CDBG Grant #:</td>
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<tr>
<td>Contact Person:</td>
<td>DED Program Rep:</td>
</tr>
<tr>
<td>CDBG Certified Admin.:</td>
<td>Monitor Date:</td>
</tr>
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<td>CA Email:</td>
<td>Monitored by:</td>
</tr>
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<td>DUNS #:</td>
<td>EIN/Fed. ID #:</td>
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<td>Release of Funds Date:</td>
<td>Current Project Status:</td>
</tr>
<tr>
<td>Location of Project:</td>
<td>Extensions:</td>
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<tr>
<td>Total CDBG Budget:</td>
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<tr>
<td>Total Other Budget:</td>
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</tr>
<tr>
<td>Total Project Budget:</td>
<td>$</td>
</tr>
<tr>
<td>CDBG Draw % / #:</td>
<td>%</td>
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</table>

### Planning Product & Final Report Submission Dates

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<th>Field</th>
<th>Details</th>
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<tbody>
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<td>□ Electronic File saved to server</td>
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<tr>
<td>Planning Consultant:</td>
<td>Reviewed:</td>
</tr>
<tr>
<td>□ Final Financial Report:</td>
<td></td>
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<tr>
<td>□ Final Status Report:</td>
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<tr>
<td>□ Other</td>
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</table>

<table>
<thead>
<tr>
<th>Field</th>
<th>Details</th>
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</thead>
<tbody>
<tr>
<td>Monitoring Report sent:</td>
<td>Response Due:</td>
</tr>
<tr>
<td></td>
<td>Response Rec’d:</td>
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<tr>
<td></td>
<td>Follow-up Letter:</td>
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<td></td>
<td>□ 2nd Response Rec’d:</td>
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<td></td>
<td>□ 3rd Response Rec’d:</td>
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</tbody>
</table>

□ Monitoring Cleared:

□ Monitoring Cleared:
GENERAL FILES

☐ Review general portion listed on “Certification List” submitted by grantee. Compare to DED file.

ENVIRONMENTAL REVIEW

☐ Review environmental portion listed on “Certification List” submitted by grantee. Compare to DED file.

FINANCIAL MANAGEMENT

General

☐ Review financial portion listed on “Certification List” submitted by grantee. Compare to DED file.

Internal Control

☐ Review internal control process on “Questions List” submitted by grantee.

☐ Review final documentation provided by grantee.

Cash Management

☐ Review financial documentation provided by grantee.

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>N/A</th>
<th>Notes</th>
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<tr>
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</table>

Property Management

N/A

Accounting Records

☐ Review internal control process on “Questions List” submitted by grantee

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>N/A</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Program costs and obligations can be traced to source documentation (invoices, billings, contracts, canceled checks, timesheets, etc.).</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>----------------------------------------------------------------------------------------------------------------------------------</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C</td>
<td>Grantee’s records identify matching and other funds applied to each activity and proper matching percentage has been maintained. (If grantee has received waiver approval, note the terms of the waiver).</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>D</td>
<td>Did the grantee’s system adequately track local administration costs incurred?</td>
<td></td>
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<tr>
<td></td>
<td>Yes</td>
<td>No</td>
<td>N/A</td>
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<tr>
<td></td>
<td>Describe how these costs are accumulated and reimbursed:</td>
<td></td>
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<tr>
<td>E</td>
<td>Did City/Village employee’s time spent on the grant are supported by timesheets?</td>
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</tr>
<tr>
<td>F</td>
<td>Did City/Village identify the method of accounting for other costs such as copies or supplies if charged to the grant?</td>
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</tr>
<tr>
<td>G</td>
<td>Did the grantee’s records agreed to reported amounts (i.e. quarterly reports, drawdown requests, audits)?</td>
<td></td>
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<tr>
<td>H</td>
<td>Did the Grantee identify the correct number of drawdowns?</td>
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<tr>
<td></td>
<td>Number of drawdowns ____ of ____ reviewed/tested.</td>
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<tr>
<td>I</td>
<td>Costs are allowable per OMB Circular A-87 and grant agreement.</td>
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</tr>
<tr>
<td>J</td>
<td>Costs can be traced to source documentation.</td>
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<td></td>
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</tr>
<tr>
<td>K</td>
<td>Costs are charged to the proper activity.</td>
<td></td>
<td></td>
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<tr>
<td>L</td>
<td>Costs were not obligated prior to the Notice of Release of Funds or Pre-agreement Authorization except administration costs which should not be obligated prior to the Notice of Approval.</td>
<td></td>
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</tr>
</tbody>
</table>

**PROCUREMENT**

- Review Procurement process on “Questions List” submitted by grantee and documentation provided by grantee.

Review the grantee’s procurement process to determine if procedures used in obtaining goods and services are consistent with the grantee’s written procurement procedures and code of conduct and are in compliance with OMB Circular A-102. Attachment), items 7-15, especially item 10. Review and identify procurement effort direct to minority and female firms. List all types of services or goods sought.
For each procurement procedure reviewed, note the following:

- Method of Procurement was appropriate.
  - RFP  RFQ (for A/E only)

- Grantee procured multiple-services (more than one distinct service in a proposal? If so, list the services. Is the procurement consistent with the CDBG Program policy on multiple-services? If not, provide an explanation in the monitoring report.

### Direct negotiation was utilized for

**Admin services.**  **Professional services.**

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>N/A</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Documentation provided at time of Application and/or Special Conditions that Grantee is a member of the development district carrying out administrative services.</td>
<td></td>
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</table>

### Competitive negotiation was utilized for

**Admin services.**  **Professional services.**

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>N/A</th>
<th>Notes</th>
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</thead>
<tbody>
<tr>
<td>Did Grantee submit a copy of RFP or RFQ and list where sent and/or published.</td>
<td></td>
<td></td>
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<tr>
<td>- If sent, grantee contacted at least 3 qualified sources.</td>
<td></td>
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<tr>
<td>- If published, grantee provided Affidavit of Publication.</td>
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<tr>
<td>Solicitation has clear and accurate description of all requirements and all factors to be used in evaluating proposals or statements.</td>
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<tr>
<td>Solicitation clearly states that contract amount will not be based on cost plus, a percentage of cost, or percentage of construction cost. (<em>Must be lump sum, fixed-cost not to exceed, etc.</em>)</td>
<td></td>
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<tr>
<td>Grantee provided a complete list of all proposals or statements received?</td>
<td></td>
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<tr>
<td>At least three proposals received, including:</td>
<td></td>
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<tr>
<td>Written evaluation criteria including criteria for judging responsiveness of proposals, reasonableness of costs and responsibleness of firms.</td>
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<tr>
<td>Written statement explaining the basis for</td>
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<tr>
<td>selection and basis for selection of contract type.</td>
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<td>---------------------------------------------------</td>
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</table>

- **Small purchase procedures were utilized for**
  - [ ] Admin services
  - [ ] Professional services

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>N/A</th>
<th>Notes</th>
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<table>
<thead>
<tr>
<th>A</th>
<th>Did grantee obtain price or rate quotations from at least 3 qualified sources?</th>
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<tbody>
<tr>
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</table>

<table>
<thead>
<tr>
<th>B</th>
<th>Was there an indication that a conflict of interest or potential conflict of interest existed in the procurement.</th>
</tr>
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<tbody>
<tr>
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</table>

<table>
<thead>
<tr>
<th>C</th>
<th>Was there an indication that the procurement proposal prepared by a firm or individual that submitted a proposal, identify and review.</th>
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<tbody>
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</table>

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<thead>
<tr>
<th>D</th>
<th>Evaluation is unduly restrictive and limits a firm or individual from competing fairly. Provide statement.</th>
</tr>
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</tbody>
</table>

**PROFESSIONAL SERVICES**

- **Review Professional Services documentation provided by grantee.**

The grantee must have all of the following items on file for each professional services contract. Review the grantee’s contract files for administration, engineering, and consulting services. Review **all contracts** for any deficiencies.

<table>
<thead>
<tr>
<th>Notice of Approval (NOA):</th>
</tr>
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<tbody>
<tr>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>Release of Funds (ROF):</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Date of contract approval by the governing body:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative:</td>
</tr>
<tr>
<td>Planning:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Services Provided</th>
<th>Contractor's/Vendor's Name</th>
<th>Contract Amount</th>
<th>Fixed Fee *</th>
<th>Contract Executed</th>
<th>Does not Proceed**</th>
<th>Reviewed</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADMIN</td>
<td></td>
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<tr>
<td>PLANNING</td>
<td></td>
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</tbody>
</table>

*Contract must be either Fixed, Lump Sum, or include a Not to Exceed Clause. Contract cannot be based on cost plus, a percentage of cost, etc.

**Contract Execution date does not proceed NOA for Administration or ROF for Planning.

- **Multiple contracts utilized.**

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>N/A</th>
<th>Notes</th>
</tr>
</thead>
</table>
A  Did the grantee file and receive approval of the plan from the Department by noting the date of the approval letter. Note any deficiencies.

Each executed contract must consist of the following, note any deficiencies:

1  2  Where column 1 is the general administration contract and column 2 is the planning contract.

- Method of Compensation Including Basis for and Frequency of Partial Payments.
- Time of Performance/Completion Date: ____________
- Provision for Amendments/Changes to Contracts.
- Clause Prohibiting Transfer of Interest/Assignment/Assignability.
- Access to Records/Maintenance of Records.
- Conflict of Interest Clause.
- Termination for Cause/Convenience.
- Title VI of the Civil Rights Act of 1964.
- Section 109 of the Housing and Community Development Act of 1974.
- Age Discrimination Act of 1975, as Amended (42 USC 6101, et. seq.)
- Section 504 of the Rehabilitation Act of 1973, as Amended (29 USC 794)
- Section 3 Clause and Requirement for Written Plan if Contract is greater than $100,000 (other rules may apply for other types of projects).
- Executive Order 11246, as Amended / Equal Employment Opportunity Provisions (required for all construction contracts and non-construction/service contracts exceeding $50,000 for contractors with 50 or more employees).

Review records of payments and supporting documents. Indicate what was reviewed. Note any deficiencies.

Review copy of final work product under this contract. Note any deficiencies.

CIVIL RIGHTS & FAIR HOUSING

Review Civil Rights portion on “Questions List” submitted by grantee for completion.

The grantee’s records must contain the following information to document their compliance with the civil rights requirements. For each grantee reviewed, check the applicable items for compliance and note any deficiencies.

Program Beneficiaries: Grantees are to maintain and update this information throughout the project.
A. Grantees provided program beneficiary statistics and source documentation. Note any deficiencies.

B. Examine any eligibility requirements the grantee may have established (e.g. in a housing rehab program) to determine whether the criteria or methods of administration may have the effect of subjecting individuals to discrimination on the basis of race, color, sex or national origin.

C. Determine whether any programs are being administered in a manner which tends to limit the number of minority or women beneficiaries or the level of benefits to minorities and women.

Section 5.04

- Review Civil Rights/Section 5.04 – General portion on “Questions List” submitted by grantee.

Monitoring for compliance with Section 5.04 will focus on five main areas which are: general requirements, communications, program accessibility, equal employment opportunity and physical accessibility.

Determine:

- If the grantee has conducted a self-evaluation to assess policies and practices, date: ________________

- If the grantee has 15 or more employees:
  - [ ] Grievance procedures adopted
  - [ ] Compliance with the notice requirement

- Has the grantee adopted and implemented procedures to ensure that interested persons, including those with impaired visions, or hearing, can obtain information concerning the existence and location of services, activities, facilities?

**Fair Housing**

- Review Fair Housing portion on “Questions List” submitted by grantee.

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>N/A</th>
<th>Notes</th>
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</thead>
<tbody>
<tr>
<td>A</td>
<td>Grantee indicated its activity to <strong>affirmatively further fair housing.</strong> Note any deficiencies.</td>
<td></td>
<td></td>
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<tr>
<td>B</td>
<td>Grantee adequately documented its activity to <strong>affirmatively further fair housing.</strong></td>
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</table>
### Limited English Proficiency (LEP) Four Factor Analysis

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>N/A</th>
<th>Notes</th>
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</thead>
<tbody>
<tr>
<td><strong>Grant was awarded after 12/2014 (LEP applies)</strong></td>
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<tr>
<td><strong>A</strong> Does the grantee have a designated LEP contact person?</td>
<td></td>
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<tr>
<td></td>
<td>Name/title:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Email:</td>
<td>Phone:</td>
<td></td>
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<tr>
<td><strong>B</strong> Has the grantee completed a Four Factor Analysis to determine whether there are LEP populations within its service area? <em>If no, explain.</em></td>
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<td></td>
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<tr>
<td></td>
<td>Date of completion:</td>
<td></td>
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<tr>
<td><strong>C</strong> Does the grantee have a Language Access Plan?</td>
<td></td>
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<td></td>
<td>Date of completion:</td>
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<tr>
<td><strong>D</strong> Is the grantee providing meaningful access to programs and activities? <em>If Yes, please explain.</em> <em>(e.g. translation of Vital Documents, Use of Language Line, etc.)</em></td>
<td></td>
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<tr>
<td><strong>E</strong> Is the grantee maintaining records regarding their efforts to comply with Title VI LEP Obligations? <em>If Yes, please explain.</em></td>
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</table>

### DOCUMENTATION FOR COMPLIANCE WITH NATIONAL OBJECTIVE

- **Review chart and information in civil rights portion of checklist. Review against grant application.**
- **Low- and Moderate Income persons on area basis (LMA)**
  - _____ % LMI  #TOTAL _______ beneficiaries; #LMI _______ beneficiaries
- **Limited Clientele (LMC)**
- **Slum/Blight Area Basis (LMI data must be completed for all National Objectives per HUD).**
### PERFORMANCE AND CAPACITY CONSIDERATIONS

- **A.** The grantee is implementing the local program as specified in the approved application, funding approval, and grant agreement. If not, explain.

- **B.** Were extensions granted?
  - Number of extensions: ___
  - Extension Date:

- **C.** Grantee is meeting timelines to assure timely completion? If not, explain.

- **D.** Progress is consistent with quarterly report to the projected status in the implementation schedule.

- **E.** For each activity, identify if activity is on schedule, ahead of schedule or behind schedule. Note progress and/or deficiencies in monitoring report.

- **F.** Grantee is demonstrating an adequate administrative capacity to implement the program.

- **G.** Activity or project is substantially behind schedule (three months or more). Note the circumstances and/or reasons below.

- **H.** Does the grantee anticipate difficulty completing the activity by the projected completion date? If so, can the implementation schedule be revised to extend the program period or will a program extension be necessary? Note determination in monitoring letter.

- **I.** Submissions made to date indicate project is on schedule.
Exhibit C
[EXAMPLE DESKTOP MONITORING REPORT]

[April 1, 20##]

I.M. Mayor, Mayor
City of ________
PO Box ###
City, NE [zip]

RE: Community Development Block Grant (CDBG) ##-XX-##/ City of ________
Performance Monitoring Report – Action Required

[CFDA Title: Community Development Block Grant (CDBG)]
[Grant#: B-##-DC-31-0001 (20## Federal Fiscal Year)]*

Dear Mayor Mayor:

This report is a summary of the monitoring review conducted by the Department from documentation submitted by local government officials and the project administrator. The monitoring and compliance process consists of a review of in-house records held in the Department and self-certified documentation provided by the grantee. The report summary follows the report outline submitted for the CDBG Planning Grant Certification Review, which included the Performance Review Checklist. This letter and supporting documents submitted are retained in the Department grantee’s file as a record for compliance review by the United States Department of Housing and Urban Development (HUD).

There are four levels of performance as reviewed by the Department: satisfactory, concern, question of performance, and finding. If deemed necessary, to satisfy HUD regulations and guidelines, this report identifies areas for follow-up documentation and explanation by the local government and administrator. The report may also provide reviews recommending improvement to specific processes and procedures, which the local government must address in future CDBG grants. More information about monitoring can be found in the CDBG Administration Manual.

CDBG Planning Grant #: ##XX###
Local Grantee: City of ________
Certified Administrator: I.S. Admin, Development District Q

A/B/C. Program Progress/ General Files/ Environmental – Satisfactory

Review of program progress includes status of project activities and reasons for any delays or off-schedules, and related extensions and/or amendments. The general files of the grantee and environmental record are reviewed and compared to those of the Department.

Project: [Project Type]
SAM Validation date: [Date]
Second Public Hearing: [Date]
CDBG funds awarded 0630 Planning Activity: $ [30,000]
  Balance CDBG funds: $ [0]
  Match: $ [50,000]
CDBG funds awarded 0181 General Administration: $ [1,500]
  Balance CDBG funds: $ [0]
Project Status dates: Award: [Date]
  Environmental: Environmental Review Record (ERR) submitted [Date] – [EXEMPT]
  Release of Funds: [Date]
Contract Completion: [Date]

CDBG Manual 14-25 Revised April 2016
D. Financial Management — Question of Performance

Internal control, cash management, accounting records, and audits were reviewed. According to the information provided in the Monitoring Checklist, internal control process consisted of [Development District Q] preparing and mailing invoices to the grant administrator and City, and subsequently approved by City Board. The Board Chair and Clerk signed and sent drawdown requests to the Department. The first two drawdowns were processed prior to issuance of payment and conducted in a timely manner; all other CDBG drawdown requests were submitted to reimburse city funds once invoices were paid in full.

The Department reviewed 5 of 5 CDBG disbursement requests; the records were tested for compliance with the requirements of OMB Circulars A-87 and A-102, Treasury Circular 1075, and with other federal and state laws, regulations, and policies. Grantee met compliance regulations for annual audit notifications and annual audit. Records submitted by the grantee partially document costs and obligations, matching funds, and sources. In reviewing the financial management records, it was noted that bank statements were missing for the months of December 20##, January 20##, August through December 20##. Also there were no cancelled checks for check numbers 1003, 1004, 1005, 1006, and 1007. Without this documentation, the City cannot be considered as having a complete set of financial records.

Corrective Action Required: The City must provide copies of the missing bank statements and cancelled checks identified herein. Following Department review of those items, we will advise you if any other action must be taken.

E/F. Procurement/Professional Services — Satisfactory

Planning contractor: [Firm A]  
Executed: [Date]  $[80,000]

Administrator: [Development District Q]  
Executed: [Date]  $[1,500]

City is a member of [Development District Q], thus negotiated directly for administration services. A letter dated December 31, 20## from the Board Chairperson was provided as a part of Special Conditions to provide such certification.

City conducted a competitive procurement process. A Request for Qualifications was posted in a prominent place of the local newspaper for 16 days and sent to a list of appropriate firms. The City Board scored all received bids based on technical expertise, past record of performance, firm capacity, and familiarity and selected the highest scoring provider. Supporting documentation reflected procurement procedure for planning firm was found to be adequate and conducted as described.

Professional services contract is in compliance with federal rules for fixed costs or costs not to exceed. Administration contract issued after award and professional services contract executed following the issuance of release of funds. All federal clauses are included in the contracts. Review the grantee’s procurement process found procedures used in obtaining goods and services to be consistent with the grantee’s written procurement procedures and code of conduct and are in compliance. A written statement explaining the basis for selection of firm was provided.

G/H. Civil Rights/ National Objective — Question of Performance

Our review of this area encompassed recipient Section 3 and Section 504 requirements, fair housing, limited English proficiency (LEP) processes, and program beneficiaries as related to the national objective. Adequate summary data for the percent and number of beneficiaries by gender, ethnicity, and household head was provided. The planning grant meets the national objective of [benefitting low- and moderate-income (LMI) persons on an area basis. The total number of persons benefiting is 100 with 68 low- and moderate-income. The LMI benefit percentage is 68%. A copy of the Four Factor Analysis and related Language Action Plan (LAP) was provided and found to be adequate. Grantee is actively maintaining records regarding their efforts to comply with Title IV LEP Obligations.

The grantee indicated its procedure to Affirmatively Further Fair Housing but did not provide documentation. An event was held at the local public library on February 20, 20##. Documentation as to this action was not provided.

Corrective action required: A copy of the meeting notice, mailing list(s), agenda, meeting notes, and/or attendance sheet for the fair housing event should be provided to document the activity to affirmatively further fair housing.

I. Performance — Satisfactory

The project was completed on time without extensions or amendments. Project status reports were submitted complete and on-time. Final reporting was submitted within a reasonable time of contract completion.

Summary — Incomplete

The performance review monitoring report identified satisfactory performance in all review areas with the exception of financial management and civil rights – fair housing. The compliance review components of the grant closeout are incomplete until the aforementioned issues are addressed to the satisfaction of this office. Please address the aforementioned areas of concern within 30 days of receipt of this letter or as otherwise indicated.
A copy of the final planning project document, final financial report, and final status report were received by the Department. A Certificate of Closeout will be issued upon satisfactory completion of compliance and performance review.

If you have any questions regarding this information contact me at (402) 123-4567, toll-free at (800) 426-6505 or via email at U.R.incomplete@nebraska.gov. Individuals who are hearing and/or speech impaired and have a TTY, may contact the Department through the Statewide Relay System by calling (711) INSTATE (800) 833-7352 (TTY) or (800) 833-0920 (voice). The relay operator should be asked to call DED at (800) 426-6505 or (402) 471-3111. Additional information is at the Nebraska Relay website http://www.nebraskarelay.com/. Nebraska Relay offers Spanish relay service for our Spanish-speaking customers. Spanish-to-Spanish (711) or 1-888-272-5528/ Spanish-to-English (711) or 1-877-564-3503. Nebraska le ofrece el servicio de relevo a nuestros clientes en español. Los consumidores de TTY pueden escribir por máquina en español y las conversaciones serán retransmitidas en español y inglés.

Sincerely,

U. R. Incomplete
Program Representative
Housing and Community Development Division

Copies (as email attachment):
[local contact name, Title];
I.S. Admin, Development District Q;
@DED→ CDBG Program Manager; file(s)

*The actual federal grant number serving as the source of funding for this CDBG award will be dependent upon whether funding from previous grant years is available for distribution. As an example, if the Department continues to have funding available from prior federal fiscal years, it may be distributed prior to the Department distributing funding from 20##.*
[April 25, 20##]

U.R. Incomplete
Nebraska Department of Economic Development
PO Box 94666
Lincoln, NE 68509-4666

Dear Mr. Incomplete:

This letter is in reference to your monitoring report letter of April 1, 20##.

D. FINANCIAL MANAGEMENT
The missing bank statements and cancelled checks requested in your letter are enclosed.

G. CIVIL RIGHTS – FAIR HOUSING
Documentation of other activities that the City has now undertaken to further fair housing is enclosed. Enclosed is a copy of the meeting notice, mailing list(s), agenda, meeting notes, and attendance sheet for the Realities of Housing for the Disabled event to document the City’s activity to affirmatively further fair housing.

I am sorry we did not include the abovementioned information initially. I give you my written assurance that we will do better on our next grant. Please let me know if we can provide any additional information.

Sincerely,

I.M. Mayor, Mayor

Enclosures
May 19, 20##

I.M. Mayor, Mayor
City of ________
PO Box ###
City, NE [zip code]

RE: Community Development Block Grant (CDBG) ##-XX-##/ City of ________
Performance Monitoring Report – Cleared

[CFDA Title: Community Development Block Grant (CDBG)]
[Grant#: B-##-DC-31-0001 (2### Federal Fiscal Year)]*

Dear Mayor Mayor:

This report is a follow-up to the April 1, 20## monitoring review letter requesting responses to concerns listed by the Department for sections D and G/H. The light gray lettering is printed as stated in the April 1, 20## report. The other statements are based upon documentation submitted by the City in response to the listed concerns. This letter and supporting documents submitted are retained in the Department grantee’s file as a record for compliance review by the United States Department of Housing and Urban Development (HUD).

CDBG Planning Grant #: ##XX###
Local Grantee: City of _______
Certified Administrator: I.S. Admin, Development District Q

A/B/C. Program Progress/ General Files/ Environmental – Satisfactory
Review of program progress includes status of project activities and reasons for any delays or off-schedules, and related extensions and/or amendments. The general files of the grantees and environmental record are reviewed and compared to those of the Department.

Project: [Project Type]
SAM Validation date: [Date]
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   Balance CDBG funds: $ [0]
   Match: $ [50,000]
CDBG funds awarded 0181 General Administration: $ [1,500]
   Balance CDBG funds: $ [0]
Project Status dates: Award: [Date]
   Environmental: Environmental Review Record (ERR) submitted [Date] – [EXEMPT]
   Release of Funds: [Date]
Contract Completion: [Date]
   Extensions: # [0]
   Amendments: # [0]

D. Financial Management – Question of Performance Satisfactory
Internal control, cash management, accounting records, and audits were reviewed. According to the information provided in the Monitoring Checklist, internal control process consisted of [Development District Q] preparing and mailing invoices to the grant administrator and City, and subsequently approved by City Board. The Board Chair and Clerk signed and sent drawdown requests to the Department. The first two drawdowns were processed prior to issuance of payment and conducted in a timely manner; all other CDBG drawdown requests were submitted to reimburse city funds once invoices were paid in full.

The Department reviewed 5 of 5 CDBG disbursement requests, the records were tested for compliance with the requirements of OMB Circulars A-87 and A-102, Treasury Circular 1075, and with other federal and state laws, regulations, and policies. Grantee met compliance regulations for annual audit notifications and annual audit. Records submitted by the grantee partially document costs and obligations, matching funds, and sources. In reviewing the financial management records, it was noted that bank statements were missing for the months of December 20##, January 20##, August through December 20##. Also there were no cancelled checks for check numbers 1003, 1004, 1005, 1006, and 1007. Without this documentation, the City cannot be considered as having a complete set of financial records.

Corrective Action Required: The City must provide copies of the missing bank statements and cancelled checks identified herein. Following Department review of those items, we will advise you if any other action must be taken.
The documentation submitted was reviewed and tested for compliance with the requirements of federal and state laws, regulations, and policies. Grantee met compliance regulations for annual audit notifications and annual audit. No further action is required.

E/F. Procurement/Professional Services – Satisfactory
Planning contractor: [Firm A]
Executed: [Date] $ [80,000]
Administrator: [Development District Q]
Executed: [Date] $ [1,500]
City is a member of [Development District Q], thus negotiated directly for administration services. A letter dated December 31, 20## from the Board Chairperson was provided as a part of Special Conditions to provide such certification.

City conducted a competitive procurement process. A Request for Qualifications was posted in a prominent place of the local newspaper for 16 days and sent to a list of appropriate firms. The City Board scored all received bids based on technical expertise, past record of performance, firm capacity, and familiarity and selected the highest scoring provider. Supporting documentation reflected procurement procedure for planning firm was found to be adequate and conducted as described.

Professional services contract is in compliance with federal rules for fixed costs or costs not to exceed. Administration contract issued after award and professional services contract executed following the issuance of release of funds. All federal clauses are included in the contracts. Review the grantee’s procurement process found procedures used in obtaining goods and services to be consistent with the grantee’s written procurement procedures and code of conduct and are in compliance. A written statement explaining the basis for selection of firm was provided.

G/H. Civil Rights/ National Objective – Question of Performance
Our review of this area encompassed recipient Section 3 and Section 504 requirements, fair housing, limited English proficiency (LEP) processes, and program beneficiaries as related to the national objective. Adequate summary data for the percent and number of beneficiaries by gender, ethnicity, and household head was provided. The planning grant meets the national objective of [benefitting low- and moderate-income (LMI) persons on an area basis. The total number of persons benefiting is 100 with 68 low- and moderate-income. The LMI benefit percentage is 68%. A copy of the Four Factor Analysis and related Language Action Plan (LAP) was provided and found to be adequate. Grantee is actively maintaining records regarding their efforts to comply with Title IV LEP Obligations.

The grantee indicated its procedure to Affirmatively Further Fair Housing but did not provide documentation. An event was held at the local public library on February 20, 20##. Documentation as to this action was not provided.

Corrective action required: [A copy of the meeting notice, mailing list(s), agenda, meeting notes, and/or attendance sheet for the fair housing event should be provided to document the activity to affirmatively further fair housing.]

Grantee provided documentation of activity to Affirmatively Further Fair Housing. On January 14, 20## the City published a Fair Housing notice in the local newspaper. The notice stated that the grantee is an active supporter of Fair Housing Laws and included contact information for the community’s Fair Housing Representative. City provided a copy of the notice and affidavit of publication as documentation.

I. Performance – Satisfactory
The project was completed on time without extensions or amendments. Project status reports were submitted complete and on-time. Final reporting was submitted within a reasonable time of contract completion.

Summary – Incomplete Satisfactory
The performance review monitoring report identified satisfactory performance in all review areas with the exception of financial management and civil rights – fair housing. The compliance review components of the grant closeout are incomplete until the aforementioned issues are addressed to the satisfaction of this office. Please address the aforementioned areas of concern within 30 days of receipt of this letter or as otherwise indicated.

A copy of the final planning project document, final financial report, and final status report were received by the Department. A Certificate of Closeout will be issued upon satisfactory completion of compliance and performance review.

The documents submitted in response to the performance review monitoring report that identified concern in the areas of Financial Management and Civil Rights are accepted. As stated the City’s Question of Performance is now Satisfactory. A copy of the final planning project document, final financial report, and final status report were previously received by the Department. A Certificate of Closeout will be issued.

If you have any questions regarding this information contact me at u.r.cleared@nebraska.gov. Individuals who are hearing and/or speech impaired and have a TTY, may contact the Department through the Statewide Relay System by calling (711) INSTATE (800) 833-7352 (TTY) or (800) 833-0920 (voice). The relay operator should be asked to call DED at (800) 426-6505 or (402) 471-3111. Additional information is at the Nebraska Relay website http://www.nebraskarelay.com/. Nebraska Relay
offers Spanish relay service for our Spanish-speaking customers. Spanish-to-Spanish (711) or 1-888-272-5528/ Spanish-to-English (711) or 1-877-564-3503. Nebraska le ofrece el servicio de relevo a nuestros clientes en español. Los consumidores de TTY pueden escribir por máquina en español y las conversaciones serán retransmitidas en español y inglés.

Sincerely,

U. R. Cleared
Program Representative
Housing and Community Development Division

Copies (as email attachment):
[local contact name, Title];
I.S. Admin, Development District Q;
@DEDA→ CDBG Program Manager; file(s)

*The actual federal grant number serving as the source of funding for this CDBG award will be dependent upon whether funding from previous grant years is available for distribution. As an example, if the Department continues to have funding available from prior federal fiscal years, it may be distributed prior to the Department distributing funding from 20##.*
ONSITE MONITORING EXAMPLE

[Date]

Jon Dough, Mayor
[City/Village] of __________
PO Box ###
[City/Village], NE [zip code]

RE: Community Development Block Grant (CDBG) ##-XX-##/ [City/Village] of ________
Performance Monitoring Report – Action Required

[CFDA Title: Community Development Block Grant (CDBG)]
[Grant#: B-##-DC-31-0001 (2### Federal Fiscal Year)]*

Dear Mayor Dough:

This letter is a status report of the Nebraska Department of Economic Development’s (NEDED) review of the [City/Village] of ________ (type of project) project. The monitoring session took place at the City/Village office in [City/Village] on [Date Monitoring Conducted]. Those in attendance include: [list names of Program Representative, Clerk, [City/Village] Administrator, Certified Administrator, etc.]. This report follows the outline of the Performance Review Checklist for the [CDBG Project Type] Grants. The review was limited to the following performance areas.

The following is an introductory summary of key action dates and benchmarks that are used to measure the grant status in relationship to fundability and accountability.

- Project status: [completed on schedule].
- Award letter date: [May #, 2###]
- Release of Funds (ROF) date: [July #, 2###]
- Contract completion date: [May #, 2###]
- Amendments # issued: [0]
- Extensions # issued: [0]

A. National Objective Compliance – Satisfactory Performance

The current project status report confirms through reporting LMI beneficiaries for the designated project area. The street improvement activity meets the national objective for benefiting low-and-moderate income persons on a service area basis. The service area includes total beneficiaries of [total # of beneficiaries], and of which [# of LMI] or [percentage] % are reported as LMI persons.

B. Program Progress - Satisfactory Performance

The project was completed and records indicate that the construction end date was July #, 2#.

C. Environmental Review – Satisfactory Performance

The environmental review record conducted for the [Grant No. ##-XX-##] consist of a narrative report, consultation letters, the Statutory/Categorically Excluded Checklists was signed by Mayor Dough on May #, 2###. No funds were obligated or spent and no physical development activities begun prior to Release of Funds dated July #, 2###.

D. General Files/Documents - Satisfactory Performance

The project files include documentation for meeting the special conditions for the July #, 2### release of funds. The CDBG notice of award was issued [Date]. The Code of Conduct and Procurement
Procedures were originally approved [Date]. The [City/Village] of _______ had its first public hearing June #, 2###.

**E. Financial Management - Satisfactory Performance**

**Internal Control:** Invoice claims are reviewed by the engineering firm and submitted to the [City/Village] Clerk for approval. The [City/Village] Clerk then submits project invoices to the Certified Grant Administrator. The Certified Administrator prepares CDBG drawdown forms and sends those back to the [City/Village] for signature by the clerk and Mayor. Once the drawdown forms are signed-they are submitted to NEDED for processing.

**Cash Management:** CDBG funds are deposited into a specific bank account set up for CDBG activity. The account is non-interest bearing and then transferred directly to a non-interest bearing set-aside account established to track funds by CDBG activity. [The City/Village] Clerk reconciles the accounts monthly.

**Accounting Records:** Records track expenditures by approved activity. Program costs and obligations can be traced to source documentation for the contracted services and running balances are maintained in both, hand-written journals and electronic accounting processes. Documentation is adequate. Records track expenditures by approved activity.

Nine (9) CDBG disbursements in the amount of [$] had been submitted to the [City/Village] and processed by the time of the Departments on-site monitoring visit. Drawdown's 4, 5, 7 and 9 were audited. Each drawdown had acceptable support documentation that validates proper payment for eligible cost incurred while performing the CDBG eligible activities as outlined in OMB A-87. Payments were promptly processed.

**F. Procurement – *Finding**

The [City/Village] of _______ is a member of [Development District] so they did not need to procure for administrative services. The CDBG Certified grant administration contract between the [City/Village] and [Development District] was fully executed on [Date].

A Request for Qualifications was posted in the local newspaper and sent to a list of three appropriate firms for the Project Engineer. Only one proposal, from Firm One, was received, reviewed, and selected based on technical expertise, past performance, capacity, and proposed time frame.

Due diligence must be maintained by the Grantee to ensure proposals are solicited from an adequate number of qualified sources. For all future projects, efforts must be made to follow this and other procurement guidelines as described in the most current version of the CDBG Administration Manual; this document is available on the Department website. A statement and action plan addressing this matter is requested within 30 days of receipt of this letter.

**Section 3/Minority Owned & Woman Owned Business- *Finding**

The [City/Village] of _______ does have a procurement process in place that specifically encourages Minority or Woman owned businesses to apply; there a targeted strategy to recruit Section 3 businesses.

**G. Professional Service Contract- Satisfactory Performance**

The two contractual documents between the [City/Village] of _______ and Firm One (engineering) and Development District (CDBG administration) include all of the rules and regulatory pieces required by the State and Federal Agencies; HUD and the CDBG State of Nebraska programs respectively, including the fixed cost/not –to-exceed clause as required.
H. Civil Rights - Satisfactory Performance

Summary data on the number and percent of beneficiaries was provided for review by Department in the document entitled Project Status Report which validates the population data that supports the National Objective criteria for compliance within the CDBG program(s) offered by the State of Nebraska.

The [City/Village] of __________ does have a written equal opportunity employment and personal practices policy.

Fair Housing: The [City/Village] of _____ promoted Fair Housing by designating April as Fair Housing month in 2###. The [City/Village] promotes Housing rights and has express criteria for filing a complaint with the [city/village].

Section 504: Jane Dough, the [City/Village] clerk, is the Section 504 coordinator. The [City/Village] has more than 15 employees so there is 504 transition plan in place that communicates all opportunities for improvement, grievance procedures, and considers areas of improvement so all residents may have access to public facilities.

Summary Response

In summary, this monitoring report identified Satisfactory Performance in all areas with the exception of procurement section. The [City/Village] will need to submit a statement and action plan addressing this matter regarding due diligence is requested within 30 days of receipt of this letter.

A Certificate of Closeout will be issued upon satisfactory completion of performance review.

If you have any questions regarding this information contact your program representative at (402) ###-####, (800) 426-6505, or by email at [Program Rep email].

Individuals who are hearing and/or speech impaired and have a TTY, may contact the Department through the Statewide Relay System by calling (711) INSTATE (800) 833-7352 (TTY) or (800) 833-0920 (voice). The relay operator should be asked to call DED at (800) 426-6505 or (402) 471-3111. Additional information is at the Nebraska Relay website http://www.nebraskarelay.com/. Nebraska Relay offers Spanish relay service for our Spanish-speaking customers. Spanish-to-Spanish (711) or 1-888-272-5528/ Spanish-to-English (711) or 1-877-564-3503. Nebraska le ofrece el servicio de relevo a nuestros clientes en Español. Los consumidores de TTY pueden escribir por máquina en Español y las conversaciones serán retransmitidas en Español y Inglés.

Sincerely,

CDBG Program Representative
Housing and Community Development Division

Copies: [Name], City/Village Clerk; [Name], Certified Admin
@DED→ [Name], CDBG Program Manager; file(s)

*The actual federal grant number serving as the source of funding for this CDBG award will be dependent upon whether funding from previous grant years is available for distribution. As an example, if the Department continues to have funding available from prior federal fiscal years, it may be distributed prior to the Department distributing funding from 2X
Nebraska Department of Economic Development

Community Development Block Grant Monitoring Checklist

Grantee: ___________________________  CDBG Grant: ___________________________
Contact Person: ___________________________  Program Rep: ___________________________
CDBG Admin: ___________________________  Monitor Date: ___________________________
Admin E-Mail: ___________________________  Monitored By: ___________________________

Performance Review Monitoring Checklist November 2015

Enter Monitoring Dates (Month/Day/Year) for areas monitored (Enter N/A if Not Applicable).

N/A Category Check List need not be included in the documented records.

**Desktop reviews may be conducted for these Categories prior to on-site visit and DED project file verification.

*N/A =Not Applicable for the Grant

<table>
<thead>
<tr>
<th>*N/A =Not Applicable for the Grant</th>
<th>Check If N/A*</th>
<th>1st on-site review</th>
<th>2nd on-site review</th>
<th>Desktop Review**</th>
<th>Follow-up</th>
<th>Results</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. National Objective / Activity Eligibility</td>
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<td>B. Program Progress/Performance / Capacity</td>
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<td>C. Environmental Review (Tier II)</td>
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<td>D. Grantee File Documents</td>
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<td>E. Financial Management</td>
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<td>F. Procurement</td>
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<td>G. Professional Services Contracts</td>
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<td>H. Equal Opportunity/ Civil Rights</td>
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<td>I. Construction</td>
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<td>J. Acquisition</td>
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<td>K. Relocation</td>
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<td>L. Housing Rehabilitation</td>
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<td>M. Demolition</td>
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<td>N. Legal/Loan Documents</td>
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<td>O. Job Creation/Retention Verification</td>
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<td>P. Equipment Verification</td>
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SAM Validation Date: ___________________________  Contract Start Date: ___________________________
Notice of Approval Date: ___________________________  Contract End Date: ___________________________
Release of Funds Date: ___________________________  Current Project Status: ___________________________
Location of Project: ___________________________  Extensions: #____
Total CDBG Budget: $ ___________________________  Amendments: #____
Total Other Budget: $ ___________________________  CDBG Amount Drawn: $ ___________________________
Total Project Budget: $ ___________________________  CDBG Draw % / #: % # __________

☐ Final Financial ___________________________  ☐ Final Status Report ___________________________
☐ Final Wage Compliance Report ___________________________  ☐ Other ___________________________

CDBG Manual 14-36 Revised April 2016
### A. NATIONAL OBJECTIVE / ACTIVITY ELIGIBILITY

Include any approved activity amendments. *(Review national objective for scheduled completion phase or grant year.)*

<table>
<thead>
<tr>
<th>Activity Code</th>
<th>Activity Title</th>
<th>National Objective</th>
<th>Activity Eligible</th>
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<td>Yes</td>
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<td>Yes</td>
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</tbody>
</table>

**NATIONAL OBJECTIVE – LMI (low moderate-income benefit):**

1. LMA (area)
   Communitywide service area (incorporated community) ☐ or Neighborhood/selected area serviced by the activity ☐
   Is the delineated activity service area consistent with the surveyed beneficiary service area? ☐ Yes ☐ No
   If No, what is the difference and does the activity(ies) meet the assigned national objective? ☐ Yes ☐ No

<table>
<thead>
<tr>
<th>Census:</th>
<th>☐ Yes <em>(skip items a thru g)</em></th>
<th>☐ No</th>
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<tbody>
<tr>
<td>Survey:</td>
<td>☐ Yes Survey date:____________</td>
<td>☐ Yes</td>
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<td></td>
<td>Was the survey preapproved by DED? ☐ Yes ☐ No</td>
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</table>

Total Beneficiaries: _______________ LMI Beneficiaries: _______________ % LMI: _______________

   a) When was the survey conducted? _______________
   b) Who conducted the survey? _______________
   c) Are the surveys on file? ☐ Yes ☐ No
   d) Did the grantee publicize the survey? ☐ Yes ☐ No
   e) Was the public notice on file? ☐ Yes ☐ No
   f) How did the grantee determine which survey method to use? _______________
   g) Which resource did the grantee rely on to determine the number of households?

☐ Phonebook ☐ Property tax rolls ☐ Utility lists ☐ Door-to-door ☐ Other:

What method did the grantee use to replace surveys from non-respondents?
2. LMC (limited clientele). Was the method/results determination approved by DED? □ Yes □ No
What clientele benefits from the activity?

□ Elderly □ Adults Severely Disabled □ Other: __________________________

Total Beneficiaries: __________________________ LMI Beneficiaries: __________________________ % LMI: __________________________

Do actual beneficiary numbers differ from originally proposed for the activity? □ Yes □ No
If yes, were the actual beneficiary numbers □ Higher □ Lower than those originally proposed?

What is the grantee’s explanation for the difference?

Is the activity for the removal of architectural barriers? □ Yes describe below □ No

Give a brief description of the material and architectural barrier and what was done to remove it:

3. LMH (housing) Each property address must include a status and accomplishment report.

□ Housing Rehabilitation: Owner-Occupied Single Family □ Multi-family □

□ Housing Rehabilitation: Renter-Occupied Single Family □ Multi-family □

LMI housing units proposed for Rehabilitation:

LMI housing units actually Rehabilitated:

Were all applications for Rehabilitation properly recorded and tracked? □ Yes □ No

Number of Applicants for Rehabilitation Assistance:

Number of non-selected Applicants for Rehab Assistance:

Were household income verifications properly done for all housing units that were rehabbed? □ Yes □ No

□ Homebuyer Down payment Assistance □ Homebuyer Infrastructure: □ Homebuyer Purchase/Rehab/Resale

□ Homebuyer Purchase/Demo/Replacement/Resale □ Other Homebuyer Assistance __________________________

Total housing units proposed:

Total LMI households benefiting from assistance:

Housing units purchased by LMI households: _______ % of total units: _______

4. LMJ (jobs)

Proposed number of jobs created:

Total number of jobs created:

Total number of LMI jobs created:

Proposed number of jobs retained:

Total number of job retained.

Total number of LMI jobs retained: _______ % that are LMI persons _______

Number of jobs held by LMI persons: _______ % that are LMI persons _______

Number of jobs made available to LMI persons: _______ % that are LMI persons _______

Job creation/retention records are complete and support job creation/retention totals and LMI figures? □ Yes □ No

Grantee has employee certification forms to document income status of jobs beneficiaries? □ Yes □ No
NATIONAL OBJECTIVE – SLUMS & BLIGHT: *Include Area Basis or Spot Basis Attachment.*

☐ Area Basis: Compliance with the SBA Checklist (attach to compliance review record)  ☐ Yes ☐ No

Has the area been officially designated as a Slum or Blighted by local/county government?  ☐ Yes ☐ No

Is there proper documentation?  ☐ Yes ☐ No

Designated year: _____ * Re-designated (when available): _____

Percentage of Deteriorated Buildings/Qualified Properties: _____

Are the activities in compliance with the Slum Blight Checklist?  ☐ Yes ☐ No

☐ Spot Basis: Compliance with the SBS Checklist (attach to compliance review record)  ☐ Yes ☐ No

Designated year: _____ * Re-designated (when available): _____

Percentage of Deteriorated Buildings/Qualified Properties: _____

*must be within 10 years of project year as provided in the CDBG Application

Provide a brief description as to why the property is considered blighted:

Provide an explanation regarding how the activity addressed the specific blight/substandard conditions to alleviate and remove the conditions.
B. PROGRAM PROGRESS/ PERFORMANCE/ CAPACITY

(Applicable to all Grants)

Compare the status of each activity to the project status in the implementation schedule. For each activity, indicate if the activity is on schedule, ahead of schedule, or behind schedule. Note progress in monitoring letter.

<table>
<thead>
<tr>
<th>Activity Code</th>
<th>Activity Description</th>
<th>Implementation Schedule Quarter</th>
<th>Implementation Schedule End Date</th>
<th>On Schedule</th>
<th>Ahead of Schedule</th>
<th>Behind Schedule</th>
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</table>

If any activity is substantially behind schedule (three months or more), please complete the table below.

<table>
<thead>
<tr>
<th>Activity Code</th>
<th>Circumstances/Reasons</th>
<th>Can the grantee complete the activity by the projected completion date?</th>
<th>Can the Implementation Schedule be revised to extend the program period?</th>
<th>Will a program extension be necessary?</th>
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<tr>
<td>1.</td>
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<td>□ Yes □ No</td>
<td>□ Yes □ No</td>
<td>□ Yes □ No</td>
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<td>2.</td>
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<td>□ Yes □ No</td>
<td>□ Yes □ No</td>
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<td>3.</td>
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<td>□ Yes □ No</td>
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<td>□ Yes □ No</td>
<td>□ Yes □ No</td>
<td>□ Yes □ No</td>
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</table>

Does the grantee anticipate difficulty completing the activity by the projected completion date? □ Yes □ No

If Yes, can the implementation schedule be revised to extend the program period? □ Yes □ No

Will a program extension be necessary? □ Yes □ No

Note the determination in the monitoring letter.

Please provide any additional notes you may have:

1. Is the grantee implementing the local program as specified in the grant agreement? □ Yes □ No

If not, please explain.
2. If amendments were made, were the proper procedures followed? □ Yes □ No
   Is the DED approval of the amendment on file? □ Yes □ No
   Amendment date: __________

3. If extensions have been granted, what is date for completion? __________
   Is grantee meeting timelines to assure timely completion? □ Yes □ No
   How many extensions have been granted: __________
   Most Current Extension Date: __________

4. Are the grantee & certified administrator demonstrating adequate capacity to implement the program? □ Yes □ No

5. **Program Representative conducted an on-site project visit?** □ Yes [visited site(s)] □ No [did not visit site(s)]

   Site visit observations noted for the project.

   If any other persons attended site review or made presentations, please list name and representation. Plus, comments.

6. **Is there a property address status and accomplishment report for each proposed housing national objective accomplishment?** □ Yes □ No

   *A copy of each report is included in the project folder.*
C. ENVIRONMENTAL REVIEW
(Applicable to All Grants)

1. Is there an Environmental Review Record (ERR) with a project description including location(s) and all related HUD or non-HUD funded activities?
   □ Yes  □ No

2. Certificate of Continued Environmental Compliance signed by Chief Elected Official (CEO) consistent with the project description and activities?
   □ Yes  □ No  □ N/A
   Is the Environmental Review Record (ERR) referenced in the Continuance on file?
   □ Yes  □ No

3. Is there a written Finding of Exemption signed by the Chief Elected Official (CEO), consistent with the activities undertaken?
   □ Yes  □ No  □ N/A  (If all activities are exempt, the remaining questions do not apply.)

4. Is there a written Finding of Categorical Exclusion signed by the CEO consistent with the activities undertaken?
   □ Yes  □ No  □ N/A

5. Has clearance been obtained from the State Historic Preservation Officer?
   □ Yes  □ No  □ N/A

6. Is there evidence that other federal laws listed at 24 CFR 58.5 have been addressed and appropriate authorities recognized as sources to support determinations (refer to notes, maps, consultation letters and other sources of documentation on Statutory Checklist)?
   □ Yes  □ No  □ N/A

7. If project is located in a floodplain or wetland, were Floodplains/Wetland notices published?
   □ Yes  □ No  □ N/A
   Date of Early Public Notice:  __________  15 day comment period:  □ Yes  □ No
   Date of Notice of Explanation:  __________  7 day comment period:  □ Yes  □ No

Please note any deficiencies in the space provided below:

Does the project require an Environmental Assessment?
   □ Yes  □ No

If yes, please answer the following questions:
   a) Did the assessment:
      Consider impacts of the project on the character and resources of the project area?
      □ Yes  □ No
      Include alternatives and modifications considered and mitigation measures needed?
      □ Yes  □ No

   b) Is there a written ‘Finding of No Significant Impact’ signed by the CEO?
      □ Yes  □ No

   c) Is there a written ‘Finding of Significant Impact’ signed by the CEO?
      □ Yes  □ No

Does the project require publication and public comments?
   □ Yes  □ No

If yes, please answer the following questions:
   a) Is there a copy of the (published or posted) Notice of Intent to Request Release of Funds?
      □ Yes  □ No
      Date Published:  __________

   b) Is there a copy of the (published or posted) Notice of FONSI?
      □ Yes  □ No
      Date Published:  __________
Please note any public comments and recipient responses to these comments.

a) Were all appropriate agencies notified of the NOI/RROF? □ Yes □ No

b) List the recipients of the NOI/RROF and other applicable requirements: ________________________________

c) Was the Request for Release of Funds and Certification signed by the CEO, and submitted to DED, after appropriate comment period?
   Date Signed: __________
   (NOI/RROF: 7-10 days; FONSI/NOIRROF: 15-18 days)

   □ Yes □ No

d) Is the Release of Funds signed by DED in the file?
   Date Signed: __________

   □ Yes □ No

e) Was a Pre-Agreement Letter (for ED projects) issued by DED?
   Date Issued: __________

   □ Yes □ No

f) Do records show that no funds were obligated or spent, and that no physical development activities began, prior to receipt of Release of Funds or Pre-Agreement Letter?
   Date Issued: __________

   □ Yes □ No

Does the project require re-evaluation? □ Yes □ No

If yes, please answer the following questions:

a) Were there substantial changes in the nature, magnitude or extent of the project or new circumstances or new conditions realized after the initial assessment?

   □ Yes □ No

b) If yes, were the new circumstances evaluated and original finding validated with Certificate of Continued Environmental Compliance?

   □ Yes □ No

Please explain any issues or concerns in the space provided below:

______________________________
### D. GRANTEE FILE DOCUMENTS

(Applicable to all Grantees)

Complete File Folder listed items from NE DED CDBG grant file folders prior to on-site or desktop compliance review.

<table>
<thead>
<tr>
<th>File Folder</th>
<th>Grantee Files</th>
<th>Grantee File Documents</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>

- **Grant Application**
- **Citizen Participation Plan**
- **Residential Anti-displacement Plan**
- ***Four Factor Analysis / Limited English Proficiency (LEP)** Date Conducted: 
- ***Language Access Plan (LAP)** Date of Adoption: 
- ***System for Award Management (SAM)** Date Validated: 
- **Survey Records** Date Completed: 
- **Notice of Approval** Date of the Notice: 
- **Grant Contract** Contract Completion Date: 
- **Notice of Release of Funds** Date of the Notice: 
- **1st Public Hearing Citizen Comments** Date Conducted: 
- **Code of Conduct** Date of Adoption: 
- **Procurement Procedures** Date of Adoption: 
- **Environmental RROF Certification** Date Signed: 
- **Financial Management Certification**
- ** Authorization to Request Funds**
- **Implementation Schedule**
- **Grantee Information Sheet includes CDBG Certified Administrator’s name:**
- **Grantee Information Sheet includes Fair Housing Representative’s name:**
- **Excessive Force Certification**
- **2nd Public Hearing Citizen Comments** Date Conducted: 
- **Proposed Fair Housing Actions:**
- **Fair Housing Actions Taken:**
- **Requests for CDBG funds** The number of requests:  
- **Notification of Annual Audit** Notification for Fiscal Year: 
- **Copies of Audits** Audits for Fiscal Year: 
- **CDBG Contract Amendments**
  - # Approved: Last Approval Date: 
- **CDBG Contract Extensions**
  - # Approved: Last Approval Date: 

*Checklist Items included April 2015 for compliance with federal laws and NE DED CDBG Policies.

**NOTES:**

____________________________________________________________________________________________
____________________________________________________________________________________________
____________________________________________________________________________________________
### E. FINANCIAL MANAGEMENT
(Applicable to all grants.)

*Check status of disbursements in MITAS and NEDED Info prior to conducting performance review.*

*Print a copy of the project financial in the grantee’s NEDED Info record for CRD Recipient Detail-Financial.*

*Print a copy of the disbursement detail report from the grantee’s financial record in NEDED Info.*

1. Please describe the grantee’s payment system:

<p>| | |</p>
<table>
<thead>
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<tbody>
<tr>
<td>a) Does the grantee have an adequate system to review and approve all billings presented for payment under the grant?</td>
<td></td>
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<tr>
<td>□ Yes</td>
<td>□ No</td>
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</table>

2. Cash Management

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>a) Are drawdowns deposited promptly into the proper account? Were funds wired electronically ACH to account?</td>
<td></td>
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<tr>
<td>□ Yes</td>
<td>□ No</td>
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<tr>
<td>□ Yes</td>
<td>□ No</td>
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<tr>
<td>b) Has there been any time the balance in the account exceeded $1,000 for more than 5 working days?</td>
<td></td>
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<tr>
<td>□ Yes</td>
<td>□ No</td>
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   (list amounts and number of days for each occurrence)

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<tr>
<td>c) Are bank statements reconciled promptly?</td>
<td></td>
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<tr>
<td>□ Yes</td>
<td>□ No</td>
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</table>

   Who performed the reconciliation? ________________________________

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<tr>
<td>d) Are accounts with CDBG funds interest-bearing?</td>
<td></td>
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<tr>
<td>□ Yes</td>
<td>□ No</td>
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<tr>
<td>e) If yes, are funds immediately transferred out of the interest-bearing account or drawn down for reimbursement?</td>
<td></td>
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<tr>
<td>□ Yes</td>
<td>□ No</td>
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<tr>
<td>f) Is the person(s) responsible for handling CDBG Funds properly bonded according to state law?</td>
<td></td>
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<tr>
<td>□ Yes</td>
<td>□ No</td>
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3. Property Management

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<tbody>
<tr>
<td>Has grantee used CDBG funds to purchase real property? □ Yes □ No (If NO, skip to Q 4.)</td>
<td></td>
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<tbody>
<tr>
<td>a) Has grantee received written approval for all real property purchases exceeding $300?</td>
<td></td>
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<tr>
<td>□ Yes</td>
<td>□ No</td>
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</table>

   List items purchased that exceeded $300: ________________________________

CDBG Manual 14-45 Revised April 2016
b) Does the grantee maintain an inventory of all real property, furnishings, and equipment purchased with CDBG funds?
   □ Yes □ No

4. Accounting Records

What types of accounting records are maintained for the grant (i.e. ledgers, computerized systems, etc.)?

Records must be reviewed to verify the following:

a) Are obligations tracked and activity budget balances maintained?
   □ Yes □ No

b) Can program costs and obligations be traced to source documentation (invoices, billings, contracts, canceled checks, timesheets, etc.)?
   □ Yes □ No

c) Do the grantee’s records identify matching and other funds applied to each activity and that the proper matching percentage has been maintained? (If grantee has received waiver approval, note the terms of the waiver.)
   □ Yes □ No

d) If grantee is utilizing in-kind matching contributions, is there proper documentation that such contributions meet the criteria set forth in 24 CFR 85.24 regarding how records should be maintained and a valuation calculated?
   □ Yes □ No □ N/A

e) If volunteer labor is utilized, is the time each volunteer contributed and the value of that time properly documented?
   □ Yes □ No □ N/A

f) Does the grantee maintain a contract file for each contract and use control cards or ledgers to track payments for each contract?
   □ Yes □ No

g) Does the grantee’s record adequately track local administration costs incurred?
   □ Yes □ No □ N/A
   Describe how these costs are accumulated and reimbursed (City/Village employee’s time spent on the grant must be supported by timesheets.)

h) Please describe the method of accounting for other costs such as copies or supplies if charged to the grant. Describe supported by timesheets.)
i) Does the grantee’s system adequately track local administration costs (copies, supplies, etc.) incurred?
   - Yes
   - No
   - N/A

j) If the grantee charges indirect costs to the program, does the grantee have an indirect cost allocation plan which has been approved or acknowledged by DED?
   - Yes
   - No
   - N/A

   Date of Plan:_________________________ Date of DED approval:_________________________

k) Do the grantee’s records agree with reported amounts from the drawdown requests and audits?
   - Yes
   - No

   Select a representative sample of costs charged to the grant and verify the following:
   (Note which drawdowns/expenditures were tested and list all exceptions.)
   - Costs are allowable per 2 CFR Part 200 and the grant agreement
   - Costs can be traced to source documentation
   - Costs are charged to the proper activity
   - Costs have been reviewed and approved prior to payment
   - Costs were not obligated prior to the Notice of Release of Funds or Pre-agreement Authorization except administration costs which should not be obligated prior to the Notice of Approval.

5. Audits
   a) Did the Grantee meet expenditure requirement for Single Audit? Single Audit required for Total Federal expenditures $500,000 or more ($750,000 threshold for fiscal years starting after December 26, 2014).
      - Yes
      - No

   b) If yes, please answer the following questions:
      i. Did Grantee use an in-house Auditor?
         - Yes
         - No
      
      ii. Did Grantee procure for an outside Auditor?
          - Yes
          - No

Are Notifications of Single Audit (or other records) on file for each year which support the grantee’s determination whether an audit was conducted in accordance with the provisions of 2 Code of Federal Regulations (CFR) Part 200 [formerly Single Audit Act, Office of Management and Budget (OMB) Circular A-133] and Generally Accepted Government Auditing Standards for the fiscal year.
         
      iii. 
          
         iv. Are copies of audits on file with any correspondence regarding audit findings?
             - Yes
             - No
6. Program Income

a) Has the grantee earned program income from any grant activities?
   - Yes (continue)
   - No (Skip to Q7)

If yes, please answer the following:

i. Has the grantee used program income to further the activity from which it was generated?
   - Yes
   - No

ii. Has the grantee expended or committed all available program income prior to drawing down additional CDBG funds?
   - Yes
   - No

iii. Has the grantee earned program income which is to be committed to a revolving loan fund or a Reuse Plan?
   - Yes
   - No

If yes, please answer the following:

i. Has the grantee submitted a Notice of Intent to use program income? (Date must be within 90 days of Notice of Approval)
   - Yes
   - No

ii. Has the grantee submitted a Reuse Plan for their program income? (Date must be within 180 days of Notice of Approval)
   - Yes
   - No

iii. Has the grantee submitted their first reuse project to DED for approval? (Date must be within 24 months from the date of first receipt of program income for a Local Reuse Plan or 36 months for a Regional Plan)
   - Yes
   - No

iv. Is Program Income that is received for a revolving loan fund held in a separate interest-bearing account?
   - Yes
   - No

v. Are funds that are held in the revolving loan fund expended for their intended use prior to drawing down CDBG funds for that activity?
   - Yes
   - No

vi. Does the grantee maintain repayment schedules for all outstanding loans and promptly follow up on all delinquent payments?
   - Yes
   - No

vii. If grantee has program income or a revolving loan fund from prior grants which must be applied to this grant, has the grantee expended all program income prior to drawing down CDBG funds under this grant?
   - Yes
   - No

7. Drawdown reviews and support documentation verification. Complete the Draw-Down Table or record the review of CDBG drawdown/disbursements in a comparable manner. Check the following actions for confirmation.

- Check status of disbursements in MITAS and NEDED Info prior to conducting performance review.
- Print a copy of the project financial in the grantee’s NEDED Info record for CRD Recipient Detail-Financial.
- Print a copy of the disbursement detail report from the grantee’s financial record in NEDED Info.

Use these records for selecting sample size and disbursements to test. Include these records in the project file monitoring report.

Record # drawdown transactions ________ Record drawdowns by number tested ___________________________
Provide summation based on funding sources, activities, and contractors/vendors/suppliers. Use the review to assist in answering other questions dealing with internal control, cash management, and accounting records.
## DRAW-DOWN TABLE

<table>
<thead>
<tr>
<th>Draw Number</th>
<th>Invoice Numbers Claimed on Draw</th>
<th>Payee/Contractor</th>
<th>Invoice Amount</th>
<th>Date Funds were Received (in general account)</th>
<th>Date Funds were Received (in specific account)</th>
<th>Payment Date</th>
<th>Check Number</th>
<th>Date Check Cleared</th>
<th>Breakdown of Funds</th>
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</table>
F. PROCUREMENT

Review the grantee’s procurement records to determine if procedures used in obtaining goods and services are consistent with the grantee’s written procurement procedures and code of conduct and are in compliance with 24 CFR 85.36.

For each professional services reviewed for procurement, note the following:
Grantee is required to procure for professional services unless grantee has an in-house professional, has a history of appointment, or a member of a development district is qualified in one of the professional services areas.

Is the Grantee required to procure? (answer can be both yes and no depending on the services)
☐ No ……If no, please answer question one (1).
☐ Yes ……If yes, skip question one (1) please answer question two (2) and all items following that apply.
[It is possible to answer yes and no depending on the professional services sought by the grantee.]

1. Procurement not required. Check or list type of service(s) (examples of services are administrative, engineering, architectural, planning, appraisal, audit, housing rehabilitation administration, testing) and professional organization.

<table>
<thead>
<tr>
<th>Type of Service</th>
<th>Organization or Firm name of local government</th>
<th>SAM Verification/ Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administration ..........</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Housing Management</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Engineering .............</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Planning ...............</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Other ☐ list below:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Provide statement on how grantee qualified the professional organization as being excluded from the procurement process for professional services.

2. Procurement required (starts and continue from here).

Type of service or item sought (examples of services are administrative, engineering/architectural, appraisal, audit, housing rehabilitation administration, testing).

<table>
<thead>
<tr>
<th>Type of Service</th>
<th>Organization or Firm name of local government</th>
<th>SAM Verification/ Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administration ..........</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Housing Management</td>
<td>☐</td>
<td>☐</td>
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<tr>
<td>Engineering .............</td>
<td>☐</td>
<td>☐</td>
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<tr>
<td>Planning ...............</td>
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<td>☐</td>
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<tr>
<td>Other ☐ list below:</td>
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</tbody>
</table>

Review and identify procurement effort directed toward minority-owned and women-owned firms. List all types of services or goods sought.

Review and identify procurement efforts directed toward Section 3 Business Concerns and Section 3 Residents. List all types of services or goods sought. [Program Year 2012 and newer projects must have documentation on file of specific efforts for Section 3 outreach]

This section does not apply to the procurement of construction contracts which are covered under the Construction section.

3. Method of Procurement (competitive negotiation, competitive sealed bids, small purchase, non-competitive negotiation).
4. Grantee’s Rationale for Method (if method was non-competitive negotiation, grantee must document that only one source could provide the service or item or that competition was determined to be inadequate).

5. Was the method of procurement appropriate?  
   Yes  
   No

6. If procurement was made by **Competitive Proposals**: Type of service:__________________________________________
   a) Did the grantee procure by using an RFP?  
      Yes  
      No
   b) Did the grantee procure by using an RFQ?  
      Yes  
      No
   c) Is there a copy of the RFP/RFQ in the file?  
      Yes  
      No
   List where sent or published: _________________________________________________________________
   If sent, did grantee contact at least 3 qualified sources?  
      Yes  
      No

   Does solicitation have clear and accurate description of all requirements and all factors to be used in evaluating proposals or statements?  
      Yes  
      No

   Does solicitation clearly state that contract amount will not be based on cost plus a percentage of cost or percentage of construction cost? (Only applicable if the Grantee procured using an RFP.)  
      Yes  
      No

   d) Copies of all proposals or statements  
      Yes  
      No
   Proposals received from: _________________________________________________________________
   e) Written evaluation criteria including criteria for judging responsiveness of proposals, reasonableness of costs and responsibleness of firms.  
      Yes  
      No
   f) Written evaluation of proposal or statement based on written criteria  
      Yes  
      No
   g) Written statement explaining the basis for selection and basis for selection of contract type  
      Yes  
      No

7. If Procurement was made by **Competitive Sealed Bids** (Formal Advertising), does grantee have all of the following items on file? (Competitive Sealed Bids must be used for construction projects or large quantities of goods/materials.)
   Type of Service:__________________________________________activity:__________________________________________
   a) Bid Advertisement/Proof of Publication  
      Yes  
      No

   Does advertisement provide a clear and accurate description of all requirements and all factors to be used in evaluating bids?  
      Yes  
      No

   Does advertisement clearly state that contract amount will not be based on cost plus a percentage of cost or percentage of construction cost?  
      Yes  
      No

   b) Evidence bids were logged in; copies of all bids received.  
      Yes  
      No
   Copy of all bids received:  
      Yes  
      No
   Bids received from: _________________________________________________________________
   c) Written evaluation criteria including criteria for judging responsiveness and reasonableness of bids and responsibleness of bidders.  
      Yes  
      No
   d) Minutes of bid opening, bid tabulation and recommendation for award based on written criteria.  
      Yes  
      No
8. If procurement was made by **Small Purchase Procedures** ($100,000 or less), did grantee obtain price or rate quotations from at least 3 qualified sources?
   - Yes
   - No

9. Has the grantee established procurement procedures which attempt to obtain goods and services from minority owned or women owned businesses?
   - Yes
   - No

   What efforts in this area were made?

10. Has the grantee established procurement procedures which attempt to obtain goods and services from Section 3 Business Concerns and Section 3 Residents?
    - Yes
    - No

    What efforts in this area were made?

   [Program Year 2012 and newer projects must have documentation on file of specific efforts for Section 3 outreach.]

11. Is there any indication that a conflict of interest or potential conflict of interest existed in the procurement?
    - Yes
    - No

    a) Was procurement proposal prepared by a firm or individual that submitted a proposal? If so, identify and provide review.
    - Yes
    - No

    b) Is the evaluation unduly restrictive and limits a firm or individual from competing fairly?
    - Yes
    - No

    If so, provide statement.

12. Did grantee procure multiple services (more than one distinct service) in a proposal?
    - Yes
    - No

    If so, list the services.

13. Is the procurement consistent with the CDBG Program policy on multiple services described in Section 7 of the Administration Manual?
    - Yes
    - No

    If not, provide an explanation in the monitoring report.

14. Did the grantee use a single firm for grant administration and other professional services?
    - Yes
    - No

    a. If yes, were two separate procurement processes conducted?
    - Yes
    - No

    b. If yes, did the firm serving as certified administrator help with procurement?
    - Yes
    - No


    List the companies, contractors, and individuals by dates as checked through SAM.

16. Is the grantee’s procurement procedures in compliance with its procurement procedures and code of conduct?
    - Yes
    - No

    If No, state why.

G. PROFESSIONAL SERVICES CONTRACTS

(Applicable to grantees having professional services contacts.)

The grantee must have all of the following items on file for each professional services contract. A separate file should be established for each contract. Review the grantee’s contract file for administration, engineering, housing rehabilitation and appraisal services.

For each file reviewed, check the times on file and note any deficiencies:
1. Indicate all professional services contracts the grantee has entered into by naming the contractor and the type of professional service provided.

<table>
<thead>
<tr>
<th>Contractor’s Name</th>
<th>Service Provided *</th>
<th>SAM verified Date</th>
<th>Contract Approval Date</th>
</tr>
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<tbody>
<tr>
<td>a)</td>
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</tbody>
</table>

Please note the particulars of any multi-service contracts:

Please check whether each executed contract consists of the following:

- Reference to item #1 contractors/services/Contractor’s name
- Method of Compensation Including Basis for and Frequency of Partial Payments
- Time of Performance/Completion Date
- Provision for Amendments/Changes to Contract
- Clause Prohibiting Transfer of Interest/Assignment
- Access to Records/Maintenance of Records
- Conflict of Interest Clause
- Termination of Cause/Convenience
- Title VI Clause of Civil Rights Act of 1964
- Section 109 Clause of Housing and Community Development Act of 1974 amended
- Age Discrimination Clause of Age Discrimination Act of 1975
- Rehabilitation Act Clause of Section 504 of Rehabilitation Act of 1973
- Section 3 Clause and Requirement for Written Plan * Housing and Urban Act 1968
- Equal Employment Opportunity Provisions of Executive Order 11246

*required if Contract is $100,000 or Over for public a facility or housing construction contracted for by the grantee
2. Review the executed contract and evidence of approval by the governing body. Date the contract was approved by the governing body: _______________

Note any deficiencies:
_____________________________________________________________________________________________________________________________________
_____________________________________________________________________________________________________________________________________
_____________________________________________________________________________________________________________________________________
_____________________________________________________________________________________________________________________________________
_____________________________________________________________________________________________________________________________________

Reference to item #1 contractors/services

<table>
<thead>
<tr>
<th>a)</th>
<th>b)</th>
<th>c)</th>
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</thead>
<tbody>
<tr>
<td>Is the amount fixed? (Or, does it include a “Not To Exceed Clause”?)</td>
<td>☐ Yes ☐ No</td>
<td>☐ Yes ☐ No</td>
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<tr>
<td>*Amount cannot be based on cost plus a percentage of cost.</td>
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<tr>
<td>Enter Contract Execution Date:</td>
<td>Date:</td>
<td>Date:</td>
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<tr>
<td>Contract amount $</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Does the contract execution date precede the Notice of Approval date?</td>
<td>☐ Yes ☐ No</td>
<td>☐ Yes ☐ No</td>
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<tr>
<td>Enter date Notice of Approval:</td>
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<tr>
<td>Does the contract execution date precede the Notice of Release of Funds date?</td>
<td>☐ Yes ☐ No</td>
<td>☐ Yes ☐ No</td>
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<tr>
<td>Enter date Notice of Release of Funds:</td>
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</table>

3. Review copies of any reports, plans, or work products under this contract and indicate which were reviewed. Please note any deficiencies:

4. How many minority or woman owned businesses were contracted with? __________

<table>
<thead>
<tr>
<th>Minority or Woman owned businesses</th>
<th>a)</th>
<th>b)</th>
<th>c)</th>
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<tbody>
<tr>
<td>Type of professional services provided:</td>
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<tr>
<td>Dollar Amount of Contract:</td>
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</table>

5. How many Section 3 Business Concerns and Section 3 Residents were contracted with? __________

<table>
<thead>
<tr>
<th>Section 3 Business Concerns and Section 3 Residents</th>
<th>a)</th>
<th>b)</th>
<th>c)</th>
<th>d)</th>
<th>e)</th>
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<tbody>
<tr>
<td>Type of professional services provided:</td>
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<td>Dollar Amount of Contract:</td>
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</table>
H. FAIR HOUSING/EQUAL OPPORTUNITIES

The grantee’s records must contain the following information to document compliance with civil rights requirements. For each grantee reviewed, check the applicable items for compliance and note any deficiencies.

1. Program Beneficiaries…record both direct beneficiary and direct beneficiary applicants.

Examine any eligibility requirements the grantee may have established (e.g. in a housing rehab program) to determine whether the criteria or methods of administration may have the effect of subjecting individuals to discrimination on the basis of race, color, sex, or national origin.

Determine whether any programs are being administered in a manner which tends to limit the number of beneficiaries or level of assistance to beneficiaries based on race, color, national origin, religion, sex, familial status, or handicap.

Grantees are to maintain and update this information throughout the project. Grantees will be asked to show source documentation. All items in this section are to be completed. Note any deficiencies.

<table>
<thead>
<tr>
<th>a) and b) list activity or program name</th>
<th>Male Beneficiaries</th>
<th>Female Beneficiaries</th>
<th>Beneficiaries with a disability</th>
<th>Total</th>
<th>Hispanic</th>
<th>Total</th>
<th>Hispanic</th>
<th>Total</th>
<th>Hispanic</th>
<th>Total</th>
<th>Hispanic</th>
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<tbody>
<tr>
<td>a) Direct Beneficiaries</td>
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<tr>
<td>a) Direct Beneficiary Applicants</td>
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<td>b) Direct Beneficiaries</td>
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<tr>
<td>b) Direct Beneficiary Applicants</td>
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<tr>
<td>Male Beneficiaries</td>
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<tr>
<td>Female Beneficiaries</td>
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<tr>
<td>Beneficiaries with a disability</td>
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</tbody>
</table>

1. White
2. Black/African American
3. Asian
4. American Indian/Alaskan Native
5. Native Hawaiian/Other Pacific Islander
6. American Indian/Alaskan Native & White
7. Asian & White
8. Black/African American & White
9. American Indian/Alaskan Native & Black/African American
10. Asian & Black/African American
11. Other Multi-Racial

Total

Female head of household
Head of household with a disability
CONCLUSIONS:
  a) Are there any indications that any person or group was denied benefit on the grounds of race, color, national origin, religion, familial status, sex, or handicap?
     □ Yes    □ No

If yes please explain.

2. Employment

Does the grantee have written equal opportunity employment/personnel policies and practices?
     □ Yes    □ No

Are there any indications that any person or group was denied employment on the grounds of race, age, sex or disability?
     □ Yes    □ No

If yes please explain:

3. Fair Housing

The grantee records must document what meaningful action was taken to comply with the Title VIII of Civil Rights Act of 1968 concerning affirmatively furthering fair housing.

List activity(ies) undertaken and accomplishments by grantee during the grant period to affirmatively further fair housing.

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

Does the grantee have a written civil rights/fair housing complaints policy?    □ Yes    □ No

Has the grantee received any civil rights/fair housing complaints?    □ Yes    □ No

4. SECTION 504

When does the grantee report that the Section 504 Transition Plan was last updated? _______________________

Does the grantee have 15 or more employees?    □ Yes    □ No

Has the grantee designated a Section 504 Coordinator?    □ Yes    □ No

If yes, provide name and title: ______________________________________________________________

Has the grantee adopted a written grievance procedure to resolve complaints?    □ Yes    □ No

Is the grantee’s file for this compliance area complete?    □ Yes    □ No
5. Limited English Proficiency (LEP).

Does the grantee have a designated LEP contact person?

☐ Yes ☐ No

LEP contact person: ________________________________________________

Has the grantee completed a Four Factor Analysis to determine whether there are LEP populations within its service area?

☐ Yes ☐ No

If Yes, date completed: ______________________________

Does the grantee have a Language Access Plan?

☐ Yes ☐ No

Is the grantee providing meaningful access to programs and activities?

☐ Yes ☐ No

If Yes, please explain? (e.g. translation of Vital Documents, Use of Language Line, etc.)

____________________________________________________________________
____________________________________________________________________
____________________________________________________________________
____________________________________________________________________

Is the grantee maintaining records regarding their efforts to comply with Title VI LEP Obligations?

☐ Yes ☐ No

If Yes, please explain?

____________________________________________________________________
____________________________________________________________________
____________________________________________________________________
____________________________________________________________________

LAP and meaningful access reviewed by DED staff?

☐ Yes ☐ No

Grantee records maintained?

☐ Yes ☐ No
I. CONSTRUCTION

(Applicable to grantees having construction contracts exceeding $2,000 or other contracts exceeding $2,500 involving laborers or mechanics). Applies to projects with CDBG funds going towards construction.

The grantee should have a separate file for each construction contract. Review at least one general contract file and one subcontractor’s file, if any. For each reviewed, note the following:

Will the local government be undertaking the construction activities with local government staff? ☐ Yes ☐ No
Defined as Forced Account (If yes, no procurement or Davis Bacon is required)

Will the local government be undertaking the construction activities with volunteer labor/management? ☐ Yes ☐ No
Defined as Volunteers (If yes, review compatibility with Davis Bacon and required documentation)

Will the local government be hiring a contractor to do construction activities? ☐ Yes ☐ No
(If, yes procurement and Davis Bacon ARE required)

For CDBG-ED projects, will the local government be loaning funds to a business that will then undertake the construction? ☐ Yes ☐ No (if yes, procurement is not required, but Davis Bacon IS required)

General Contractor: LSE 7

| Project Name/Description: | |
| Bid Opening Date: | |
| Contractor Name: | |
| Contractor Clearance SAM Date: | |
| Contract Award Date: | |
| Contract Execution Date: | (cannot be prior to Notice of Release of Funds) |
| Contract Amount: | |
| Estimated Contract Start Date: | |
| Force Account Used? | ☐ Yes ☐ No |

Name of Labor Standards Compliance Officer:

| Wage Determination #________ mod #________ | Pub date:________ verified date:________ |
| Notice to Proceed Date: | |

Subcontractor(s): Provide the following information for all subcontractors

Subcontractor Contract with General: ☐ Yes ☐ No

| Contractor Name: | |
| Bid Opening Date: | |
| Contractor Clearance SAM Date: | |
| Contract Award Date: | |
| Contract Execution Date: | (cannot be prior to Notice of Release of Funds) |
| Contract Amount: | |
| Estimated Contract Start Date: | |
| Force Account Used? | ☐ Yes ☐ No |

Name of Labor Standards Compliance Officer:

(Report on additional subcontractors as necessary in monitoring letter.)

Subcontractor Contract with General: ☐ Yes ☐ No

| Contractor Name: | |
| Bid Opening Date: | |
| Contractor Clearance SAM Date: | |
| Contract Award Date: | |
The grantee should have all of following items on file for each construction contract. Please check if the requirement has been met. For each file reviewed, note the items on file and note any missing items or deficiencies.

- Preliminary design documents
- Cost estimates
- Evidence that property, easement, or right-of-way acquisition was completed prior to bid advertisement
- Request for wage rate determination and acknowledgement (for construction contracts exceeding $2,000)
- Bid package
- Evidence of review by municipal attorney (optional)
- Contractor Clearance SAM Date: ______________________________

The bid package must consist of the following. Check if the requirement met. (Construction contracts exceeding $2,000):

- General conditions
- Wage Determination # ______ mod # ______ Pub date: ____________
- Bonding and insurance requirements clause (federal bonding requirements apply to contracts over $100,000; smaller contracts must comply only with local bonding requirements) {attachment 1}
- HUD 4010 labor standards provisions
- Title VI Clause (Civil Rights Act of 1964) {attachment 3}
- Section 109 Clause (HCDA of 1974) {attachment 3}
- Age Discrimination Clause (Age Discrimination Act of 1975) {attachment 3}
- Rehabilitation Act Clause (Section 504 of the Rehabilitation Act of 1973) {attachment 3}
- Section 3 Clause and requirement for written plan if contract is $100,000 or over (HUD Act of 1968) {attachment 3}
- Equal employment opportunity provisions: 3 paragraphs for contracts $100,000 and under 7 paragraph EO 11246 clause for contracts over $100,000 {attachment 4}
- Access to records/maintenance of records clauses {attachment 5}
- Conflict of interest clause {attachment 5}
- Certification of compliance with clean air/water acts (contracts over $100,000) {attachment 6}
- Plans and specifications

1. Is there a Bid Advertisement/Proof of Publication?  
   - Yes  
   - No

   **Bid Advertisement Table**

<table>
<thead>
<tr>
<th>Newspaper</th>
<th>Dates Posted</th>
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<tbody>
<tr>
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</table>

2. Does the advertisement provide a clear and accurate description of all requirements and all factors to be used in evaluating bids?  
   - Yes  
   - No

3. Is there an addendum to bid documents (if applicable)?  
   - N/A  
   - Yes  
   - No

4. Are there copies of all bids received?  
   - Yes  
   - No

5. Is there evidence that the wage determination was checked 10 days prior to bid opening and, if necessary, revised (for construction contracts exceeding $2,000)? Date Verified: ________________  
   - Yes  
   - No

6. Is there written evaluation criteria including:  
   a. Criteria for judging responsiveness and reasonableness of bids?  
      - Yes  
      - No  
   b. Criteria for judging responsible bidders?  
      - Yes  
      - No
7. Bids
   a. Are the minutes of bid opening on file? □ Yes □ No
   b. Is the bid tabulation on file? □ Yes □ No
   c. Is there a recommendation for award based on written criteria? □ Yes □ No
   d. Was the wage determination in effect at time of bid opening? □ Yes □ No
      (Construction contract exceeding $2,000)
      a. Bid proposal including 5% bid bond (bid cannot be based on cost plus a percentage of cost); □ Yes □ No

8. Is there SAM contractor documented clearance and acknowledgement? □ Yes □ No
   Is the contractor registered in the SAM and documented in the file? Date:___________

9. Is there authorization of contract award by governing body on file? □ Yes □ No
   Date: ______________________
   Awarded Contractor: ________________________
   a. Is there notice of contract award and pre-construction conference; □ Yes □ No
   b. Was the LSE7 notice sent to DED within 10 working days of contract award? □ Yes □ No
      Date Contract Award (LSE7) sent DED: ______________________
      Date LSE7 receipted by DED: ______________________
   c. Was the wage determination in effect at time of contract award? □ Yes □ No
      (construction contract exceeds $2,000)

10. Was the contract reviewed by municipal attorney (optional)? □ N/A □ Yes □ No

11. Do the executed contract documents consist of:
    a. Bid documents; □ Yes □ No
    b. Contractor/subcontractor certifications of insurance/bonding. □ Yes □ No
       Is the contractor’s written section 3 plan if contract is $100,000 or more in the file? □ Yes □ No
    c. Was the contractor’s bonding/insurance for 100% of contract amount in effect at time of contract execution? If applicable (contracts of $100,000 or less may be in compliance with local bonding requirements if so stated)? □ Yes □ No

12. Are there minutes of preconstruction conference (optional)? □ Yes □ No

13. Did the contractor request and receive wage rate determination for any classification(s) not included in original determination (HUD 4230a) (construction contracts exceeding $2,000)? □ N/A □ Yes □ No

14. Is there a copy of contractor’s apprentice or trainee program registration from DOL, if applicable? □ N/A □ Yes □ No

15. What is the date on the notice to proceed issued to contractor? Date:___________ □ Yes □ No

16. Payroll verifications:
    a. Are there originals of weekly payrolls & evidence grantees review/verification? □ Yes □ No
    b. Are the payrolls submitted weekly? □ Yes □ No
    c. Are payrolls numbered and signed? □ Yes □ No

17. Payrolls in compliance with wage determination (rate of pay must be correct for each employee):
    a. Are additional classifications included? □ Yes □ No
    b. Are apprentices or trainees being paid appropriately? □ Yes □ No
    c. Is the computation of overtime pay correct? □ Yes □ No

18. Were payrolls reviewed by labor contract officer? □ Yes □ No
19. Are there weekly statements of compliance from contracts exceeding $2,000?  
   a. If statement of compliance not signed by owner, is there written documentation assigning authority to sign 
      compliance statement?  
   b. If written authorization, name and title of individual authorized to sign statement of compliance.  
   c. Date authorization signed: ____________________________

20. Change orders/Contract amendments

<table>
<thead>
<tr>
<th>Company</th>
<th>Change Order Number</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
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</table>

21. Has the grantee complied with employee interview requirements? (Check payroll classification against interviews.)
   a. Are there copies of employee interview records?  
   b. Did the grantee interview all classifications represented on the job?  
   c. Are the employee interview forms signed off by interviewer and payroll reviewer?  
   d. Does the employee interview dates last worked, payroll week, and classification 
      match up with the employee’s listing on the contractor’s weekly payroll?  
   e. Are employee payroll deductions documented?  
   f. Did the grantee review contractor’s use of apprentices/trainees (construction contracts exceeding $2,000)?  

22. Are the following posters displayed at the job site? (Report documentation method and if satisfactory or not.)
   a. Wage determination (construction contracts exceeding $2,000)  
   b. Notice to employees  
   c. Job safety and health protection  
   d. Equal employment opportunity  
   e. Nebraska DOL posters (9-10 posters)  
   f. Project inspection reports
   g. N/A

23. Is the poster/ wage rate determination date documented, easily viewable by workers, and protected from the weather elements at the site of work? Documentation date posted: ____________________________

24. Review of payment procedures against:
   a. Requests for partial payments  
   b. Certification of pay estimates  
   c. Inspection reports

25. Is the final inspection/acceptance of work form in the file?  

26. Is there a copy of as-built plans?  

27. What is the final payment date?  

28. Was the final wage compliance report sent to DED (construction contracts exceeding $2,000)?  

29. Is there correspondence and documentation regarding violations/complaints and actions taken?  

30. Describe grantee efforts to have a list of Section 3 Business Concerns and Section 3 Residents prior to procurement for a contractor or hiring construction and construction-related positions by the grantee and any covered contractor. Describe outreach efforts to Section 3 Business Concerns and Section 3 Residents for contractor procurement and employment with the grantee and any covered contracts. [Program Year 2012 and newer projects must have documentation of specific outreach efforts.]

31. How many minority-owned and women-owned contractors and subcontractors participated?
   a. type of work (please note each type, if more than one)
   b. dollar amount (separate by each contractor)

<table>
<thead>
<tr>
<th>Project</th>
<th>Company</th>
<th>Bid</th>
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J. ACQUISITION

(Acquisition from another public entity and temporary easements are not subject to the URA.)

1. Is there a separate file for each acquisition? ☐ Yes ☐ No
2. Was the General Information Notice hand-delivered or mailed with certified receipt? ☐ Yes ☐ No

   If the acquisition was a donation, go to 20. If the acquisition was voluntary, go to 21.

3. Is there a copy of the appraisal? ☐ Yes ☐ No
4. Is there evidence that the owner was invited to accompany the appraiser? ☐ Yes ☐ No
5. Was a review appraisal done? ☐ Yes ☐ No
6. Were qualified independent appraisers used? ☐ Yes ☐ No
7. If not appraised, was the value of the property $10,000 or less? ☐ Yes ☐ No
8. If less than $10,000, was the value based upon a review of the available market data? ☐ Yes ☐ No
9. Is a copy of the written offer to purchase in the file? ☐ Yes ☐ No
10. Was the offer issued promptly after the appraisal? ☐ Yes ☐ No
11. Was a statement of the basis for determining the offer included with the offer? ☐ Yes ☐ No
12. Is there evidence of clear title, a current survey, deed and legal description of the property? ☐ Yes ☐ No
13. Was a statement of settlement costs included in the file? ☐ Yes ☐ No
14. Is proof of receipt of payment in the file (canceled check)? ☐ Yes ☐ No
15. Was payment timely? ☐ Yes ☐ No
16. Is there proof of recording the deed in the file? ☐ Yes ☐ No
17. If recipients determined not to purchase after distributing the notice to acquire and/or offer, is there a written notice of such decision in the file with evidence of hand delivery (or certified mail)? ☐ Yes ☐ No
18. If the recipient permitted an owner or tenant to occupy the real property acquired, was the rent charged equivalent to the fair rental value of the property? ☐ Yes ☐ No
19. Was there a copy of any appeal or payment for incidental expenses or certain litigation expenses? ☐ Yes ☐ No
20. If property was donated: ☐ N/A___
   a. Is a signed release of the grantee’s obligation to an appraisal in the file? ☐ Yes ☐ No
   b. If appraisal obligation is not waived, is a copy of appraisal or determination of value data in the file? ☐ Yes ☐ No
   c. Is a signed waiver of rights of “just compensation” in the file? ☐ Yes ☐ No
   d. Is a copy of all required title documentation included in file (recorded deed or easement)? ☐ Yes ☐ No
   e. Was grantee’s payment of all incidental costs to the transfer of title documented (recording fees, survey, title insurance, transfer fees, prorated taxes, deed preparation)? ☐ Yes ☐ No
21. If property was voluntarily acquired: ☐ N/A___
   a. Was it acquired by public advertisement? ☐ Yes ☐ No
   b. Was it acquired by invitation? ☐ Yes ☐ No
   c. Was it acquired by other means?
      Specify the means: ____________________________
   d. Is the advertisement or invitation in the file? ☐ Yes ☐ No
   e. Did the advertisement or invitation contain language that made a general request for a non-specific site (general request for land for a water tower site or lagoon site or a dilapidated housing site)? ☐ Yes ☐ No
   f. Did the grantee inform the responding property owner, in writing, that in the event the negotiation failed, the grantee will not acquire the property? ☐ Yes ☐ No
K. RELOCATION

This section is applicable to grantees providing relocation assistance or grantees that have otherwise displaced persons by the use of CDBG funds.

Please list the data on the race, ethnic, and gender characteristics of displaced households:

<table>
<thead>
<tr>
<th>Household #1:</th>
<th>Race</th>
<th>Ethnicity</th>
<th>Gender</th>
</tr>
</thead>
<tbody>
<tr>
<td>Household #2:</td>
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<td>Household #3:</td>
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<tr>
<td>Household #4:</td>
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<tr>
<td>Household #5:</td>
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</tbody>
</table>

Is there documentation of the location of the CDBG-funded activity that caused the displacement? □ Yes □ No

Did the relocation activities promote fair housing by providing displaced persons with two choices of replacement housing in the community’s total housing supply regardless of race, color, religion, sex or national origin? □ Yes □ No

Were relocation services and benefits to displaced persons and businesses provided in a manner that did not result in different treatment to those persons relocated on account of race, color, sex, or national origin? □ Yes □ No

Part 1: Residential Relocation

Does the grantee have a file for each displaced household? □ Yes □ No
Does the displacing activity make it subject to the Uniform Relocation Act Section 104(d)? □ Yes □ No

Please review at least one relocation case file.

What is the name of the party displaced? ____________________________
What was the former address of the displaced party? ____________________________
What is the current address of the displaced party? ____________________________

Date occupant was initially contacted: ____________________________
Date of initial occupancy: ____________________________
Monthly housing cost at acquired dwelling: ____________________________

Please describe any relocation needs of household including transportation, moving costs, etc.
1. Is the notice of relocation adequate?  Yes  No

2. Was the notice to be issued promptly after the initiation of negotiations?  Yes  No

3. Is there documentation describing services and assistance provided (must include the date the service/assistance was provided)?  Yes  No

4. Do the referrals to comparable replacement housing include the date of referral, address, sale/rental price, monthly housing cost and date of availability?  Yes  No
   a. If referral was rejected, what is the reasoning for the rejection?

5. Is there a copy of any lease between the grantee and occupant?  Yes  No

6. Is there a statement identifying the basis for grantee’s determination of the fair rental after acquisition?  Yes  No

7. Is there a copy of 90-day notice?  Yes  No
   a. Was the notice received?  Yes  No
   b. Is the timing of notice adequate?  Yes  No

8. Is there a copy of 30-day notice?  Yes  No
   a. Was the notice received?  Yes  No
   b. Is the timing of notice adequate?  Yes  No

9. Inspection:
   a. Date of inspection:  
   b. Address and description of replacement dwelling:  
   c. Date of the relocation:  
   d. Note what standards grantee used to determine if replacement dwelling is decent, safe and sanitary.

10. Is there a copy of each relocation claim form together with supporting documentation?  Yes  No

11. Are there copies of worksheets used to determine benefits?  Yes  No
   a. Do the worksheets contain correct calculations and determination of benefits?  Yes  No

12. Is there evidence of verification of claim and receipt of payment?  Yes  No

13. If an appeal has been filed, what was the disposition?  

14. Are there copies of correspondence in the file?  Yes  No

15. Has the relocation been completed within 6 months following acquisition of property?  Yes  No
   a. If no, please provide an explanation of the delay and plan for timely completion.

16. Copy of waiver for assistance, if so desired by resident/tenant.  Yes  No
Part 2: Nonresidential Relocation

The grantee should have all of the following items on file for each business displaced. A separate file should be established for each business. Review at least one completed relocation case file and check for the items below, noting any deficiencies.

| Date the occupant was initially contacted |
| Name, age, minority-group classification, disabilities of business owner (or principal official) |
| Provide general information about the relocation |
| Address, complete name, telephone number, and type of business |
| Approximate annual gross sales, payroll and number of employees |
| Size of business by square feet, number of stories, parking area, space leased or owned |
| Monthly rental or mortgage cost (not landlord or institution receiving payment) |
| Number of years in business and at present location |

| Evidence of Notice of Relocation Eligibility |
| Notice is adequate |
| Notice was issued promptly after the initiation of negotiations |
| Relocation requirements |
| Evidence of referrals and other assistance, including date, address, purchase or rental price, date of availability |
| If referral is rejected, reason(s) for rejection |
| Copy of 90-day notice and evidence of receipt |

| Description of Replacement Location |
| Address |
| Size |
| Date move initiated and completed |
| Manner of move (self move, commercial, etc.) |
| Cost (monthly rental/mortgage payment) |

| Copy of each relocation claim form and supporting documentation |
| Copy of worksheets used to determine benefits |
| Worksheet accuracy |
| Evidence of verification of claim and receipt of payments |
| Moving costs |
| Appeal, if filed, and disposition: |
| Copies of correspondence |
| If relocation has not been completed within 6 months following acquisition, explanation of delay and plan for timely completion. |
Program Standards:

a) Do the standards include the required language regarding removal of existing lead-based paint hazards? □ Yes □ No

b) Do the standards prohibit the use of lead-based paint? □ Yes □ No

Program Guidelines – do the program guidelines include each of the following?

|☐| Types and amounts of financial assistance available; determine types(s) of program (streamlined, self-help, grantee representing owner) |
|☐| Eligibility criteria (applicant and property), including income eligibility and any exclusions; review income provisions to determine if program exclusively benefits low-to-moderate income households. |
|☐| Eligible property improvements |
|☐| Determination of the feasibility of rehab and treatment of infeasible rehabs |
|☐| Relocation or alternatives to rehab policies, if applicable |
|☐| Selection process |
|☐| Conflict of interest provision |
|☐| Contracting requirements |
|☐| Grievance procedure |
|☐| Treatment of emergencies, if applicable |
|☐| Rehab outside the target area(s), if applicable |
|☐| Role of advisory committee, if applicable |
|☐| Responsibilities of the recipient (relate to type of program) |
|☐| Operating procedures including those relating to change orders, dispute resolution and acceptance of work |

1. Do the application forms request sufficient information to determine eligibility? □ Yes □ No

2. Is there a written basis for selection or non-selection in the applications for rehabilitation assistance? □ Yes □ No

3. Is there the proper documentation that all applicants have been notified of selection or non-selection? □ Yes □ No

4. Do the non-selection letters include reasons for non-selection? □ Yes □ No

5. Was rehabilitation completed on any single building(s) with 5 or more housing units? □ Yes □ No

   If yes, is there documentation that the applicant complied with Section 504 accessibility requirements to ensure to the greatest extent feasible that 5% of the units are handicapped accessible and 2% of the units are accessible to persons with sensory impairments? □ Yes □ No

| Number of rehab applications received | | |
| Number of units completed, in progress, and pending | | |
| How is the program publicized and how are applicants solicited? If the grantee has brochures or other literature used to publicize program, obtain copies | | |
| How many contractors bid on rehab jobs? How does the grantee pre-qualify contractors? | | |
For each applicant selected (2-3 client files), the grantee should have a rehabilitation case file consisting of the following:
(Please check the box indicating the grantee has the appropriate document on file.)

<table>
<thead>
<tr>
<th>Document Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>State rehabilitation case file number in the Client file as reviewed</td>
</tr>
<tr>
<td>Enter case file number or address in the Client box for A:, B:, C:</td>
</tr>
<tr>
<td>Completed application</td>
</tr>
<tr>
<td>Family survey</td>
</tr>
<tr>
<td>Title search</td>
</tr>
<tr>
<td>Verification of employment</td>
</tr>
<tr>
<td>Verification of income</td>
</tr>
<tr>
<td>Evidence lead-based paint brochure was received by property owner/occupants</td>
</tr>
<tr>
<td>Letter of clearance from the <strong>State Historic Preservation Office Date signed SHPO</strong></td>
</tr>
<tr>
<td>Bid Package (Note: bids not required if the owner is responsible for contracting the work) <strong>Tier II review.</strong> Check for central Environmental Review Record file.</td>
</tr>
<tr>
<td>Bid advertisement Date</td>
</tr>
<tr>
<td>Proof of publication Date</td>
</tr>
<tr>
<td>Advertisement provides a clear and accurate description of all requirements and all factors to be used in evaluating bids</td>
</tr>
<tr>
<td>Copies of all bids on file</td>
</tr>
<tr>
<td>Evidence bids were logged</td>
</tr>
<tr>
<td>Written evaluation criteria including criteria for judging responsiveness and reasonableness of bids and responsibleness of bidders</td>
</tr>
<tr>
<td>Bid tabulation and recommendation for award based on written criteria Date</td>
</tr>
<tr>
<td>Executed contract documents; contract must include work write-up and required language regarding removal of existing lead-based paint hazards and prohibiting use of lead based paint;</td>
</tr>
<tr>
<td>The contractor’s written section 3 plan if contract is $100,000 or more on file</td>
</tr>
<tr>
<td>Executed contract must specify contract amount, time of performance, method schedule of payments, who will be responsible for performing each work item, and must include loan agreement, if applicable; check to see that contract amount is not based on cost plus a percentage of cost</td>
</tr>
<tr>
<td><strong>Notice to proceed Date</strong> (must be dated after any right of rescission, period and should specify when work is to begin and is to be completed)</td>
</tr>
<tr>
<td><strong>Right of rescission Date</strong> (must be prior to notice to proceed)</td>
</tr>
<tr>
<td>Site inspection reports that are dated and signed; note how often inspections are made.</td>
</tr>
<tr>
<td>Requests for partial payments and documentation; documentation must include verification of specific contact work items completed; not whether grantee retains a portion of payment due until all work completed record of date and amount of partial payments, signed by all parties</td>
</tr>
<tr>
<td>Change orders, signed by all parties; note the extent of work/certificate of completion</td>
</tr>
<tr>
<td>Contractor/subcontractor, material man affidavit, warranties, release of liens</td>
</tr>
<tr>
<td>Evidence of final payments Date</td>
</tr>
<tr>
<td>Evidence of follow-up inspection(s) prior to expiration of contractor’s warranty</td>
</tr>
<tr>
<td>Correspondence and documentation regarding complaints, if any, and actions taken</td>
</tr>
<tr>
<td>If possible, perform limited inspection of completed units and units under construction</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Client A</th>
<th>Client B</th>
<th>Client C</th>
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</tbody>
</table>
M. DEMOLITION

(Applicable to grantees with demolition activity) State demolition case file number in the Client file as reviewed

<table>
<thead>
<tr>
<th>State demolition case file number in the Client file as reviewed</th>
<th>Client A:</th>
<th>Client B:</th>
<th>Client C:</th>
</tr>
</thead>
</table>

Does the grantee have a separate file for each demolition project? ☐ Yes ☐ No

(If the unit was acquired by the grantee, the file may be the same as under the Acquisition section of the checklist. If not, determine how the units were chosen for demolition.)

Is there evidence that the demolition contract was competitively selected? ☐ Yes ☐ No

Is there evidence that the procurement process meets adopted procedures? ☐ Yes ☐ No

Is there a copy of the contract used? ☐ Yes ☐ No

Does the contract meet CDBG requirements? ☐ Yes ☐ No

(Demolition contracts not subject to Davis Bacon wages unless it is a phase of construction project which is.)

Was the Notice to Proceed issued? ☐ Yes ☐ No

Date of the Notice to Proceed: __________

Are the project inspection reports in the file? ☐ Yes ☐ No

Is there evidence of final inspection? ☐ Yes ☐ No

Is there evidence of final payment approval? ☐ Yes ☐ No

One for One Replacement Requirement for Residential Demolition

If the demolition was of a housing unit and it was occupied or vacant, but occupiable, then the unit must be replaced with a similar unit within 3 years (see Residential Antidisplacement and Relocation Assistance Plan Certification).

Did you review the requirements with the grantee for replacement of lower income housing lost from the community’s stock through federally assisted activities? ☐ Yes ☐ No

Please make any notes in the space below.

Does the grantee have a definition of occupiable (i.e. suitable for rehabilitation)? ☐ Yes ☐ No

Is there evidence that the grantee submitted the information required from the Residential Antidisplacement and Relocation Assistance Plan Certification (Exhibit G of the CDBG application)? ☐ Yes ☐ No

Please determine if there is a need for follow-up technical assistance and describe in the space below.
N. LEGAL/LOAN DOCUMENTS

(Applicable to ED projects)

The grantee should have all applicable legal documents duly executed and on file.

<table>
<thead>
<tr>
<th>Document</th>
<th>Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Memorandum of Understanding</td>
<td></td>
</tr>
<tr>
<td>Loan Agreement (if needed)</td>
<td></td>
</tr>
<tr>
<td>Promissory Note</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Security Instruments</th>
<th>Date:</th>
<th>Date Filed:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mortgage/Deed of Trust</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Security Agreement</td>
<td></td>
<td>n/a</td>
</tr>
<tr>
<td>UCC Filings</td>
<td></td>
<td>n/a</td>
</tr>
<tr>
<td>Corporate/Personal Guaranty</td>
<td></td>
<td>n/a</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Insurance Policies</th>
<th>Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Key Man Life Insurance Expiration</td>
<td></td>
</tr>
<tr>
<td>Property Insurance Expiration</td>
<td></td>
</tr>
</tbody>
</table>
O. JOB CREATION/RETENTION VERIFICATION

(Applicable to ED Projects)

Verification of the job creation/retention information will require the grantee to make at least one on-site visit to the business and have access to certain payroll and personnel records.

In order to confirm the reported beneficiaries, the following information must be verifiable in the business’ records for each employee tested:

<table>
<thead>
<tr>
<th>Employee:</th>
<th>1.</th>
<th>2.</th>
<th>3.</th>
<th>4.</th>
</tr>
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<tbody>
<tr>
<td>Date of Hire:</td>
<td></td>
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<td></td>
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<tr>
<td>Date of Termination:</td>
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<tr>
<td>Average number of hours worked:</td>
<td>/wk</td>
<td>/yr</td>
<td>/wk</td>
<td>/yr</td>
</tr>
<tr>
<td>Employee Certification for or other documentation of LMI qualification:</td>
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</tbody>
</table>

Following an on-site visit to verify jobs created or retained, the following information should be summarized for the CDBG files maintained by the grantee. The grantee’s file must contain the following information:

<table>
<thead>
<tr>
<th>Date of on-site visit:</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Name of Business:</td>
<td></td>
</tr>
<tr>
<td>Names of persons representing the business during the on-site visit:</td>
<td></td>
</tr>
<tr>
<td>Name of positions reviewed:</td>
<td></td>
</tr>
<tr>
<td>Number of individual employee records reviewed:</td>
<td></td>
</tr>
<tr>
<td>Names of company records reviewed to verify date of hires, hours worked, etc.</td>
<td></td>
</tr>
<tr>
<td>Number of Employee Certification Forms reviewed:</td>
<td></td>
</tr>
</tbody>
</table>

Please provide a summary of any issues or problems discussed with the business:

Is the grantee’s on-site review of job creation/retention records adequate? □ Yes □ No
P.EQUIPMENT VERIFICATION

(Applicable to ED Projects)

1. Equipment Inventory Listing (may have been provided with the CDBG application)

For each piece of equipment, the Grantee must include the following information in its files:

<table>
<thead>
<tr>
<th>Description of Equipment</th>
<th>Manufacturer</th>
<th>Model Number</th>
<th>Serial Number</th>
<th>Date of Purchase</th>
<th>Purchase Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
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<td>7.</td>
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</tbody>
</table>

Does the equipment inventory listing identify all equipment purchased? ☐ Yes ☐ No

2. On-Site Inspection

Did the grantee physically inspect all equipment purchases made by the business? ☐ Yes ☐ No

Did the inspection include identification of equipment by model and serial numbers? ☐ Yes ☐ No

Did the grantee compare each piece of equipment inspected to the equipment inventory list? ☐ Yes ☐ No

Were issues or problems discussed with the business while on site? ☐ Yes ☐ No
CHAPTER 15 – AUDIT

AUDIT REQUIREMENTS
The new Super Circular (2 CFR 200) require entities that expend $750,000 or more during the entity’s fiscal year in federal funds (from all sources) to have a single audit conducted for that fiscal year.

The grantee would calculate the total amount of federal expenditures based on dates that invoices were paid by the grantee and later reimbursed through CDBG resources through the draw down process.

NOTIFICATION OF ANNUAL AUDIT
The grantee is responsible for tracking these federal expenditures and required to complete a Notification of Annual Audit Form. The Form must be completed and returned to the Department within 30 days of the grantee’s fiscal year-end. The Notification of Annual Audit form is available on the Department’s website at: http://neded.org/community/grants/applications/cdbg-forms

The Notification of Annual Audit Form The form CANNOT be submitted before the end of the fiscal year, but must only be submitted no later than 30 days after the end of the grantee’s fiscal year.

Grantees must complete the Form completely and provide information related to the following:
  ▪ The grantee’s fiscal year end date;
  ▪ The sources of all appropriate federal expenditures that have been made by the grantee, including all grants (and grant numbers) received from the department;
  ▪ Information on whether or not the grantee must complete a single audit;
  ▪ Contact information of the primary person responsible for arranging the audit; and
  ▪ Ensuring the form has been certified by a grantee official;

THE AUDIT
Once the grantee completes their audit, the grantee must submit the audit report to the Department. The audit report must be provided to the Department within 30 days after the grantee receives the auditor’s report or 9 months after the end of the audit period (whichever is earlier). Failure of the grantee to provide the necessary audit information may result in sanctions that may include suspension of payments to the grantee from the Department until the audit information has been received.

All Notifications of Annual Audit (NAA) forms and Single Audits must be either emailed or mailed. When emailing send information to: ded.audit.naa@nebraska.gov and include the grantee’s name and whether a NAA form or a Single Audit has been included within the email. When mailing the necessary information send information to the Department of Economic Development, Attention Financial Operations.

The grantee must ensure the following guidance is followed when completing an audit.
  ▪ Audits must be conducted in accordance with Generally Accepted Government Auditing Standards and 2 CFR 200 Subpart F. The auditor’s responsibilities are described in Subpart E.
  ▪ The appropriate CFDA number must be used in the Schedule of Expenditures of Federal Awards, 14.228 for CDBG. The CDBG grant number and amount must also be identified in this schedule. Local expenditures (matching funds, etc.) should not be included in this schedule.
• The entity is responsible for follow-up and corrective action on all audit findings. At the completion of the audit, the auditee shall prepare a corrective action plan to address each audit finding included in the current year auditor’s report. The corrective action plan shall provide the name(s) of the contact person(s) responsible for corrective action, the corrective action planned, and the anticipated completion date.

Upon completion of the audit each grantee must also complete the following:

• Submit a copy of the single audit to the Department of Economic Development; or
• If there were no Single Audit findings or questioned costs, the entity may provide written notification to the Department that an audit was conducted in accordance with Super Circular requirements (2 CFR 200) which were previously identified under A-133 (including the period covered by the audit, the name, amount and CDFA number of awards from the Department). A statement must be included stating that there were no current or continuing prior year findings or questioned costs.
• Submit to the Federal Clearinghouse in accordance with Super Circular requirements (2 CFR 200) which were previously identified under A-133, one copy of a signed data collection form (SF-SAC), and one copy of the reporting package for the clearinghouse to retain as an archival copy, and one copy for each federal awarding agency when the schedule of findings and questioned costs disclosed audit findings relating to federal awards that the federal awarding agency provided directly to the entity. (Awards from the Department come to the entity as pass-through awards, not directly from the United States Department of Housing and Urban Development).

AUDITOR SELECTION
Grantees that are required to have a single audit must follow federal procurement procedures in selecting an auditor to perform the audit. If a single audit is to be performed, grantees must select an auditor in accordance with the procurement procedures detailed in 24 CFR 85.

The use of a Request for Proposal (RFP) is generally the most appropriate method of procurement since auditor qualifications are critical to having a proper audit performed. Criteria for selection of an auditor may include previous experience with audits of CDBG or other federal programs and single audits. Additional information should be obtained to assure that the auditor is a CPA or licensed public accountant. Verification of the completion and timeliness of previous audits should be made and an assurance that the auditor is independent.

SINGLE AUDIT COSTS
If a grantee is required to have a single audit, they may charge each open federal grant a portion of the audit costs for the fiscal year audited. The allowable portion of audit costs to be charged to each grant is determined by dividing the expenditures of a federal grant in a fiscal year by the total federal expenditures of the local government in that year. The resulting percentage is then multiplied by the total audit cost to determine the allowable audit cost for that grant.

If the grantee feels that the allowable audit cost determined using the calculation method discussed above does not reasonable reflect a CDBG grant’s share of the audit cost, the grantee may request that the Department grant a waiver of this provision and approval of a greater share of the audit cost to be charged to that grant. The request must include information from the auditor as to why the calculated audit cost is not representative of the actual audit costs incurred.
Audit costs may only be charged to the Grantee’s general administration activity under the approved CDBG budget.

AUDITS OF SUBRECIPIENTS
Many CDBG projects use subrecipients in order to carry out project activities. Subrecipients are defined as local governments or nonprofit organizations that are granted CDBG funds by the grantee for specific project activities.

The grantee is responsible for obtaining a copy of the subrecipient audit. Further, the grantee is responsible for reviewing the subrecipient audit reports and for resolving any findings shown in the audit reports.

The grantee must:
- Ensure that local government and non-profit subrecipients follow the audit requirements of 2 CFR 200 Subpart F.
- See that all subrecipients submit the required audit(s) to the grantee within the required timeframe.
- Review all subrecipient audit reports and follow up on all audit findings. All audit reports must be reviewed and the findings resolved in a management letter sent to the subrecipient within six months of receipt of the audit.
- If an audit finding results in corrective action to be taken by the subrecipient, the subrecipient must identify which corrective action will be implemented and the target date for the implementation.
CHAPTER 16 –CLOSEOUT

PROJECT CLOSEOUT
Closeout is the process by which the Department determines that all requirements of the contract between the Department and the Grantee have been completed. Once all project activities have been completed, all funds have been drawn down, and the Department has monitored the project, the closeout process generally begins.

The Department will issue a Notice of Closeout letter to the grantee near the contract end date or upon payment of all CDBG funds for the project, whichever occurs sooner. The Notice of Closeout letter may also be sent when the grantee requests initiation of the closeout process for the project or upon receipt of a final draw down request.

Once the Notice of Closeout letter is received by the grantee, the grantee must submit the following items to the Department that include:
  - The Final Financial Report
  - The Final Performance Report
  - The Final Wage Compliance Report (if applicable)
  - And other documents applicable in order to complete closeout.

The Final Financial Report; the Final Performance Report; and the Final Wage Compliance Report (required only when Davis Bacon is triggered) must be submitted to the Department within 60 days after the date of the Notice of Closeout letter.

For additional information regarding final reporting items and a copy of the forms, please access the Department’s website.

FINAL PROJECT STATUS REPORT
The Final Project Status Report (also known as the Final Performance Report) is completed after all CDBG activities have been completed for the project. The grantee select the “Final Report” box on the Report and identifies all accomplishments that were completed during the final project reporting period and cumulatively. The grantee is responsible for identifying the CDBG National Objectives that were met during the course of the project and to provide the appropriate beneficiary information. In addition, the grantee is also responsible for providing information on any Minority Business Enterprises/Women owned business enterprises (MBE/WBE) and also any project contracts related to Section 3 businesses. This data is recorded on the last pages of the Project Status Report.

FINAL FINANCIAL REPORT
This report provides information on the final program cost amounts for each of the CDBG activities that were in the project and also noted within the grantee’s contract. This information includes: total activity costs paid; any CDBG program income expended during the project; and any local match expenditures. The report also identifies any remaining funds that the grantee will expend through the submittal of a final draw down request and also whether or not there are any CDBG funds that will be de-obligated. The Department accounting staff and the project’s Program Representative will review this information for accuracy. If there are errors found in the Final Financial Report the Program Representative will work with the grantee and the CDBG Certified Administrator in revising and finalizing the data in the report.
FINAL WAGE COMPLIANCE REPORT
For projects that involve Davis Bacon and related acts only, the Final Wage Compliance Report is completed which identifies whether during the course of construction activities restitution was paid as a result of employees being paid less than what was required by the U.S. Department of Labor’s Wage Determination Rate that was identified for the project. The grantee is responsible for completing this Report and sending this information to the Department, but only for projects that involve construction activities and Davis Bacon compliance is required.

In addition, the grantee must also ensure that any previous monitoring findings have been cleared and any other additional information that has been requested for the project has been received (i.e. copies of final plans for planning projects, any necessary documentation required for ED projects, etc. if required).

CERTIFICATE OF COMPLETION
After the above mentioned items have been submitted to the Department and reviewed by staff, a Certificate of Completion letter will be issued to the grantee when the following criteria have been met:

- CDBG grant funds have been expended in full;
- All grant requirements, including all Final reports, required documentation, and monitoring has been reviewed and finalized; and
- The grantee has resolved any outstanding audit issues.

The Certificate of Completion letter that is received by the grantee will specify any follow-up actions that are required by state or federal regulations, however, the Certificate of Completion letter constitutes satisfactory completion of all grant requirements for the project.

FILE RETENTION
Grantees must maintain CDBG grant records for a period of 10 years after the issuance of the Certificate of Completion. See Chapter 2 for further information concerning Recordkeeping requirements.
Survey Methodology:
Conducting an Income Survey

2015

Conducting an Income Survey

• Income surveys should be conducted 6-8 months prior to the application deadline
Why conduct an income survey

• Determine if the project meets a CDBG National Objective
  – At least 51% of residents benefiting from CDBG program live in households earning 80% or less than the area’s Median Family Income as determined by HUD (these thresholds change annually)

• US Census Bureau data for local government entity is below 51% LMI and:
  – US Census Bureau data is near 51%
  – Local social/economic factors have significantly changed since the last US Census

Who to survey

• The population should include the collection of families that will benefit from the proposed activity

• Two types of Surveys:
  – Census Survey
    • Entire population (recommended for populations with 200 households or fewer)
  – Random Sample Survey
    • Subset of a population chosen randomly (recommended for populations with 200+ households)
Families vs. households

- **Family**: all persons living in the same household who are related by blood, marriage, or adoption
- **Household**: all persons occupying the same housing unit regardless of their relationship to each other

*When conducting an income survey, be sure to use FAMILIES in the service area as your targeted population*

Establishing the Service Area

- Boundaries are defined by the proposed project:
  - A street paving project that benefits a portion of the community
  - A fire station project that serves the community and rural unincorporated areas in 2 or more counties
  - A rural water district that serves the community and a portion of the surrounding rural area
Application

A hypothetical city, Huskerville, identifies that a new emergency station will decrease emergency response time to better serve the community. They have identified the proposed emergency station’s service area as a portion of the city that can be seen below.

Identifying Number of families in the service area

- Identify families in a service area using:
  - Utility service lists
  - Telephone directories
    - may exclude people who either don’t have phones or who exclusively use cell phones
  - Tax rolls
    - identify the property owner, not necessarily the residents
  - Going door-to-door in small areas
What type of survey to use

• Census Survey
  – Requires a very high response rate (near 100%) because it includes the entire population that will benefit from the proposed activity

• Random Sample Survey
  – Representative of entire population
  – Carefully determine sample size to represent service area
  – Recommended for populations with 200+ households

Application

• In Huskerville, we obtained a utility billing list from that identify 450 families in our service area mapped out previously
  – Remember to eliminate business entities and services from your list of families

<table>
<thead>
<tr>
<th>Customer Name</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adams, John</td>
<td>1234 Main St., Huskerville, NE 65432</td>
</tr>
<tr>
<td>Arnold, James</td>
<td>6574 North 2nd St., Huskerville, NE 65432</td>
</tr>
<tr>
<td>Bradbury, Madison</td>
<td>1254 South 25th St., Huskerville, NE 65432</td>
</tr>
<tr>
<td>Loomis, Samantha</td>
<td>1209 South 12th St. Huskerville, NE 65432</td>
</tr>
<tr>
<td>Marcus, Jacob</td>
<td>7989 Main St., Huskerville, NE 65431</td>
</tr>
<tr>
<td>Marv’s Plumbing</td>
<td>1111 Main St. Huskerville, NE 65431</td>
</tr>
<tr>
<td>Zimms, Lana</td>
<td>9876 North 3rd St., Huskerville, NE 65432</td>
</tr>
</tbody>
</table>
Random sample survey: Step 1

• Determine your Sample Size
  – Go to [http://surveystem.com/sscalc.htm](http://surveystem.com/sscalc.htm)
  – Enter a confidence level of 95% and a confidence interval of 4
  – Enter the number of FAMILIES (or households based on the list used to determine total number in the service area)

Our example city requires a sample size of 257 families

Step 2: oversampling

• Step 1 said a total of 257 surveys need to be completed, however, it is acceptable to oversample by 20%
  – Thus, we may choose a sample up to 309 (in our example) (257*.2=51.4; 52+257=309)
  – Oversampling will provide you with additional randomly selected families in the event you obtain a “non-respondent” from your initial sample
Step 2: oversampling

- Our goal is to obtain responses from the original randomly chosen families (first 257 chosen)
  - Methods for follow-up needs to be created:
    - Telephone Call
    - Door-to-Door
- If follow-up is unsuccessful, then the first family that is a non-respondent would be replaced by the 258th family on the list, the second family would be replaced by the 259th family, etc.

Step 3: Randomly Select the sample

- To randomly select the sample, numbers must be assigned to the entire population in the service area
- Using whichever resource was determined as the most accurate for determining the population of the service area, create a list and number that list
  - in our example, we numbered our list our entire utility list of 450 families from 1-450

<table>
<thead>
<tr>
<th>Number</th>
<th>Customer Name</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
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<td>Adams, John</td>
<td>1234 Main St., Huskerville, NE 65432</td>
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<td>2</td>
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</tr>
<tr>
<td>3</td>
<td>Bradbury, Madison</td>
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</tr>
<tr>
<td>4</td>
<td>Loomis, Samantha</td>
<td>1209 South 12th St. Huskerville, NE 65432</td>
</tr>
<tr>
<td>5</td>
<td>Marcus, Jacob</td>
<td>7989 Main St., Huskerville, NE 65431</td>
</tr>
<tr>
<td>6</td>
<td>Zimms, Lana</td>
<td>9876 North 3rd St., Huskerville, NE 65432</td>
</tr>
</tbody>
</table>

Marv’s Plumbing, 1111 Main St., Huskerville, NE 65431
Step 3: randomly select the sample

• Use a random number generator to produce the desired number of random numbers
  - It is recommended using a random number table or using the random number generators at [www.randomizer.org](http://www.randomizer.org) or [www.random.org](http://www.random.org)

Sample Size + Over Sample
From: 1
To: (Total number of Families in Service Area)

Step 3: randomly select the sample

For our example, we wanted 309 numbers (to include our oversample) between 1 and 450
Step 3: randomly select the sample

Next, we will take the first 257 numbers (to match our original sample) on the randomized list and use the corresponding numbers on our numbered utility list (ie. The first surveys will go out to families #57, #78, #412, and so on).

Step 4: creating the survey instrument

• In order to gather data on low-to-moderate income families, you must use the HUD Section 8 income limits
  – This data can be found at [www.huduser.org/datasets.it.html](http://www.huduser.org/datasets.it.html)

The above sample includes the income limits for Adams County. Be sure to use the income limits specific to your county/counties when creating your survey instrument.
Step 4: creating the survey instrument

• Developing Survey Questions
  – At a minimum, the survey must include questions regarding:
    • Family size
    • Total family income
  – Question Wording
    • Clearly define concepts within questions (outline definition of family vs. household)
    • Avoid leading questions
    • Avoid references to CDBG and low-income people

application

In our example, we developed a survey that defines family and income and asks size of family and if the family's gross income level is ABOVE or BELOW a specific dollar limit depending on family size.
Step 5: Publicizing the survey

- Publicizing when, how, and why the survey will be conducted can significantly increase your response rate
- Provide information regarding the reason for conducting the survey
  - People are less hesitant to disclose information
  - Tell people that a current estimate of incomes in the service area is necessary in order to apply for grant funds
    - Can NOT state you are applying for CDBG funds or conducting a survey to find out how many low-to-moderate income people are in the area

Application

In our example, we advertised in:
- the local paper
- public meetings
Step 6: Conducting the survey

Summary Comparison of Three Survey Methods

<table>
<thead>
<tr>
<th>Dimension of Comparison</th>
<th>Mailed Questionnaire</th>
<th>Face-to-Face Interview</th>
<th>Telephone Interview</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goal</td>
<td>Moderate</td>
<td>High</td>
<td>Low</td>
</tr>
<tr>
<td>Data Quality</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Response Rate</td>
<td>Low</td>
<td>High</td>
<td>Moderate/High</td>
</tr>
<tr>
<td>Respondent Motivation</td>
<td>Low</td>
<td>High</td>
<td>High</td>
</tr>
<tr>
<td>Interview Bias</td>
<td>None</td>
<td>Moderate</td>
<td>Low</td>
</tr>
<tr>
<td>Sample Quality</td>
<td>Low</td>
<td>High</td>
<td>Moderate</td>
</tr>
<tr>
<td>Instrument Length</td>
<td>Short</td>
<td>Very Long</td>
<td>Long</td>
</tr>
<tr>
<td>Ability to Comprehend</td>
<td>None</td>
<td>High</td>
<td>High</td>
</tr>
<tr>
<td>Speed</td>
<td>Low</td>
<td>Low</td>
<td>High</td>
</tr>
<tr>
<td>Interviewer Experience</td>
<td>None</td>
<td>Low</td>
<td>High</td>
</tr>
<tr>
<td>Anonymity</td>
<td>High</td>
<td>Low</td>
<td>Low</td>
</tr>
<tr>
<td>Ability to use computer</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>assistance during process</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Distractibility/Question</td>
<td>High</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Order</td>
<td>High</td>
<td>High</td>
<td>High</td>
</tr>
</tbody>
</table>

Step 6: Conducting the survey

- In our example, we mailed the survey with the June utility bills to the families identified in our random sample and oversample (mailed 309 surveys)
- We didn’t receive all of the surveys back from our original sample (the first 257 families that were selected by the random number generator), therefore we resent surveys to those individuals on the original random sample list
Conducting the survey

For example, if we didn’t receive five of the surveys back from our original 257, then we replaced those with the 258th, 259th, 260th, 261st, and 262nd randomly generated number (in our example that would be 173, 1, 296,...). Use the family surveys associated with those numbers to replace the non-respondents.

Even though we received 25 of the “oversample” surveys back, we will only include the ones necessary for replacement in numerical order (in this case the first five oversampled surveys).
Calculate results using Exhibit e-2

As we can see 150/257 families in our community are LMI. This can be calculated for individuals by multiplying the number of families by the number of individuals the family which gives us 378/598 (= 63.2%) LMI individuals. This is outlined on the Low-and-Moderate-Income Reporting Worksheet.

### Tabulated Income Survey Results

<table>
<thead>
<tr>
<th>Family Size</th>
<th>1 Person</th>
<th>2 Person</th>
<th>3 Person</th>
<th>4 Person</th>
<th>5 Person</th>
<th>6 Person</th>
<th>7 Person</th>
<th>8 Person</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td># Above</td>
<td>12</td>
<td>30</td>
<td>17</td>
<td>18</td>
<td>11</td>
<td>9</td>
<td>6</td>
<td>4</td>
<td>107</td>
</tr>
<tr>
<td>Income Limit</td>
<td>$32,400</td>
<td>$37,200</td>
<td>$42,100</td>
<td>$47,600</td>
<td>$51,800</td>
<td>$54,400</td>
<td>$59,250</td>
<td>$64,800</td>
<td>378/598 people</td>
</tr>
<tr>
<td># Below</td>
<td>18</td>
<td>17</td>
<td>26</td>
<td>37</td>
<td>20</td>
<td>14</td>
<td>8</td>
<td>10</td>
<td>150</td>
</tr>
</tbody>
</table>

### Results

- If the calculated LMI percentage is in the range of 51%-54% for a random sample survey, further analysis is necessary.
  - Compare average size of LMI families to the average size of above LMI families (these numbers should be close)
  - Compare the percentages of LMI families to percentages of above LMI families for each family size (using table below)
  - Identify and compare mean, median, and mode of LMI and above LMI families
Things to remember

- Document each step clearly and carefully
- Keep all completed surveys, list of households, and other documentation on file for 10 years
- The Department will accept surveys that have been conducted within the last four years
### HUD Guide to Environmental Compliance: NEPA-Related Statutes, Authorities and Requirements

**24 CFR Parts 58.5 & 50.3/50.4 – NEPA-Related Federal laws and authorities**

|----------------------------|---------------------------------|--------------------------------------------------------|----------------------------------------------------------|----------------|-------------------|
| 1. Air Quality             | Acquire undeveloped land       | Project is located in an EPA-designated non-attainment area or maintenance area for one or more of six “criteria pollutants,” called National Ambient Air Quality Standards (NAAQS). | Designated non-attainment and maintenance areas are listed on EPA web site: [http://www3.epa.gov/airquality/greenbk/multipla.html](http://www3.epa.gov/airquality/greenbk/multipla.html) | A determination of conformity with the State Implementation Plan (SIP) is required with respect to the proposed activity and the specific pollutant for which the area was designated a non-attainment or maintenance area. | Conformity to SIP is made by:  
- Regional or Metropolitan Planning Organization (MPO); or  
- EPA Regional Office.  
Status of non-attainment areas and EPA policy questions are addressed by EPA Regional Office.  
EPA Region 7 SIPs, State and local AQ contacts: [http://www3.epa.gov/region07/air/rules-w3/nebraska/ne_toc.htm](http://www3.epa.gov/region07/air/rules-w3/nebraska/ne_toc.htm)  
HUD Q&A: [https://www.hudexchange.info/environmental-review/air-quality/](https://www.hudexchange.info/environmental-review/air-quality/) |
|                            | Change of land use              | Criteria pollutants (NAAQS): [http://www3.epa.gov/airquality/greenbk/criteria.html](http://www3.epa.gov/airquality/greenbk/criteria.html) | County-level air quality data: [http://www3.epa.gov/airquality/greenbk/multipla.html](http://www3.epa.gov/airquality/greenbk/multipla.html) | Project is located within 2,500 feet of the end of a civil airport runway or 15,000 feet of the end of a military airfield runway. |  
Carpet, removal, actions associated with the significant prolong physical or economic life of the property are considered. |
|                            | Demolition                      | Asbestos: Comprehensive Building Asbestos Survey are used for ongoing management of asbestos-containing materials, including Operations and Maintenance (O&M), removal, actions associated with the significant prolong physical or economic life of the property. | Maps of non-attainment areas: [http://www3.epa.gov/oaaqps001/greenbk/map_download.html](http://www3.epa.gov/oaaqps001/greenbk/map_download.html) | |  
EPA “AirData” maps and visualization tools: [http://www.epa.gov/airdata/](http://www.epa.gov/airdata/)  
|                            | Major rehabilitation            | | | Project is located within 2,500 feet of the end of a civil airport runway or 15,000 feet of the end of a military airfield runway. | Airport clear zone and accident potential zone (APZ) maps are available from airport operations authority.  
RCZ/CZ: New construction, major rehabilitation, and activities that significantly prolong physical or economic life of the property are considered. |  
Contact airport operator or nearest FAA District office.  
Airport locations: |
|                            | New construction                | | | | |
| 2. Airport Hazards (Clear Zones & APZ) | Acquisition for construction | Project is located within 2,500 feet of the end of a civil airport runway or 15,000 feet of the end of a military airfield runway. | Airport clear zone and accident potential zone (APZ) maps are available from airport operations authority. | | |
|                            | Change in land use              | | | | |
|                            | Increase in density             | | | | |
|                            | Major (‘substantial’)           | | | | |

---

**Note:** All resources and links mentioned are accessible through official government websites. For the most up-to-date information, please refer to the respective websites.
<table>
<thead>
<tr>
<th>Environmental Issue/Impact (Statute, Authority &amp;/or Regulation)</th>
<th>Generally Applicable Activities</th>
<th>Threshold for Action (Analysis/Evaluation/Consultation)</th>
<th>Source Documentation (Map/On-line Listing/Agency Contacts)</th>
<th>Action Required</th>
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</tr>
</thead>
</table>
| “Siting of HUD-Assisted Projects in Runway Clear Zones at Civil Airports and Clear Zones and Accident Potential Zones at Military Airfields” (HUD) | rehabilitation  
- New construction  
Applicable airports:  
- Civil airport designated in Nat’l Plan of Integrated Airport System (NPIAS): [link]  
- All military air installations  
(Note: See also Clear Zone notification requirement, page 13.) | HUD policy is to promote compatible land uses in RCZ/CZ/APZ.  
- Civil airport: The Airport Layout Plan shows the Runway Clear Zone (RCZ), [a.k.a. Runway Protection Zone].  
- Military airfield: The AICUZ Study shows the CZ and APZ. | [Note: Source documentation may consist of Phase I environmental site assessment (ASTM standard practice E1527-13, as amended) and, as applicable, Phase II ESA, site characterizations and remediation plans. Additional/alternative documentation may include:  
- Site inspection(s) by knowledgeable Due diligence must be exercised to ascertain the presence of contamination. In many cases, a Phase I environmental site assessment (ASTM standard practice E1527-13, as amended) and, as applicable, Phase II ESA, site characterizations and remediation plans. Additional/alternative documentation may include:  
- Site inspection(s) by knowledgeable | prohibited.  
APZ: HUD assistance in APZ is discouraged, and project must be compatible with DOD land use guidelines for APZs. | [Civil NPIAS  
http://www.faa.gov/airports/planning_capacity/npias/reports/  
and  
http://www.airnav.com/airports/  
Military Bases:  
http://www.globalsecurity.org/military/facility/conus.htm  
and  
http://www.globemaster.de/bases.html  
HUD Q&A:  
https://www.hudexchange.info/environmental-review/airport-hazards/]

3. Coastal Zone Management  
Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et. seq., particularly section 1424(e)). | Acquisition of undeveloped land  
- Change of land use  
- Major rehabilitation  
- New construction | Project is located in a state having a Coastal Zone Management (CZM) Program.  
CZM maps are on NOAA (Nat’l Oceanic & Atmospheric Administration) web site: [link]  
State CZM agency (or its approved local designee) must concur with a finding (or issue permit) in evidence that project is consistent with approved State CZM plan. | [Due diligence must be exercised to ascertain the presence of contamination. In many cases, a Phase I environmental site assessment (ASTM standard practice E1527-13, as amended) and, as applicable, Phase II ESA, site characterizations and remediation plans. Additional/alternative documentation may include:  
- Site inspection(s) by knowledgeable | [NOAA:  
http://www.noaa.gov  
HUD Q&A:  
https://www.hudexchange.info/environmental-review/coastal-zone-management/]

4. Contamination and Toxic Substances  
24 CFR Part 58.5 (i) (2) (HUD). | Acquisition  
- Disposition  
- Conversion from non-residential to residential.  
- Demolition  
- Leasing  
- New construction  
- Rehabilitation  
- Repair | Project is located on or near site that contains hazardous materials, contamination, toxic chemicals or gases, or radioactive substances, that could affect the health and safety of occupants or that conflict with the intended utilization of the property.  
Particular attention to be Documentation may consist of Phase I environmental site assessment (ASTM standard practice E1527-13, as amended) and, as applicable, Phase II ESA, site characterizations and remediation plans. Additional/alternative documentation may include:  
- Site inspection(s) by knowledgeable Due diligence must be exercised to ascertain the presence of contamination. In many cases, a Phase I environmental site assessment (ASTM standard practice E1527-13, as amended) must be performed. If the Phase I identifies recognized environmental conditions or if the results are inconclusive, a Phase II environmental site | EPA Envirofacts Data: [link]  
EPA NEPAssist: [link]  
EPA EnviroMapper: [link]  
EPA CERCLIS/NPL – Superfund database [link] | [EPA Envirofacts Data:  
http://www.epa.gov/enviro/  
EPA NEPAssist:  
http://nepassisttool.epa.gov/nepassist/entry.aspx  
EPA EnviroMapper:  
http://www.epa.gov/envirodata/enviroffice/home  
EPA CERCLIS/NPL – Superfund database [link]]
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<th>Action Required</th>
<th>Further Information</th>
</tr>
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<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>EPA Enforcement &amp; Compliance History Online (ECHO): <a href="http://echo.epa.gov/">http://echo.epa.gov/</a></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>EPA Toxic Release Inventory (TRI): <a href="http://www.epa.gov/toxics-release-inventory-tri-program">http://www.epa.gov/toxics-release-inventory-tri-program</a></td>
</tr>
</tbody>
</table>
| | | | | | Right-To-Know Network:  
| | | | | | • EPA databases, including TRI (Toxic Release Inventory); NPL & CERCLIS; RCRA: [http://www.rtknet.org/](http://www.rtknet.org/) |
| | | | | | State voluntary cleanup programs:  
<p>| | | | | | • Missouri Dept. Natural Resources (DNR) <a href="http://www.dnr.mo.gov/env/hwp/index.html">http://www.dnr.mo.gov/env/hwp/index.html</a> |
| | | | | | • Nebraska Dept. Environmental Quality (NDEQ) <a href="http://www.deq.state.ne.us/">http://www.deq.state.ne.us/</a> |
| | | | | | • Iowa Dept. Natural |
| | | | | | The environmental review of multifamily housing with 5 or more dwelling units must include a review of previous uses of the site or other evidence of contamination on or near the site to assure the proposed occupants are not impacted by any of these hazards. |
| | | | | | Current techniques by qualified professionals shall be used to undertake investigations determined necessary. |
| | | | | | assessment will be required. |
| | | | | | Based upon the Phase II results, remediation, mitigation and monitoring measures may be required. |
| | | | | | Such measures must be consistent with Federal, State, Tribal and local laws and regulations, and must be implemented by qualified professionals. |
| | | | | | Specific forms of remediation are not prescribed by HUD and may vary depending on the nature of the hazard. |
| | | | | | Search of EPA and state/local/tribal databases for sites and facilities posing known or potential contamination concerns (including NPL sites (Superfund), RCRA facilities, Brownfields). |
| | | | | | Evaluation of permitted facilities for regulatory violations, e.g., using EPA ECHO database. |
| | | | | | Analysis of past uses of the site and adjacent properties as documented historic resources (e.g., Sanborn Fire Insurance Rate Maps and city directories). |
| | | | | | Based upon the Phase II results, remediation, mitigation and monitoring measures may be required. |
| | | | | | Such measures must be consistent with Federal, State, Tribal and local laws and regulations, and must be implemented by qualified professionals. |
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| | | | | | Analysis of past uses of the site and adjacent properties as documented historic resources (e.g., Sanborn Fire Insurance Rate Maps and city directories). |
| | | | | | ASTM Phase I standard assessment will be required. |
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| | | | | | Specific forms of remediation are not prescribed by HUD and may vary depending on the nature of the hazard. |</p>
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<th>Action Required</th>
<th>Further Information</th>
</tr>
</thead>
</table>
| Property that may be exposed to sub-surface vapors caused by a release of vapors from contaminated soil &/or groundwater on or near the project may warrant evaluation in accordance with ASTM standard practice E 2600-10: http://www.astm.org/Standards/E2600.htm The outcome of a vapor evaluation may warrant further investigation. | Radon Control:  
FAQs about USTs: http://www.epa.gov/swerust1/faqs/index.htm  
EPA Cleanup Guidance: http://clu-in.org/  
HUD Q&A: https://www.hudexchange.info/environmental-review/site-contamination/ | |
### 5. *Endangered Species*


50 CFR Part 402 “Endangered Species Act” (DOI & Commerce)

#### Generally Applicable Activities
- Acquisition or Disposition of undeveloped land
- Conversion of land use
- Demolition
- Site clearance
- Major rehabilitation
- New construction

#### Threshold for Action (Analysis/Evaluation/Consultation)
- Project may affect or is likely to affect any Federally listed endangered or threatened species or its habitat.

#### Source Documentation (Map/Online Listing/Agency Contacts)
- Evaluate species and habitat listings for project area.
- Contact US Fish and Wildlife Service (USFWS) to determine if a listed species or habitat is present in the project area or may be affected by the project.
- USFWS Critical Habitat online mapper: [http://crithab.fws.gov/ecos/home.action](http://crithab.fws.gov/ecos/home.action)
- USFWS “iPaC” - critical habitat and species list [http://ecos.fws.gov/ipac/](http://ecos.fws.gov/ipac/)
  - Missouri listed species (USFWS / State Natural Heritage Database) [http://newmdcgis.mdc.mo.gov/EnvReview/Default.aspx](http://newmdcgis.mdc.mo.gov/EnvReview/Default.aspx)

#### Action Required
- Determination required of either “no effect,” “may affect but not likely to adversely affect” or “likely to adversely affect” a listed species or its habitat.
- If a listed species or habitat is present in project area, consultation is required under Section 7 of the Endangered Species Act to determine if the proposed activity will adversely affect the subject species or habitat.


- When required, a biological assessment must be prepared by a qualified professional (e.g., biologist or botanist) explaining the likely effect on the species or habitat.

#### Further Information
- U.S. Fish & Wildlife Ecological Services Field offices:
  - **Kansas**
    - 2609 Anderson Avenue
    - Manhattan, KS 66502
    - (785-539-3474)
  - **Missouri**
    - 101 Park DeVille Dr. Suite A
    - Columbia, MO 65203-0057
    - (573-234-2132)
  - **Nebraska**
    - 203 West 2nd St.
    - Second Floor
    - Grand Island, NE 68801
    - (308-382-6468)
  - **Iowa**
    - 4469 48th Ave Court
    - Rock Island, IL 61201
    - (309-793-5800)

- HUD Q&A: [https://www.hudexchange.info/environmental-review/endangered-species/](https://www.hudexchange.info/environmental-review/endangered-species/)
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<td><strong>6. Environmental Justice</strong>  E.O. 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations”</td>
<td>Applies when an adverse impact or condition occurs with respect to an environmental issue;  and,  When the activity is:  ▪ Acquisition  ▪ Change of land use  ▪ Demolition  ▪ Rehabilitation  ▪ New construction</td>
<td>Project site or neighborhood suffers from adverse health or environmental effects which disproportionately impact a minority or low-income population relative to the community at large.  The potential for new or continued adverse health or environmental effects must be considered.</td>
<td>EPA’s “EJ View” Tool provides information relevant to EJ assessments: <a href="http://www.epa.gov/ejscreen">EPA.gov</a>  Census and geospatial data from local and regional planning agencies. Census data and maps also available at: <a href="http://factfinder2.census.gov">factfinder2.census.gov</a> and: <a href="http://www.census.gov">www.census.gov</a>  Tract-level data on race &amp; income: <a href="https://geomap.ffiec.gov/FFIECGeoMap/GeocodeMap1.aspx">https://geomap.ffiec.gov/FFIECGeoMap/GeocodeMap1.aspx</a></td>
<td>Perform an EJ analysis using census, geographic and other data to determine if a low-income/minority population is disproportionately impacted.  If susceptible populations are impacted:  • Mitigation or avoidance of adverse impacts must be considered to the extent practicable; and,  • Public participation processes must involve the affected population(s) in the decision-making process.</td>
<td><a href="http://www.scorecard.org/community/index.html">EJ maps &amp; analysis, by location:</a>  <a href="http://www.rtknet.org/">EPA MyRTK (Right-to-Know) Network</a>  <a href="http://epamap14.epa.gov/emap/entry.html">EPA Maps:</a>  <a href="http://www.epa.gov/myenvironment/">EPA MyEnvironment:</a>  <a href="http://www3.epa.gov/environmentaljustice/resources/policy/guidance_neqaq_ceq1297.pdf">CEQ guide to EJ:</a>  <a href="http://www.transwestexpress.net/about/docs/A_Citizens_Guide_to_NEPA.pdf">EPA guide to NEPA &amp; EJ</a>  <a href="http://www.cdc.gov/niosh/topics/chemical.html">Human Health &amp; Toxicology:</a>  • CDC (NIOSH)  <a href="http://www.cdc.gov/niosh/topics/chemical.html">http://www.cdc.gov/niosh/topics/chemical.html</a>  • ATSDR  <a href="http://www.atsdr.cdc.gov/">http://www.atsdr.cdc.gov/</a>  • EPA (IRIS) <a href="http://www.epa.gov/iris/index.html">http://www.epa.gov/iris/index.html</a>  <a href="http://www.scorecard.org/community/index.html">Scorecard.Org:</a>  (Note: environmental datasets are from ca. 2002) <a href="http://www.scorecard.org/community/index.html">http://www.scorecard.org/community/index.html</a>  <a href="http://www.hud.gov">HUD Q&amp;A:</a></td>
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| 7. Explosive and Flammable Operations | Residential project when the activity is:  
- New construction  
- Rehabilitation, where unit density increased  
- Conversion of land use from non-residential to residential use  
- Vacant building made habitable or Any project for industrial, commercial, institutional or recreational use, when the activity is:  
- New construction  
- Conversion of land use | Project is located within sight of or in proximity to a stationary hazardous facility that stores, handles or processes chemicals or petrochemicals of an explosive or flammable nature, such as liquid propane, gasoline or other above-ground storage tanks. Excluded from the regulation:  
- Mobile tanks (including railroad cars other than when servicing a facility)  
- Buried tanks  
- Residential tanks that serve HUD-assisted 1-4 unit housing  
- Tanks with 100-gallon and less capacity and having common fuels | Site inspection, aerial photo analysis and/or contact with local fire protection or emergency management agencies to determine presence of hazardous industrial operations and/or above-ground tanks in vicinity of project. Contact local owner/operator of such facility/tank to determine the type, volume and other characteristics of fuels and chemicals of an explosive or flammable nature. Calculate the acceptable separation distance (ASD) per guidebook HUD-1060-CPD (1996), “Siting of HUD-Assisted Projects Near Hazardous Facilities,” and apply appropriate mitigation measures or reject the site. Electronic calculator of ASD: https://www.hudexchange.info/environmental-review/asd-calculator/ Mitigation may include burying the tank(s) or construction of a barrier of adequate size and strength to protect the building and occupants. Mitigation options: http://www.hud.gov/offices/cpd/environmental/hazards_mitigation_options.pdf Barrier design guidance: http://portal.hud.gov/hudportal/documents/huddoc?id=gb6600G.pdf | Contact HUD Field Environmental Officer for tanks having over 1 million-gallon capacity. HUD ASD Guidebook: https://www.hudexchange.info/environmental-review/acceptable-separation-distance-guidebook/ HUD Q&A: https://www.hudexchange.info/environmental-review/explosive-and-flammable-facilities/ |

7. Explosive and Flammable Operations

Housing and Community Development Act of 1974, as amended.
24 CFR Part 51 Subpart C “Siting of HUD-Assisted Projects Near Hazardous Operations Handling Petroleum Products or Chemicals of an Explosive or Flammable Nature” (HUD)
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| **8. Farmland Protection** Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq.), particularly sections 1504(b) & 1541 | ▪ Acquisition of undeveloped land  
▪ Conversion of undeveloped land  
▪ New construction  
▪ Site clearance | Project is located in an area that includes prime farmland, unique farmland, or land of statewide or local importance. Can include forest land, pastureland or cropland, but not water or urbanized land. Urban land is exempt if the land is “already in” or “committed” to urban development per 7 CFR 658.2(a). | Follow steps for using soil maps to find important farmlands: [http://search.usa.gov/search?query=important+farmland&op=search&affiliate=usda-rd](http://search.usa.gov/search?query=important+farmland&op=search&affiliate=usda-rd)  
Natural Resources Conservation Service (NRCS) soil maps (95% of nation’s counties): [http://websoilsurvey.nrcs.usda.gov/app/](http://websoilsurvey.nrcs.usda.gov/app/)  
Alternatively, contact local Natural Resources Conservation Service (NRCS) office to determine the potential presence of protected farmland. Land “already in” or “committed” to urban development includes:  
▪ Census Bureau Map showing land identified as “urbanized area” (UA): [http://tigerweb.geo.census.gov/tigerweb](http://tigerweb.geo.census.gov/tigerweb)  
▪ USGS topographical maps showing urban area mapped with a “tint overprint”: [http://store.usgs.gov/b2u_usgs/usgs/mapper/source=areaDetails&area=%25ROOT&lay=standard&area=20]  
▪ USDA Important Farmland Maps showing “urban-built-up”: [http://search.usa.gov/search?query=important+farmland&op=search&affiliate=usda-rd](http://search.usa.gov/search?query=important+farmland&op=search&affiliate=usda-rd) | Site assessment by NRCS is required to determine impact of the farmland conversion. Form #AD-1006 is required. Sponsor must submit form to NRCS, which has 45 days to make a determination.  
HUD Q&A: [https://www.hudexchange.info/environmental-review/farmlands-protection](https://www.hudexchange.info/environmental-review/farmlands-protection)
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| 9. Floodplain Management | - Acquisition for construction or for existing bldg >4 units  
- Disposition >4 units  
- Financing >4 units  
- Leasing (unless flood insured)  
- New construction  
- Rehab or Repair, unless 1-4 unit housing below threshold of Substantial Improvement (total rehab cost <50% pre-rehab value or <20% density increase) | Project is located within a Special Flood Hazard Area (100-year floodplain), or, if a critical action (e.g., nursing home; hospital; fire station) is located in a 500-year floodplain. | FEMA Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Map (FHBM).  
FIRMETTE maps, which cover small areas (approx. 1 sq. mile), can be obtained at no charge on-line: http://msc.fema.gov/portal  
For unmapped areas, FEMA Community Status Book can provide information on flood hazards: https://www.fema.gov/national-flood-insurance-program/national-flood-insurance-program-community-status-book | Avoid direct or indirect support of floodplain development wherever there is a practicable alternative.  
Approval of project requires compliance with the decision-making provisions of §55.20, i.e., the “eight-step” process.  
Project may be approved only if there is no practicable alternative outside the floodplain. Project must apply appropriate mitigation. | FEMA: https://www.fema.gov/national-flood-insurance-program  
State Floodplain Managers: http://www.floods.org/index_a_sp?menuID=274&firstlevelmenuID=185&siteID=1  
HUD sample 8-Step analysis: https://www.hudexchange.info/resource/3190/floodplain-management-8-step-decision-making-process/  
HUD Q&A: https://www.hudexchange.info/environmental-review/floodplain-management/  
FEMA Flood Insurance Rate Maps (FIRM): http://msc.fema.gov/portal  
FIRMETTE maps, which cover small areas (approx. 1 sq. mile), can be obtained at no charge on-line: http://msc.fema.gov/portal  
For unmapped areas, FEMA Community Status Book can provide information on flood hazards: https://www.fema.gov/national-flood-insurance-program/national-flood-insurance-program-community-status-book |
| 10. Historic Preservation | Any undertaking having the potential to cause effect, such as:  
- Acquisition  
- Demolition  
- Disposition  
- Ground disturbance  
- New construction  
- Rehabilitation  
- Repair | Project’s area of potential effects [see §800.16(d)] contains:  
- A property listed in, or eligible for listing in, the National Register of Historic Places; or,  
- An historic district listed in, or eligible for listing in, the National Register of Historic Places; or,  
- Compelling evidence | Information on historic resources available from National, State, Tribal and local registers/sources:  
- National Register http://nrhp.focus.nps.gov/natreghome.do?searchtype=natreghome  
- State Historic Preservation Office (SHPO) http://www.ncshpo.org  
- Tribal Historic Preservation Office (THPO) http://www.nathpo.org | Afford the Advisory Council on Historic Preservation a reasonable opportunity to comment, consistent with the procedures of 36 CFR Part 800 implementing the Section 106 process. Consultation with the SHPO is required. Consultation with THPO and interested parties and public participation may be required.  
The Section 106 process includes initiation of the Section 106 process and public notice, followed by consultation.  
The Section 106 process may include a finding of adverse affect, a statement of the adverse affect and a mitigation plan.  
State Historic Preservation Officers (SHPOs): http://www.ncshpo.org  
Tribal Historic Preservation Officers (THPOs): http://www.nathpo.org |
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<td>of the high probability of archeological resources eligible for listing in the National Register of Historic Places.</td>
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<td>Certified Local Government (CLG) preservation staff.</td>
<td>process [§800.3], identification of historic properties [§800.4], assessment of adverse effects [§800.5], and resolution of adverse effects [§800.6].</td>
<td>HUD tribal consultation database: <a href="http://regs.hud.gov/Tribal.aspx">http://regs.hud.gov/Tribal.aspx</a></td>
<td>HUD tribal consultation policy: <a href="https://www.hudexchange.info/resource/2448/notice-cpd-12-006-tribal-consultation-under-24-cfr-part-58/">https://www.hudexchange.info/resource/2448/notice-cpd-12-006-tribal-consultation-under-24-cfr-part-58/</a></td>
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<td><strong>11. Noise Abatement &amp; Control</strong> Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978. 24 CFR Part 51 Subpart B “Noise Abatement and Control” (HUD)</td>
<td>Residential and other noise-sensitive developments (e.g., hospitals, nursing homes, day care, community center) - Acquisition for residential or noise-sensitive use - Conversion of land use from non-residential to residential - New construction - Rehabilitation</td>
<td>Project is located within: - 1,000 feet of major/busy road, - 3,000 feet of railway, - 15 miles of airport (civil or military). HUD interior noise goal is 45 decibels (DNL) or lower. HUD exterior noise goal is 55 decibels (DNL) or lower, although 65 DNL is considered acceptable. Noise assessment data sources include: local or state highway departments; local or regional planning departments; public works departments; railroad dispatch offices; and airport operators. Airport noise contour maps are shown on Airport Layout Plan (civil airport) or AICUZ Study (military airfield). Civil airports subject to HUD noise requirements are designated in the FAA’s “National Plan of Integrated Airport System” (NPIAS): <a href="http://www.faa.gov/airports/planning_capacity/npias/reports/">http://www.faa.gov/airports/planning_capacity/npias/reports/</a> - Both Commercial Service (CS) and Primary (P) airports have noise contours maps available - General Aviation (GA) airports with less than 9,000 enplanements may be assumed to not present a community noise concern; otherwise, consult airport operator</td>
<td>Perform noise assessment in accordance with the Noise Assessment Guidelines (NAG) in guidebook HUD-953-CPD(1). For airports, use the airport’s noise contour maps to determine noise levels (the contour lines are expressed in DNL noise levels). Noise level calculator: <a href="https://www.hudexchange.info/environmental-review/dnl-calculator/">https://www.hudexchange.info/environmental-review/dnl-calculator/</a> Projected noise level: - 65-75 DNL “Normally Unacceptable;” requires mitigation or attenuation - &gt;75 DNL “Unacceptable;” requires rejection in most cases unless mitigated. Noise barrier calculator: <a href="https://www.hudexchange.info/environmental-review/bpm-calculator/">https://www.hudexchange.info/environmental-review/bpm-calculator/</a> Building wall mitigation calculator - Sound Transmission Classification Assessment Tool (STraCAT): <a href="https://www.hudexchange.info/stracat/">https://www.hudexchange.info/stracat/</a></td>
<td>Traffic volumes - Road: Iowa <a href="http://www.iowadot.gov/maps/missouri/rail/traffic/maps.html">http://www.iowadot.gov/maps/missouri/rail/traffic/maps.html</a> Kansas <a href="http://www.ksdot.org/tnr/Rail/transplan/jobsinfo/trafdata.asp">http://www.ksdot.org/tnr/Rail/transplan/jobsinfo/trafdata.asp</a> Missouri <a href="http://www.mpdc.mo.gov/safety/rail/railmaps.htm">http://www.mpdc.mo.gov/safety/rail/railmaps.htm</a> Nebraska - <a href="http://www.transportation.nebraska.gov/maps/#traffvol">http://www.transportation.nebraska.gov/maps/#traffvol</a> Rail information: Fed Rail Admin (FRA) crossing inventory <a href="http://safetydata.fra.dot.gov/officeOfSafety/publicdata/crossing/xinginfo.asp">http://safetydata.fra.dot.gov/officeOfSafety/publicdata/crossing/xinginfo.asp</a> Iowa <a href="http://www.iowadotmaps.com/map/pdffiles/Rail_Base.pdf">http://www.iowadotmaps.com/map/pdffiles/Rail_Base.pdf</a> Kansas - <a href="http://www.ksdot.org/tnr/Rail/rail/defaul.asp">http://www.ksdot.org/tnr/Rail/rail/defaul.asp</a> Missouri <a href="http://www.pikelincolnport.org/uploads/rail_freight_map.pdf">http://www.pikelincolnport.org/uploads/rail_freight_map.pdf</a> Nebraska - <a href="http://www.nebraskatransportation.org/rail.htm">http://www.nebraskatransportation.org/rail.htm</a> Barrier guidance (FHWA): <a href="http://www.fhwa.dot.gov/environment/noise/noise_barriers/design_construction/">http://www.fhwa.dot.gov/environment/noise/noise_barriers/design_construction/</a> HUD Q&amp;A and Noise Guidebook: <a href="https://www.hudexchange.info/environmental-review/noise-abatement-and-control/">https://www.hudexchange.info/environmental-review/noise-abatement-and-control/</a></td>
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<td>13. Wetland Protection</td>
<td>▪ Acquisition or Disposition of undeveloped land &lt;br&gt; ▪ Change of land use &lt;br&gt; ▪ New construction &lt;br&gt; ▪ Expansion of bldg footprint</td>
<td>Project is located within, or has impact upon, a wetland. Wetlands include both “jurisdictional” wetlands (aka, waters of the U.S.) and “isolated” wetlands.</td>
<td>National Wetlands Inventory (NWI) maps listed on USFWS site: <a href="http://www.fws.gov/wetlands/data/Mapper.html">http://www.fws.gov/wetlands/data/Mapper.html</a> &lt;br&gt; NWI maps are used for preliminary screening. Where site inspection or other information indicates potential for a wetland, the wetland should be delineated by a qualified wetland professional. For wetlands delineations, contact USACOE, USFWS, USDA-NRCS, USEPA and/or private consultants.</td>
<td>Avoid adverse impacts upon wetlands and direct or indirect support of new construction in wetlands wherever there is practicable alternative. Approval of project requires compliance with the decision-making provisions of §55.20, i.e., the “eight-step” process. Project may be approved only if there is no practicable alternative outside the wetland.</td>
<td>U.S. Army Corp of Engineers: <a href="http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramsandPermits.aspx">http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramsandPermits.aspx</a> &lt;br&gt; U.S. Fish and Wildlife Service: <a href="http://www.fws.gov/wetlands/">http://www.fws.gov/wetlands/</a> &lt;br&gt; EPA: <a href="http://water.epa.gov/type/wetlands/index.cfm">http://water.epa.gov/type/wetlands/index.cfm</a> &lt;br&gt; HUD Q&amp;A: <a href="https://www.hudexchange.info/environmental-review/wetlands-protection/">https://www.hudexchange.info/environmental-review/wetlands-protection/</a></td>
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<td><strong>14. Wild &amp; Scenic Rivers</strong></td>
<td>▪ Acquisition of undeveloped land</td>
<td>Project is located within one (1) mile of a designated Wild &amp; Scenic River, or river being studied as a potential component of the Wild &amp; Scenic River system.</td>
<td>Designated wild and scenic rivers are listed on the National Park Service: <a href="http://www.rivers.gov/map.php">http://www.rivers.gov/map.php</a> GIS shape files (maps) can also be downloaded from this site. Study Rivers (potential wild and scenic rivers): <a href="http://www.rivers.gov/study.php">http://www.rivers.gov/study.php</a> Nationwide River Inventory (NRI) listed rivers: <a href="http://www.nps.gov/nrcr/programs/rtca/nri">http://www.nps.gov/nrcr/programs/rtca/nri</a></td>
<td>For a Designated River or Study River, determination from the National Park Service (NPS), or other federal/state/local Managing Agency, must be obtained, with finding that the project will not have a direct and adverse effect on the river nor invade or diminish values associated with such rivers. For NRI rivers, consultation with NPS is recommended to identify and eliminate direct and adverse effects.</td>
<td>National Park Service: <a href="http://www.rivers.gov/">http://www.rivers.gov/</a> and <a href="http://www.nps.gov/nrcr/programs/rtca/nri/auth.html">http://www.nps.gov/nrcr/programs/rtca/nri/auth.html</a> NEPA /CEQ Guidance: <a href="http://www.nps.gov/nrcr/programs/rtca/nri/hist.html">http://www.nps.gov/nrcr/programs/rtca/nri/hist.html</a> Publications: <a href="http://www.nps.gov/nrcr/ports/rivers/pub_resources_rivers.html">http://www.nps.gov/nrcr/ports/rivers/pub_resources_rivers.html</a> HUD Q&amp;A: <a href="https://www.hudexchange.info/environmental-review/wild-and-scenic-rivers/">https://www.hudexchange.info/environmental-review/wild-and-scenic-rivers/</a></td>
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<td><strong>36 CFR Part 297 “Wild and Scenic Rivers” (USDA)</strong></td>
<td>▪ Change of land use</td>
<td>Project is located upstream, downstream, or on a tributary of river that is designated, studied or has potential for listing on the system. Protected rivers are: Designated, Study and National River Inventory (NRI) rivers. NRI rivers may be eligible for listing as a Wild &amp; Scenic River.</td>
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<td>▪ Major rehabilitation</td>
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| **24 CFR Parts 58.6/50.4 – Other Requirements**               | **1. Airport Clear Zones**    | Project is located within 2,500 feet of the end of a civil airport runway or 15,000 feet of the end of a military airfield runway. | Airport clear zone maps available from airport operations authority. | Purchase or sale of a property in a CZ requires notification to buyer per 24 CFR Part 58.6(d). The notice informs the prospective buyer of potential hazards from airplane accidents and the potential by airport or airfield operators who may wish to purchase the property at some point in the future. | Contact airport operator or nearest FAA District office. Sample notice and HUD Q&A: https://www.hudexchange.info/environmental-review/airport-hazards/ |
|                                                              | ▪ Purchase or sale of real property | | | | |

<table>
<thead>
<tr>
<th>Environmental Issue/Impact (Statute, Authority &amp;/or Regulation)</th>
<th>Generally Applicable Activities</th>
<th>Threshold for Action (Analysis/Evaluation/Consultation)</th>
<th>Source Documentation (Map/On-line Listing/Agency Contacts)</th>
<th>Action Required</th>
<th>Further Information</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>2. Coastal Barriers</strong> &lt;br&gt;Coastal Barrier Resources Act, as amended (16 U.S.C. 3501)</td>
<td>• All activities having a physical impact</td>
<td>Project is located in a community listed in the Coastal Barrier Resources System (CBRS).</td>
<td>CBRS maps on USFWS and FEMA websites: <a href="http://www.fws.gov/CBRA/Maps/Mapper.html">http://www.fws.gov/CBRA/Maps/Mapper.html</a> AND/OR <a href="http://coast.noaa.gov/czm/mystate/?redirect=301ocm">http://coast.noaa.gov/czm/mystate/?redirect=301ocm</a> &lt;br&gt;Coastal barriers also displayed on a FEMA Flood Insurance Rate Map (FIRM).</td>
<td>Federal funding is prohibited for projects located within a designated coastal barrier.</td>
<td><strong>FEMA:</strong> <a href="http://www.fema.gov/pdf/nfip/manual200505/18cbrs.pdf">http://www.fema.gov/pdf/nfip/manual200505/18cbrs.pdf</a> &lt;br&gt;<strong>HUD Q&amp;A:</strong> <a href="https://www.hudexchange.info/environmental-review/coastal-barrier-resources/">https://www.hudexchange.info/environmental-review/coastal-barrier-resources/</a></td>
</tr>
<tr>
<td><strong>3. Flood Insurance</strong> &lt;br&gt;Flood Disaster Protection Act of 1973, as amended. National Flood Insurance Reform Act of 1994 (42 U.S.C. sec 4001f) 44 CFR Parts 59-77 “Regulations of the National Flood Insurance Program” (FEMA)</td>
<td>All HUD programs that provide assistance to buildings. <strong>Exceptions:</strong> &lt;br&gt;• Leasing without rehab, acquisition or improvements (however, may be needed under §55.12(b)(5)) &lt;br&gt;• Loans &lt; $5,000 repaid within 1 year &lt;br&gt;• Maintenance &lt;br&gt;• State-administered formula grants (i.e., CDBG, HOME &amp; ESG programs)</td>
<td>Project is located within Special Flood Hazard Area (SFHA is the 100-year floodplain).</td>
<td>FEMA Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM). &lt;br&gt;FIRMETTE maps, which cover small areas (approx. 1 sq. mile), can be obtained at no charge on-line: <a href="http://msc.fema.gov/portal">http://msc.fema.gov/portal</a></td>
<td>Property owner must purchase and maintain flood insurance protection. &lt;br&gt;Coverage is limited to the building and improvements only (no coverage is available for land). If the Federal assistance includes any portion of the cost of any machinery, equipment, fixtures or furnishings, the total cost of such items must also be covered by flood insurance. &lt;br&gt;Coverage requirements: &lt;br&gt;• Grants – Term is for life of the building, regardless of transfer of ownership; and coverage amount is equal to total project cost (up to maximum coverage limit). &lt;br&gt;• Loans – Term equal to that of the loan; coverage amount equal to that of the loan (up to maximum coverage limit).</td>
<td><strong>FEMA “Mandatory Purchase of Flood Insurance” Guidelines:</strong> <a href="https://www.fema.gov/media-library/assets/documents/11705?id=2954">https://www.fema.gov/media-library/assets/documents/11705?id=2954</a> &lt;br&gt;<strong>FEMA Nat’l Flood Insurance Program (NFIP):</strong> <a href="https://www.fema.gov/national-flood-insurance-program">https://www.fema.gov/national-flood-insurance-program</a> &lt;br&gt;<strong>FEMA “FloodSmart”:</strong> <a href="http://www.floodsmart.gov/floodsmart/pages/index.jsp">http://www.floodsmart.gov/floodsmart/pages/index.jsp</a> &lt;br&gt;<strong>Community status of participation in National Flood Insurance Program:</strong> <a href="https://www.fema.gov/national-flood-insurance-program">https://www.fema.gov/national-flood-insurance-program</a> &lt;br&gt;<strong>HUD Q&amp;A:</strong> <a href="https://www.hudexchange.info/environmental-review/flood-insurance/">https://www.hudexchange.info/environmental-review/flood-insurance/</a></td>
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- **HUD Office of Environment and Energy (OEE):** [https://www.hudexchange.info/environmental-review/](https://www.hudexchange.info/environmental-review/)
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<tr>
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<tbody>
<tr>
<td>HUD Environmental Assessment and EA Factors: <a href="https://www.hudexchange.info/environmental-review/environmental-assessments/">https://www.hudexchange.info/environmental-review/environmental-assessments/</a></td>
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## Potential Agency Contact and Distribution List

*NOTE: These contacts are only to be contacted if verification or more information is needed.*

<table>
<thead>
<tr>
<th>Assistance</th>
<th>Threshold of Action</th>
<th>Contact</th>
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<tbody>
<tr>
<td><strong>Air Quality</strong></td>
<td>Project is located in an EPA-designated non-attainment area or maintenance area for one or more of six “criteria pollutants,” called National Ambient Air Quality Standards (NAAQS).</td>
<td>Refer to websites for criteria pollutants</td>
</tr>
<tr>
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<td>Criteria pollutants (NAAQS): <a href="http://www.epa.gov/air/criteria.html">http://www.epa.gov/air/criteria.html</a></td>
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<td></td>
<td>Designated non-attainment and maintenance areas are listed on EPA website: <a href="http://www.epa.gov/oar/oagps/greenbk/">http://www.epa.gov/oar/oagps/greenbk/</a></td>
<td></td>
</tr>
</tbody>
</table>
| **Airport Hazards**            | Project is located within 2,500 feet of the end of a civil airport runway or 15,000 feet of the end of a military airfield runway.                                                                                      | Dave Lehnert  
NE Department of Aeronautics  
Planning & Engineering Division  
P. O. Box 82088  
Lincoln, NE 68501-2088  
dave.lehnert@nebraska.gov |
|                                | HUD policy is to promote compatible land uses in RCZ/CZ/APZ.                                                                                                                                                          |                                                                                                   |
| **Coastal Zone Management**    | Project is located in a state having a Coastal Zone Management (CZM) Program. http://coastalmanagement.noaa.gov/welcome.html                                                                                       |                                                                                                   |
| **Containment & Toxic Substances** | Project is located on or near site that contains hazardous materials or contaminants that could affect the health and safety of occupants or that conflict with the intended utilization of the property.  
Particular attention to be given to any site located on or in general proximity to landfills, dumps, industrial sites, gas stations or other locations that contain hazardous wastes or materials.  
HUD policy is to ensure that all property proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gasses, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property.  
Also inquire about Underground Storage Tanks (UST). | Kaylan Lovgren  
Nebraska State Fire Marshall Fuels Division  
246 South 14th Street Lincoln, NE 68508  
kaylan.lovgren@nebraska.gov |
<p>| | | |
|                                |                                                                                                                                                                                                                      |                                                                                                   |</p>
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<th>Assistance</th>
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| Endangered Species          | Project is likely to affect, or may affect, any Federally listed endangered or threatened species or habitat.                                                                                                | John Cochnar  
Fish and Wildlife Service Ecological Services  
Nebraska Field Office  
203 West Second Street  
Grand Island, NE 68801  
[John_Cochnar@fws.gov](mailto:John_Cochnar@fws.gov)  
For State listed species, contact:  
Michelle Koch  
 Nebraska Game and Parks Commission  
2200 N. 33rd Street  
Lincoln, NE 68503  
[Michelle.koch@nebraska.gov](mailto:Michelle.koch@nebraska.gov) |
| Environmental Justice       | Project entails adverse health or environmental effects which disproportionately impact a minority or low-income population relative to the community at large. The potential for new or continued adverse health or environmental effects must be considered. |                                                                                                                                                                                                                                                                           |
| Explosive & Flammable       | Project is located within sight of or in proximity to a stationary hazardous facility that stores, handles or processes chemicals or petrochemicals of an explosive or flammable nature, such as liquid propane, gasoline or other above-ground storage tanks. Mobile tanks, (including railroad cars), buried tanks, residential tanks for 1-4 unit housing, and tanks with less than 100-gallon capacity and having common fuels are excluded. | Use own review, including that of above ground storage tanks |
| Farmland Protection         | Project is located in area that includes prime farmland, unique farmland, or land of statewide or local importance. Can include forest land, pastureland or cropland, but not water or urbanized land. Urban land is exempt if the land is “already in” or “committed” to urban development per 7 CFR 685.2(a). | Wayne Vanek  
Natural Resources Conservation Service  
Fed. Bldg. Rm. 152  
100 Centennial Mall North  
Lincoln, NE 68508  
[Wayne.vanek@ne.usda.gov](mailto:Wayne.vanek@ne.usda.gov) |
<table>
<thead>
<tr>
<th>Assistance</th>
<th>Threshold of Action</th>
<th>Contact</th>
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</table>
| Floodplain Management         | Project is located within a Special Flood Hazard Area (100-year floodplain), or, if a critical action (e.g., nursing home; hospital; fire station) is located in a 500-year floodplain.                                              | Bill Jones  
NE Department of Natural Resources  
301 Centennial Mall, South Lincoln, NE 68509  
bill.jones@nebraska.gov                                                                                                                                 |
| Historic Preservation         | Project’s area of potential effects [see §800.16(d)] contains:  
- A property listed in, or eligible for listing in, the National Register of Historic Places; or,  
- An historic district listed in, or eligible for listing in, the National Register of Historic Places; or,  
- Compelling evidence of the high probability of archeological resources eligible for listing in the National Register of Historic Places.  
National Register Eligibility Criteria: http://www.achp.gov/nrcriteria.html  
Nebraska State Historic Preservation Office  
1500 R Street  
P.O. Box 82554  
Lincoln, NE 68501  
bob.puschendorf@nebraska.gov                                                                                                                                 |
| Noise Control                 |                                                                                                                                                                                                                      | State Traffic Flow maps: http://www.nebraskatransportation.org/maps/#traff_vol  
Review the Noise Guidebook                                                                                                                                                                |
<table>
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<tr>
<th>Assistance</th>
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<th>Contact</th>
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<tbody>
<tr>
<td><strong>Water Quality (Sole Source Aquifers)</strong></td>
<td>Project is located within area of an EPA-designated sole source aquifer, unless project utilizes municipal water and sewer and has appropriate local drainage.</td>
<td>Designated sole source aquifers are listed on EPA web site: <a href="http://www.epa.gov/safewater/sourcewater/pubs/qrg_ssamap_reg7.pdf">http://www.epa.gov/safewater/sourcewater/pubs/qrg_ssamap_reg7.pdf</a> Nebras...</td>
</tr>
<tr>
<td><strong>Wetland Protection</strong></td>
<td>Project is located within, or has impact upon, a wetland.</td>
<td>John L. Moeschen Nebraska State Program Manager Department of the Army Corps of Engineers 2214 2nd Avenue Kearney, NE 68847 For isolated wetlands contact: Terry Hickman Nebraska Department of Environmental Quality 1200 N Street, Suite 400 P.O. Box 98922 Lincoln, NE 68509</td>
</tr>
<tr>
<td><strong>Wild &amp; Scenic Rivers</strong></td>
<td>Project is located within one (1) mile of a designated Wild &amp; Scenic River, or river being studied as a potential component of the Wild &amp; Scenic River system. Project is located upstream, downstream, or on a tributary of a river that is designated, studied or has potential for listing on the system. Protected rivers are designated, study and NRI rivers.</td>
<td>Regional Environmental Coordinator National Park Service Midwest Regional Office 601 Riverfront Drive Omaha, NE 68102</td>
</tr>
</tbody>
</table>
Note: The most current electronic version of these regulations is available at: [www.ecfr.gov]. Consult this website to ensure the most up to date version of the regulations is being used.

Title 24: Housing and Urban Development

Part 58—ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES

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Sec. 58.5 Related Federal laws and authorities. Sec.

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58.13 Responsibilities of the certifying officer.

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58.32 Project aggregation.

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58.34 Exempt activities.

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Sec. 58.46 Time delays for exceptional circumstances.

Sec. 58.47 Re-evaluation of environmental assessments and other environmental findings.

Subpart F--Environmental Review Process: Environmental Impact Statement Determinations

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Sec. 58.71 Request for release of funds and certification. Sec.

58.72 HUD or State actions on RROFs and certifications. Sec. 58.73

Objections to release of funds.

Sec. 58.74 Time for objecting.

Sec. 58.75 Permissible bases for objections. Sec.

58.76 Procedure for objections.

Sec. 58.77 Effect of approval of certification.
Subpart A--Purpose, Legal Authority, Federal Laws and Authorities

Sec. 58.1 Purpose and applicability.

a. Purpose. This part provides instructions and guidance to recipients of HUD assistance and other responsible entities for conducting an environmental review for a particular project or activity and for obtaining approval of a Request for Release of Funds.

b. Applicability. This part applies to activities and projects where specific statutory authority exists for recipients or other responsible entities to assume environmental responsibilities. Programs and activities subject to this part include:
   1. Community Development Block Grant programs authorized by Title I of the Housing and Community Development Act of 1974, in accordance with section 104(g) (42 U.S.C. 5304(g));
   2. [Reserved]
   3. i. Grants to states and units of general local government under the Emergency Shelter Grant Program, Supportive Housing Program (and its predecessors, the Supportive Housing Demonstration Program (both Transitional Housing and Permanent Housing for Homeless Persons with Disabilities) and Supplemental Assistance for Facilities to Assist the Homeless), Shelter Plus Care Program, Safe Havens for Homeless Individuals Demonstration Program, and Rural Homeless Housing Assistance, authorized by Title IV of the McKinney-Vento Homeless Assistance Act, in accordance with section 443 (42 U.S.C. 11402);
   ii. Grants beginning with Fiscal Year 2001 to private non-profit organizations and housing agencies under the Supportive Housing Program and Shelter Plus Care Program authorized by Title IV of the McKinney-Vento Homeless Assistance Act, in accordance with section 443 (42 U.S.C. 11402);
   4. The HOME Investment Partnerships Program authorized by Title II of the Cranston-Gonzalez National Affordable Housing Act (NAHA), in accordance with section 288 (42 U.S.C. 12838);
5. Grants to States and units of general local government for abatement of lead-based paint and lead dust hazards pursuant to Title II of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1992, and grants for lead-based paint hazard reduction under section 1011 of the Housing and Community Development Act of 1992, in accordance with section 1011(o) (42 U.S.C. 4852(o));

6. 
   i. Public Housing Programs under Title I of the United States Housing Act of 1937, including HOPE VI grants authorized under section 24 of the Act for Fiscal Year 2000 and later, in accordance with section 26 (42 U.S.C. 1437x);
   ii. Grants for the revitalization of severely distressed public housing (HOPE VI) for Fiscal Year 1999 and prior years, in accordance with Title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Pub. L. 105-276, approved October 21, 1998); and
   iii. Assistance administered by a public housing agency under section 8 of the United States Housing Act of 1937, except for assistance provided under part 886 of this title, in accordance with section 26 (42 U.S.C. 1437x);

7. Special Projects appropriated under an appropriation act for HUD, such as special projects under the heading "Annual Contributions for Assisted Housing" in Title II of various Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Acts, in accordance with section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994 (42 U.S.C. 3547);

8. The FHA Multifamily Housing Finance Agency Program under section 542(c) of the Housing and Community Development Act of 1992, in accordance with section 542(c)(9) (12 U.S.C. 1707 note); and


10. Assistance provided under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), in accordance with:
    i. Section 105 for Indian Housing Block Grants and Federal Guarantees or Financing for Tribal Housing Authorities (25 U.S.C. 4115 and 4226); and
    ii. Section 806 for Native Hawaiian Housing Block Grants (25 U.S.C. 4226);

11. Indian Housing Loan Guarantees authorized by section 184 of the Housing and Community Development Act of 1992, in accordance with section 184(k) (12 U.S.C. 1715z-13a(k)); and
12. Grants for Housing Opportunities for Persons with AIDS (HOPWA) under the AIDS Housing Opportunity Act, as follows: competitive grants beginning with Fiscal Year 2001 and all formula grants, in accordance with section 856(h) (42 U.S.C. 12905(h)); all grants for Fiscal Year 1999 and prior years, in accordance with section 207(c) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Pub. L. 105-276, approved October 21, 1998).

c. When HUD assistance is used to help fund a revolving loan fund that is administered by a recipient or another party, the activities initially receiving assistance from the fund are subject to the requirements in this part. Future activities receiving assistance from the revolving loan fund, after the fund has received loan repayments, are subject to the environmental review requirements if the rules of the HUD program that initially provided assistance to the fund continue to treat the activities as subject to the Federal requirements. If the HUD program treats the activities as not being subject to any Federal requirements, then the activities cease to become Federally-funded activities and the provisions of this part do not apply.

d. To the extent permitted by applicable laws and the applicable regulations of the Council on Environmental Quality, the Assistant Secretary for Community Planning and Development may, for good cause and with appropriate conditions, approve waivers and exceptions or establish criteria for exceptions from the requirements of this part.

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 58--ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES--Table of Contents

Subpart A--Purpose, Legal Authority, Federal Laws and Authorities

Sec. 58.2 Terms, abbreviations and definitions.

a. For the purposes of this part, the following definitions supplement the uniform terminology provided in 40 CFR part 1508:

1. Activity means an action that a grantee or recipient puts forth as part of an assisted project, regardless of whether its cost is to be borne by the HUD assistance or is an eligible expense under the HUD assistance program.

2. Certifying Officer means the official who is authorized to execute the Request for Release of Funds and Certification and has the legal capacity to carry out the responsibilities of Sec. 58.13.

3. Extraordinary Circumstances means a situation in which an environmental assessment (EA) or environmental impact statement (EIS) is not normally required, but due to unusual conditions, an EA or EIS is appropriate. Indicators of unusual conditions are:

   i. Actions that are unique or without precedent;

   ii. Actions that are substantially similar to those that normally
require an EIS;

iii. Actions that are likely to alter existing HUD policy or HUD mandates; or

iv. Actions that, due to unusual physical conditions on the site or in the vicinity, have the potential for a significant impact on the environment or in which the environment could have a significant impact on users of the facility.

4. 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.

5. Recipient means any of the following entities, when they are eligible recipients or grantees under a program listed in Sec. 58.1(b):
   i. A State that does not distribute HUD assistance under the program to a unit of general local government;
   
   ii. Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, and Palau;

   iii. A unit of general local government;

   iv. An Indian tribe;

   v. With respect to Public Housing Programs under Sec. 58.1(b)(6)(i), fiscal year 1999 and prior HOPE VI grants under Sec. 58.1(b)(6)(ii) or Section 8 assistance under Sec. 58.1(b)(6)(iii), a public housing agency;

   vi. Any direct grantee of HUD for a special project under Sec. 58.1(b)(7);

   vii. With respect to the FHA Multifamily Housing Finance Agency Program under 58.1(b)(8), a qualified housing finance agency;

   viii. With respect to the Self-Help Homeownership Opportunity Program under Sec. 58.1(b)(9), any direct grantee of HUD.

ix.
   A. With respect to NAHASDA assistance under Sec. 58.1(b)(10), the Indian tribe or the Department of Hawaiian Home Lands; and
   
   B. With respect to the Section 184 Indian Housing Loan Guarantee program under Sec. 58.1(b)(11), the Indian tribe.
6. Release of funds. In the case of the FHA Multifamily Housing Finance Agency Program under Sec. 58.1(b)(8), Release of Funds, as used in this part, refers to HUD issuance of a firm approval letter, and Request for Release of Funds refers to a recipient's request for a firm approval letter. In the case of the Section 184 Indian Housing Loan Guarantee program under Sec. 58.1(b)(11), Release of Funds refers to HUD's issuance of a commitment to guarantee a loan, or if there is no commitment, HUD's issuance of a certificate of guarantee.

7. Responsible Entity. Responsible Entity means:
   i. With respect to environmental responsibilities under programs listed in Sec. 58.1(b)(1), (2), (3)(i), (4), and (5), a recipient under the program.
   
   ii. With respect to environmental responsibilities under the programs listed in Sec. 58.1(b)(3)(ii) and (6) through (12), a state, unit of general local government, Indian tribe or Alaska Native Village, or the Department of Hawaiian Home Lands, when it is the recipient under the program. Under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) listed in Sec. 58.1(b)(10)(i), the Indian tribe is the responsible entity whether or not a Tribally Designated Housing Entity is authorized to receive grant amounts on behalf of the tribe. The Indian tribe is also the responsible entity under the Section 184 Indian Housing Loan Guarantee program listed in Sec. 58.1(b)(11). Regional Corporations in Alaska are considered Indian tribes in this part. Non-recipient responsible entities are designated as follows:
      A. For qualified housing finance agencies, the State or a unit of general local government, Indian tribe or Alaska native village whose jurisdiction contains the project site;
      
      B. For public housing agencies, the unit of general local government within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State;
      
      C. For non-profit organizations and other entities, the unit of general local government, Indian tribe or Alaska native village within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State;
      
      D. For Indian housing authorities (outside of Alaska), the Indian tribe in whose jurisdiction the project is located, or if the project is located outside of a reservation, the Indian tribe that established the authority; and
E. For Indian housing authorities in Alaska, the Alaska native village in whose community the project is located, or if HUD determines this infeasible, a unit of general local government or the State, as designated by HUD.

8. Unit Density refers to a change in the number of dwelling units. Where a threshold is identified as a percentage change in density that triggers review requirements, no distinction is made between an increase or a decrease in density.

9. Tiering means the evaluation of an action or an activity at various points in the development process as a proposal or event becomes ripe for an Environment Assessment or Review.

10. Vacant Building means a habitable structure that has been vacant for more than one year.

b. The following abbreviations are used throughout this part:
1. CDBG--Community Development Block Grant;
2. CEQ--Council on Environmental Quality;
3. EA--Environmental Assessment;
4. EIS--Environmental Impact Statement;
5. EPA--Environmental Protection Agency;
6. ERR--Environmental Review Record;
7. FONSI--Finding of No Significant Impact;
8. HUD--Department of Housing and Urban Development;
9. NAHA--Cranston-Gonzalez National Affordable Housing Act of 1990;
10. NEPA--National Environmental Policy Act of 1969, as amended;
11. NOI/EIS--Notice of Intent to Prepare an EIS;
12. NOI/RROF--Notice of Intent to Request Release of Funds;
13. ROD--Record of Decision;
14. ROF--Release of Funds; and
15. RROF--Request for Release of Funds.
Subpart A--Purpose, Legal Authority, Federal Laws and Authorities

Sec. 58.4 Assumption authority.

a. Assumption authority for responsible entities: General. Responsible entities shall 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. Responsible entities that receive assistance directly from HUD assume these responsibilities by execution of a grant agreement with HUD and/or a legally binding document such as the certification contained on HUD Form 7015.15, certifying to the assumption of environmental responsibilities. When a State distributes funds to a responsible entity, the State must provide for appropriate procedures by which these responsible entities will evidence their assumption of environmental responsibilities.

b. Particular responsibilities of the States.
   1. States are recipients for purposes of directly undertaking a State project and must assume the environmental review responsibilities for the State's activities and those of any non-governmental entity that may participate in the project. In this case, the State must submit the certification and RROF to HUD for approval.

   2. States must exercise HUD's responsibilities in accordance with Sec. 58.18, with respect to approval of a unit of local government's environmental certification and RROF for a HUD assisted project funded through the state. Approval by the state of a unit of local government's certification and RROF satisfies the Secretary's responsibilities under NEPA and the related laws cited in Sec. 58.5.

c. Particular responsibilities of Indian tribes. An Indian tribe may, but is not required to, assume responsibilities for environmental review, decision-making and action for programs authorized by the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) (other than title VIII) or section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a). The tribe must make a separate decision regarding assumption of responsibilities for each of these Acts and communicate that decision in writing to HUD. If the tribe assumes these responsibilities, the requirements of this part shall apply. If a tribe formally declines assumption of these responsibilities, they are retained by HUD and the provisions of part 50 of this title apply.

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Subpart A--Purpose, Legal Authority, Federal Laws and Authorities

Sec. 58.5 Related Federal laws and authorities.

In accordance with the provisions of law cited in Sec. 58.1(b), the responsible entity must assume responsibilities for environmental review, decision-making and action that would apply to HUD under the following specified laws and authorities. The
responsible entity must certify that it has complied with the requirements that would apply to HUD under these laws and authorities and must consider the criteria, standards, policies and regulations of these laws and authorities.

a. Historic properties.
   3. Federal historic preservation regulations as follows:
      i. 36 CFR part 800 with respect to HUD programs other than Urban Development Action Grants (UDAG); and
      ii. 36 CFR part 801 with respect to UDAG.

b. Floodplain management and wetland protection.
   1. Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951), 3 CFR, 1977 Comp., p. 117, as interpreted in HUD regulations at 24 CFR part 55, particularly section 2(a) of the order (For an explanation of the relationship between the decision-making process in 24 CFR part 55 and this part, see Sec. 55.10 of this subtitle A.)


d. Coastal Zone Management. The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), as amended, particularly section 307(c) and (d) (16 U.S.C. 1456(c) and (d)).

e. Sole source aquifers.
   1. The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300(f) et seq., and 21 U.S.C. 349) as amended; particularly section 1424(e)(42 U.S.C. 300h-3(e)).
   2. Sole Source Aquifers (Environmental Protection Agency--40 CFR part 149).


g. Wild and scenic rivers. The Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) as amended, particularly section 7(b) and (c) (16 U.S.C. 1278(b) and (c)).

h. Air quality.
   1. The Clean Air Act (42 U.S.C. 7401 et. seq.) as amended; particularly section 176(c) and (d) (42 U.S.C. 7506(c) and (d)).
2. Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency--40 CFR parts 6, 51, and 93).

i. Farmlands protection.
   1. Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq.) particularly sections 1540(b) and 1541 (7 U.S.C. 4201(b) and 4202).
   2. Farmland Protection Policy (Department of Agriculture--7 CFR part 658).

j. HUD environmental standards.
   1. Applicable criteria and standards specified in part 51 of this title, other than the runway clear zone notification requirement in Sec. 51.303(a)(3).
   2. Also, it is HUD policy that all properties that are being proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property.
   i. The environmental review of multifamily housing with five or more dwelling units (including leasing), or non-residential property, must include the evaluation of previous uses of the site or other evidence of contamination on or near the site, to ensure that the occupants of proposed sites are not adversely affected by any of the hazards listed in paragraph (i)(2)(i) of this section.
   ii. Particular attention should be given to any proposed site on or in the general proximity of such areas as dumps, landfills, industrial sites, or other locations that contain, or may have contained, hazardous wastes.
   iii. The responsible entity shall use current techniques by qualified professionals to undertake investigations determined necessary.

assumption by the responsible entity under the laws cited in Sec. 58.1(b), the responsible entity must comply with the following requirements. Applicability of the following requirements does not trigger the certification and release of funds procedure under this part or preclude exemption of an activity under Sec. 58.34(a)(12) and/or the applicability of Sec. 58.35(b). However, the responsible entity remains responsible for addressing the following requirements in its ERR and meeting these requirements, where applicable, regardless of whether the activity is exempt under Sec. 58.34 or categorically excluded under Sec. 58.35(a) or (b).

a.  
   1. Under the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001-4128), Federal financial assistance for acquisition and construction purposes (including rehabilitation) may not be used in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:
      i. The community in which the area is situated is participating in the National Flood Insurance Program (see 44 CFR parts 59 through 79), or less than one year has passed since the FEMA notification regarding such hazards; and
      ii. Where the community is participating in the National Flood Insurance Program, flood insurance protection is to be obtained as a condition of the approval of financial assistance to the property owner.
   2. Where the community is participating in the National Flood Insurance Program and the recipient provides financial assistance for acquisition or construction purposes (including rehabilitation) for property located in an area identified by FEMA as having special flood hazards, the responsible entity is responsible for assuring that flood insurance under the National Flood Insurance Program is obtained and maintained.
   3. Paragraph (a) of this section does not apply to Federal formula grants made to a State.

b. Under section 582 of the National Flood Insurance Reform Act of 1994, 42 U.S.C. 5154a, HUD disaster assistance that is made available in a special flood hazard area may not be used to make a payment (including any loan assistance payment) to a person for repair, replacement or restoration for flood damage to any personal, residential or commercial property if:
   1. The person had previously received Federal flood disaster assistance conditioned on obtaining and maintaining flood insurance; and
   2. The person failed to obtain and maintain flood insurance.

c. Pursuant to the Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3501), HUD assistance may not be used for most activities proposed in the Coastal Barrier Resources System.

d. In all cases involving HUD assistance, subsidy, or insurance for the purchase or sale of an existing property in a Runway Clear Zone or Clear Zone, as defined in 24 CFR part 51, the responsible entity shall advise the buyer that the property is in a runway clear zone or clear zone, what the implications of
such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of this information.


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Subpart B--General Policy: Responsibilities of Responsible Entities

Sec. 58.10 Basic environmental responsibility.

In accordance with the provisions of law cited in Sec. 58.1(b), except as otherwise provided in Sec. 58.4(c), the responsible entity must assume the environmental responsibilities for projects under programs cited in Sec. 58.1(b). In doing so, the responsible entity must comply with the provisions of NEPA and the CEQ regulations contained in 40 CFR parts 1500 through 1508, including the requirements set forth in this part.

[63 FR 15271, Mar. 30, 1998]

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Sec. 58.11 Legal capacity and performance.

a. A responsible entity which believes that it does not have the legal capacity to carry out the environmental responsibilities required by this part must contact the appropriate local HUD Office or the State for further instructions. Determinations of legal capacity will be made on a case-by-case basis.

b. If a public housing, special project, HOPWA, Supportive Housing, Shelter Plus Care, or Self-Help Homeownership Opportunity recipient that is not a responsible entity objects to the non-recipient responsible entity conducting the environmental review on the basis of performance, timing, or compatibility of objectives, HUD will review the facts to determine who will perform the environmental review.

c. At any time, HUD may reject the use of a responsible entity to conduct the environmental review in a particular case on the basis of performance, timing or compatibility of objectives, or in accordance with Sec. 58.77(d)(1).
d. If a responsible entity, other than a recipient, objects to performing an environmental review, or if HUD determines that the responsible entity should not perform the environmental review, HUD may designate another responsible entity to conduct the review in accordance with this part or may itself conduct the environmental review in accordance with the provisions of 24 CFR part 50.

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Sec. 58.12 Technical and administrative capacity.

The responsible entity must develop the technical and administrative capability necessary to comply with 40 CFR parts 1500 through 1508 and the requirements of this part.
Sec. 58.13 Responsibilities of the certifying officer.

Under the terms of the certification required by Sec. 58.71, a responsible entity's certifying officer is the "responsible Federal official" as that term is used in section 102 of NEPA and in statutory provisions cited in Sec. 58.1(b). The Certifying Officer is therefore responsible for all the requirements of section 102 of NEPA and the related provisions in 40 CFR parts 1500 through 1508, and 24 CFR part 58, including the related Federal authorities listed in Sec. 58.5. The Certifying Officer must also:

a. Represent the responsible entity and be subject to the jurisdiction of the Federal courts. The Certifying Officer will not be represented by the Department of Justice in court; and

b. Ensure that the responsible entity reviews and comments on all EISs prepared for Federal projects that may have an impact on the recipient's program.

Sec. 58.14 Interaction with State, Federal and non-Federal entities.

A responsible entity shall consult with appropriate environmental agencies, State, Federal and non-Federal entities and the public in the preparation of an EIS, EA or other environmental reviews undertaken under the related laws and authorities cited in Sec. 58.5 and Sec. 58.6. The responsible entity must also cooperate with other agencies to reduce duplication between NEPA and comparable environmental review requirements of the State (see 40 CFR 1506.2 (b) and (c)). The responsible entity must prepare its EAs and EISs so that they comply with the environmental review requirements of both Federal and State laws unless otherwise specified or provided by law. State, Federal and local agencies may participate or act in a joint lead or cooperating agency capacity in the preparation of joint EISs or joint environmental assessments (see 40 CFR 1501.5(b) and 1501.6). A single EIS or EA may be prepared and adopted by multiple users to the extent that the review addresses the relevant environmental issues and there is a written agreement between the cooperating agencies which sets forth the coordinated and overall responsibilities.

[63 FR 15271, Mar 30, 1998]
Subpart B--General Policy: Responsibilities of Responsible Entities

Sec. 58.15 Tiering.

Responsible entities may tier their environmental reviews and assessments to eliminate repetitive discussions of the same issues at subsequent levels of review. Tiering is appropriate when there is a requirement to evaluate a policy or proposal in the early stages of development or when site-specific analysis or mitigation is not currently feasible and a more narrow or focused analysis is better done at a later date. The site specific review need only reference or summarize the issues addressed in the broader review. The broader review should identify and evaluate those issues ripe for decision and exclude those issues not relevant to the policy, program or project under consideration. The broader review should also establish the policy, standard or process to be followed in the site specific review. The Finding of No Significant Impact (FONSI) with respect to the broader assessment shall include a summary of the assessment and identify the significant issues to be considered in site specific reviews. Subsequent site-specific reviews will not require notices or a Request for Release of Funds unless the Certifying Officer determines that there are unanticipated impacts or impacts not adequately addressed in the prior review. A tiering approach can be used for meeting environmental review requirements in areas designated for special focus in local Consolidated Plans. Local and State Governments are encouraged to use the Consolidated Plan process to facilitate environmental reviews.

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Sec. 58.17 [Reserved]

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Sec. 58.18 Environmental responsibilities of States assuming HUD responsibilities.

States that elect to administer a HUD program shall ensure that the program complies with the provisions of this part. The state must:

a. Designate the state agency or agencies that will be responsible for carrying out the requirements and administrative responsibilities set forth in subpart H of this part and which will:
   1. Develop a monitoring and enforcement program for post-review actions on environmental reviews and monitor compliance with any environmental conditions included in the award.
   2. Receive public notices, RROFs, and certifications from recipients
pursuant to Sec. 58.70 and Sec. 58.71; accept objections from the
public and from other agencies (Sec. 58.73); and perform other
related responsibilities regarding releases of funds.

b. Fulfill the state role in subpart H relative to the time period set for the receipt
and disposition of comments, objections and appeals (if any) on particular
projects.

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Sec. 58.21 Time periods.

All time periods in this part shall be counted in calendar days. The first day of a time
period begins at 12:01 a.m. local time on the day following the publication or the
mailing and posting date of the notice which initiates the time period.

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Sec. 58.22 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 Sec. 58.1(b) on an
activity or project until HUD or the state has approved the recipient's RROF
and the related certification from the responsible entity. In addition, until the
RROF and the related certification have 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 Sec. 58.1(b) if the
activity or project would have an adverse environmental impact or limit the
choice of reasonable alternatives.

b. If a project or activity is exempt under Sec. 58.34, or is categorically
excluded (except in extraordinary circumstances) under Sec. 58.35(b), no
RROF is required and the recipient may undertake the activity immediately
after the responsible entity has documented its determination as required in
Sec. 58.34(b) and Sec. 58.35(d), but the recipient must comply with
applicable requirements under Sec. 58.6.
c. If a recipient is considering an application from a prospective subrecipient or beneficiary and is aware that the prospective subrecipient or beneficiary is about to take an action within the jurisdiction of the recipient that is prohibited by paragraph (a) of this section, then the recipient will take appropriate action to ensure that the objectives and procedures of NEPA are achieved.

d. An option agreement on a proposed site or property is allowable prior to the completion of the environmental review if the option agreement is subject to a determination by the recipient on the desirability of the property for the project as a result of the completion of the environmental review in accordance with this part and the cost of the option is a nominal portion of the purchase price. There is no constraint on the purchase of an option by third parties that have not been selected for HUD funding, have no responsibility for the environmental review and have no say in the approval or disapproval of the project.

e. Self-Help Homeownership Opportunity Program (SHOP). In accordance with section 11(d)(2)(A) of the Housing Opportunity Program Extension Act of 1996 (42 U.S.C. 12805 note), an organization, consortium, or affiliate receiving assistance under the SHOP program may advance nongrant funds to acquire land prior to completion of an environmental review and approval of a Request for Release of Funds (RROF) and certification, notwithstanding paragraph (a) of this section. Any advances to acquire land prior to approval of the RROF and certification are made at the risk of the organization, consortium, or affiliate and reimbursement for such advances may depend on the result of the environmental review. This authorization is limited to the SHOP program only and all other forms of HUD assistance are subject to the limitations in paragraph (a) of this section.

f. Relocation. Funds may be committed for relocation assistance before the approval of the RROF and related certification for the project provided that the relocation assistance is required by 24 CFR part 42.

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Sec. 58.23 Financial assistance for environmental review.

The costs of environmental reviews, including costs incurred in complying with any of the related laws and authorities cited in Sec. 58.5 and Sec. 58.6, are eligible costs to the extent allowable under the HUD assistance program regulations.

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Subpart D--Environmental Review Process: Documentation, Range of Activities, Project Aggregation and Classification

Sec. 58.30 Environmental review process.

a. The environmental review process consists of all the actions that a responsible entity must take to determine compliance with this part. The environmental review process includes all the compliance actions needed for other activities and projects that are not assisted by HUD but are aggregated by the responsible entity in accordance with Sec. 58.32.

b. The environmental review process should begin as soon as a recipient determines the projected use of HUD assistance.

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Sec. 58.32 Project aggregation.

a. A responsible entity must group together and evaluate as a single project all individual activities which are related either on a geographical or functional basis, or are logical parts of a composite of contemplated actions.

b. In deciding the most appropriate basis for aggregation when evaluating activities under more than one program, the responsible entity may choose: functional aggregation when a specific type of activity (e.g., water improvements) is to take place in several separate locales or jurisdictions; geographic aggregation when a mix of dissimilar but related activities is to be concentrated in a fairly specific project area (e.g., a combination of water, sewer and street improvements and economic development activities); or a combination of aggregation approaches, which, for various project locations, considers the impacts arising from each functional activity and its interrelationship with other activities.

c. The purpose of project aggregation is to group together related activities so that the responsible entity can:
   1. Address adequately and analyze, in a single environmental review, the separate and combined impacts of activities that are similar, connected and closely related, or that are dependent upon other activities and actions. (See 40 CFR 1508.25(a)).
   2. Consider reasonable alternative courses of action.
   3. Schedule the activities to resolve conflicts or mitigate the individual, combined and/or cumulative effects.
   4. Prescribe mitigation measures and safeguards including project alternatives and modifications to individual activities.
d. Multi-year project aggregation--
   1. Release of funds. When a recipient's planning and program development provide for activities to be implemented over two or more years, the responsible entity's environmental review should consider the relationship among all component activities of the multi-year project regardless of the source of funds and address and evaluate their cumulative environmental effects. The estimated range of the aggregated activities and the estimated cost of the total project must be listed and described by the responsible entity in the environmental review and included in the RROF. The release of funds will cover the entire project period.

2. When one or more of the conditions described in Sec. 58.47 exists, the recipient or other responsible entity must re-evaluate the environmental review.

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Sec. 58.33 Emergencies.

a. In the cases of emergency, disaster or imminent threat to health and safety which warrant the taking of an action with significant environmental impact, the provisions of 40 CFR 1506.11 shall apply.

b. If funds are needed on an emergency basis and adherence to separate comment periods would prevent the giving of assistance during a Presidentially declared disaster, or during a local emergency that has been declared by the chief elected official of the responsible entity who has proclaimed that there is an immediate need for public action to protect the public safety, the combined Notice of FONSI and Notice of Intent to Request Release of Funds (NOI/RROF) may be disseminated and/or published simultaneously with the submission of the RROF. The combined Notice of FONSI and NOI/RROF shall state that the funds are needed on an emergency basis due to a declared disaster and that the comment periods have been combined. The Notice shall also invite commenters to submit their comments to both HUD and the responsible entity issuing the notice to ensure that these comments will receive full consideration.

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Sec. 58.34 Exempt activities.
a. Except for the applicable requirements of Sec. 58.6, the responsible entity does not have to comply with the requirements of this part or undertake any environmental review, consultation or other action under NEPA and the other provisions of law or authorities cited in Sec. 58.5 for the activities exempt by this section or projects consisting solely of the following exempt activities:
   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;
   12. Any of the categorical exclusions listed in Sec. 58.35(a) provided that there are no circumstances which require compliance with any other Federal laws and authorities cited in Sec. 58.5.

b. A recipient does not have to submit an RROF and certification, and no further approval from HUD or the State 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 that each activity or project is exempt and meets the conditions specified for such exemption under this section.

Subpart D--Environmental Review Process: Documentation, Range of Activities, Project Aggregation and Classification

Sec. 58.35 Categorical exclusions.

Categorical exclusion refers to a category of activities for which no environmental impact statement or environmental assessment and finding of no significant impact under NEPA is required, except in extraordinary circumstances (see Sec. 58.2(a)(3)) in which a normally excluded activity may have a significant impact.

Compliance with the other applicable Federal environmental laws and authorities listed in Sec. 58.5 is required for any categorical exclusion listed in paragraph (a) of this section.

a. Categorical exclusions subject to Sec. 58.5. The following activities are categorically excluded under NEPA, but may be subject to review under authorities listed in 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.  
   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.

b. Categorical exclusions not subject to Sec. 58.5. The Department has 
determined that the following categorically excluded activities would not alter 
any conditions that would require a review or compliance determination under 
the Federal laws and authorities cited in Sec. 58.5. When the following kinds 
of 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 HUD (or the State) except in the circumstances described in 
paragraph (c) of this section. Following the award of the assistance, no further 
approval from HUD or the State will be needed with respect to 
environmental requirements, except where paragraph (c) of this section 
applies. The recipient remains responsible for carrying out any applicable 
requirements under Sec. 58.6.
   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.

c. Circumstances requiring NEPA review. If a responsible entity determines that an activity or project identified in paragraph (a) or (b) of this section, because of extraordinary circumstances and conditions at or affecting the location of the activity or project, may have a significant environmental effect, it shall comply with all the requirements of this part.

d. The Environmental Review Record (ERR) must contain a well organized written record of the process and determinations made under this section.


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Sec. 58.36 Environmental assessments.

If a project is not exempt or categorically excluded under Secs. 58.34 and 58.35, the responsible entity must prepare an EA in accordance with subpart E of this part. If it is evident without preparing an EA that an EIS is required under Sec. 58.37, the responsible entity should proceed directly to an EIS.

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Sec. 58.37 Environmental impact statement determinations.

a. An EIS is required when the project is determined to have a potentially significant impact on the human environment.

b. An EIS is required under any of the following circumstances, except as provided in paragraph (c) of this section:
1. The project would provide a site or sites for, or result in the construction of, hospitals or nursing homes containing a total of 2,500 or more beds.

2. The project would remove, demolish, convert or substantially rehabilitate 2,500 or more existing housing units (but not including rehabilitation projects categorically excluded under Sec. 58.35), or would result in the construction or installation of 2,500 or more housing units, or would provide sites for 2,500 or more housing units.

3. The project would provide enough additional water and sewer capacity to support 2,500 or more additional housing units. The project does not have to be specifically intended for residential use nor does it have to be totally new construction. If the project is designed to provide upgraded service to existing development as well as to serve new development, only that portion of the increased capacity which is intended to serve new development should be counted.

c. If, on the basis of an EA, a responsible entity determines that the thresholds in paragraph (b) of this section are the sole reason for the EIS, the responsible entity may prepare a FONSI pursuant to 40 CFR 1501.4. In such cases, the FONSI must be made available for public review for at least 30 days before the responsible entity makes the final determination whether to prepare an EIS.

d. Notwithstanding paragraphs (a) through (c) of this section, an EIS is not required where Sec. 58.53 is applicable.

e. Recommended EIS Format. The responsible entity must use the EIS format recommended by the CEQ regulations (40 CFR 1502.10) unless a determination is made on a particular project that there is a compelling reason to do otherwise. In such a case, the EIS format must meet the minimum requirements prescribed in 40 CFR 1502.10.

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Subpart D--Environmental Review Process: Documentation, Range of Activities, Project Aggregation and Classification

Sec. 58.38 Environmental review record.

The responsible entity must maintain a written record of the environmental review undertaken under this part for each project. This document will be designated the "Environmental Review Record" (ERR), and shall be available for public review. The responsible entity must use the current HUD-recommended formats or develop equivalent formats.

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

1. Describe the project and the activities that the recipient has determined to be part of the project;

2. Evaluate the effects of the project or the activities on the human environment;

3. Document compliance with applicable statutes and authorities, in particular those cited in Sec. 58.5 and 58.6; and

4. Record the written determinations and other review findings required by this part (e.g., exempt and categorically excluded projects determinations, findings of no significant impact).

b. Other documents and information. The ERR shall also contain verifiable source documents and relevant base data used or cited in EAs, EISs or other project review documents. These documents may be incorporated by reference into the ERR provided that each source document is identified and available for inspection by interested parties. Proprietary material and special studies prepared for the recipient that are not otherwise generally available for public review shall not be incorporated by reference but shall be included in the ERR.

Sec. 58.40 Preparing the environmental assessment.

The responsible entity may prepare the EA using the HUD recommended format. In preparing an EA for a particular project, the responsible entity must:

a. Determine existing conditions and describe the character, features and resources of the project area and its surroundings; identify the trends that are likely to continue in the absence of the project.

b. Identify all potential environmental impacts, whether beneficial or adverse, and the conditions that would change as a result of the project.

c. Identify, analyze and evaluate all impacts to determine the significance of their effects on the human environment and whether the project will require further compliance under related laws and authorities cited in Sec. 58.5 and Sec. 58.6.

d. Examine and recommend feasible ways in which the project or external
factors relating to the project could be modified in order to eliminate or minimize adverse environmental impacts.

e. Examine alternatives to the project itself, if appropriate, including the alternative of no action.

f. Complete all environmental review requirements necessary for the project’s compliance with applicable authorities cited in Secs. 58.5 and 58.6.

g. Based on steps set forth in paragraph (a) through (f) of this section, make one of the following findings:
   1. A Finding of No Significant Impact (FONSI), in which the responsible entity determines that the project is not an action that will result in a significant impact on the quality of the human environment. The responsible entity may then proceed to Sec. 58.43.

   2. A finding of significant impact, in which the project is deemed to be an action which may significantly affect the quality of the human environment. The responsible entity must then proceed with its environmental review under subpart F or G of this part.

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Subpart E--Environmental Review Process: Environmental Assessments (EA's)

Sec. 58.43 Dissemination and/or publication of the findings of no significant impact.

a. If the responsible entity makes a finding of no significant impact, it must prepare a FONSI notice, using the current HUD-recommended format or an equivalent format. As a minimum, the responsible entity must send the FONSI notice to individuals and groups known to be interested in the activities, to the local news media, to the appropriate tribal, local, State and Federal agencies; to the Regional Offices of the Environmental Protection Agency having jurisdiction and to the HUD Field Office (or the State where applicable). The responsible entity may also publish the FONSI notice in a newspaper of general circulation in the affected community. If the notice is not published, it must also be prominently displayed in public buildings, such as the local Post Office and within the project area or in accordance with procedures established as part of the citizen participation process.

b. The responsible entity may disseminate or publish a FONSI notice at the same time it disseminates or publishes the NOI/RROF required by Sec. 58.70. If the notices are released as a combined notice, the combined notice shall:
   1. Clearly indicate that it is intended to meet two separate procedural requirements; and

   2. Advise the public to specify in their comments which "notice" their comments address.

c. The responsible entity must consider the comments and make modifications,
if appropriate, in response to the comments, before it completes its environmental certification and before the recipient submits its RROF. If funds will be used in Presidentially declared disaster areas, modifications resulting from public comment, if appropriate, must be made before proceeding with the expenditure of funds.

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Subpart E--Environmental Review Process: Environmental Assessments (EA's)

Sec. 58.45 Public comment periods.

Required notices must afford the public the following minimum comment periods, counted in accordance with Sec. 58.21:

- a. Notice of Finding of No Significant Impact (FONSI): 15 days when published or, if no publication, 18 days when mailing and posting
- b. Notice of Intent to Request Release of Funds (NOI-RROF): 7 days when published or, if no publication, 10 days when mailing and posting
- c. Concurrent or combined notices: 15 days when published or, if no publication, 18 days when mailing and posting

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Subpart E--Environmental Review Process: Environmental Assessments (EA's)

Sec. 58.46 Time delays for exceptional circumstances.

The responsible entity must make the FONSI available for public comments for 30 days before the recipient files the RROF when:

- a. There is a considerable interest or controversy concerning the project;
- b. The proposed project is similar to other projects that normally require the preparation of an EIS; or
- c. The project is unique and without precedent.
Sec. 58.47 Re-evaluation of environmental assessments and other environmental findings.

a. A responsible entity must re-evaluate its environmental findings to determine if the original findings are still valid, when:
   1. The recipient proposes substantial changes in the nature, magnitude or extent of the project, including adding new activities not anticipated in the original scope of the project;
   2. There are new circumstances and environmental conditions which may affect the project or have a bearing on its impact, such as concealed or unexpected conditions discovered during the implementation of the project or activity which is proposed to be continued; or
   3. The recipient proposes the selection of an alternative not in the original finding.

b. 1. If the original findings are still valid but the data or conditions upon which they were based have changed, the responsible entity must affirm the original findings and update its ERR by including this re-evaluation and its determination based on its findings. Under these circumstances, if a FONSI notice has already been published, no further publication of a FONSI notice is required.
   2. If the responsible entity determines that the original findings are no longer valid, it must prepare an EA or an EIS if its evaluation indicates potentially significant impacts.
   3. Where the recipient is not the responsible entity, the recipient must inform the responsible entity promptly of any proposed substantial changes under paragraph (a)(1) of this section, new circumstances or environmental conditions under paragraph (a)(2) of this section, or any proposals to select a different alternative under paragraph (a)(3) of this section, and must then permit the responsible entity to re-evaluate the findings before proceeding.

Sec. 58.52 Adoption of other agencies' EISs.

The responsible entity may adopt a draft or final EIS prepared by another agency provided that the EIS was prepared in accordance with 40 CFR parts 1500 through 1508. If the responsible entity adopts an EIS prepared by another agency, the procedure in 40 CFR 1506.3 shall be followed. An adopted EIS may have to be revised and modified to adapt it to the particular environmental conditions and circumstances of the project if these are different from the project reviewed in the EIS. In such cases the responsible entity must prepare, circulate, and file a supplemental draft EIS in the manner prescribed in Sec. 58.60(d) and otherwise comply with the clearance and time requirements of the EIS process, except that scoping requirements under 40 CFR 1501.7 shall not apply. The agency that prepared the original EIS should be informed that the responsible entity intends to amend and adopt the EIS. The responsible entity may adopt an EIS when it acts as a cooperating agency in its preparation under 40 CFR 1506.3. The responsible entity is not required to re-circulate or file the EIS, but must complete the clearance process for the RROF. The decision to adopt an EIS shall be made a part of the project ERR.

Sec. 58.53 Use of prior environmental impact statements.

Where any final EIS has been listed in the Federal Register for a project pursuant to this part, or where an areawide or similar broad scale final EIS has been issued and the EIS anticipated a subsequent project requiring an environmental clearance, then no new EIS is required for the subsequent project if all the following conditions are met:

a. The ERR contains a decision based on a finding pursuant to Sec. 58.40 that the proposed project is not a new major Federal action significantly affecting the quality of the human environment. The decision shall include:
   1. References to the prior EIS and its evaluation of the environmental factors affecting the proposed subsequent action subject to NEPA;
   2. An evaluation of any environmental factors which may not have been previously assessed, or which may have significantly changed;
   3. An analysis showing that the proposed project is consistent with the location, use, and density assumptions for the site and with the timing and capacity of the circulation, utility, and other supporting infrastructure assumptions in the prior EIS;
   4. Documentation showing that where the previous EIS called for mitigating measures or other corrective action, these are completed to the extent reasonable given the current state of development.
b. The prior final EIS has been filed within five (5) years, and updated as follows:
   1. The EIS has been updated to reflect any significant revisions made to the assumptions under which the original EIS was prepared;
   2. The EIS has been updated to reflect new environmental issues and data or legislation and implementing regulations which may have significant environmental impact on the project area covered by the prior EIS.

c. There is no litigation pending in connection with the prior EIS, and no final judicial finding of inadequacy of the prior EIS has been made.

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Sec. 58.55 Notice of intent to prepare an EIS.

As soon as practicable after the responsible entity decides to prepare an EIS, it must publish a NOI/EIS, using the HUD recommended format and disseminate it in the same manner as required by 40 CFR parts 1500 through 1508.

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Sec. 58.56 Scoping process.

The determination on whether or not to hold a scoping meeting will depend on the same circumstances and factors as for the holding of public hearings under Sec. 58.59. The responsible entity must wait at least 15 days after disseminating or publishing the NOI/EIS before holding a scoping meeting.
Sec. 58.57 Lead agency designation.

If there are several agencies ready to assume the lead role, the responsible entity must make its decision based on the criteria in 40 CFR 1501.5(c). If the responsible entity and a Federal agency are unable to reach agreement, then the responsible entity must notify HUD (or the State, where applicable). HUD (or the State) will assist in obtaining a determination based on the procedure set forth in 40 CFR 1501.5(e).

Sec. 58.59 Public hearings and meetings.

a. Factors to consider. In determining whether or not to hold public hearings in accordance with 40 CFR 1506.6, the responsible entity must consider the following factors:
   1. The magnitude of the project in terms of economic costs, the geographic area involved, and the uniqueness or size of commitment of resources involved.
   2. The degree of interest in or controversy concerning the project.
   3. The complexity of the issues and the likelihood that information will be presented at the hearing which will be of assistance to the responsible entity.
   4. The extent to which public involvement has been achieved through other means.

b. Procedure. All public hearings must be preceded by a notice of public hearing, which must be published in the local news media 15 days before the hearing date. The Notice must:
   1. State the date, time, place, and purpose of the hearing or meeting.
   2. Describe the project, its estimated costs, and the project area.
   3. State that persons desiring to be heard on environmental issues will be afforded the opportunity to be heard.
   4. State the responsible entity's name and address and the name and
address of its Certifying Officer.

5. State what documents are available, where they can be obtained, and any charges that may apply.

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Sec. 58.60 Preparation and filing of environmental impact statements.

a. The responsible entity must prepare the draft environmental impact statement (DEIS) and the final environmental impact statements (FEIS) using the current HUD recommended format or its equivalent.

b. The responsible entity must file and distribute the (DEIS) and the (FEIS) in the following manner:
   1. Five copies to EPA Headquarters;
   2. Five copies to EPA Regional Office;
   3. Copies made available in the responsible entity's and the recipient's office;
   4. Copies or summaries made available to persons who request them; and
   5. FEIS only--one copy to State, HUD Field Office, and HUD Headquarters library.

c. The responsible entity may request waivers from the time requirements specified for the draft and final EIS as prescribed in 40 CFR 1506.6.

d. When substantial changes are proposed in a project or when significant new circumstances or information becomes available during an environmental review, the recipient may prepare a supplemental EIS as prescribed in 40 CFR 1502.9.

e. The responsible entity must prepare a Record of Decision (ROD) as prescribed in 40 CFR 1505.2.

Subpart H--Release of Funds for Particular Projects

Sec. 58.70 Notice of intent to request release of funds.

The NOI/RROF must be disseminated and/or published in the manner prescribed by Sec. 58.43 and Sec. 58.45 before the certification is signed by the responsible entity.

Sec. 58.71 Request for release of funds and certification.

a. The RROF and certification shall be sent to the appropriate HUD Field Office (or the State, if applicable), except as provided in paragraph (b) of this section. This request shall be executed by the Certifying Officer. The request shall describe the specific project and activities covered by the request and contain the certification required under the applicable statute cited in Sec. 58.1(b). The RROF and certification must be in a form specified by HUD.

b. When the responsible entity is conducting an environmental review on behalf of a recipient, as provided for in Sec. 58.10, the recipient must provide the responsible entity with all available project and environmental information and refrain from undertaking any physical activities or choice limiting actions until HUD (or the State, if applicable) has approved its request for release of funds. The certification form executed by the responsible entity’s certifying officer shall be sent to the recipient that is to receive the assistance along with a description of any special environmental conditions that must be adhered to in carrying out the project. The recipient is to submit the RROF and the certification of the responsible entity to HUD (or the State, if applicable) requesting the release of funds. The recipient must agree to abide by the special conditions, procedures and requirements of the environmental review, and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions.

c. If the responsible entity determines that some of the activities are exempt under applicable provisions of this part, the responsible entity shall advise the recipient that it may commit funds for these activities as soon as programmatic authorization is received. This finding shall be documented in the ERR maintained by the responsible entity and in the recipient’s project files.
Sec. 58.72 HUD or State actions on RROFs and certifications.

The actions which HUD (or a State) may take with respect to a recipient's environmental certification and RROF are as follows:

a. In the absence of any receipt of objection to the contrary, except as provided in paragraph (b) of this section, HUD (or the State) will assume the validity of the certification and RROF and will approve these documents after expiration of the 15-day period prescribed by statute.

b. HUD (or the state) may disapprove a certification and RROF if it has knowledge that the responsible entity or other participants in the development process have not complied with the items in Sec. 58.75, or that the RROF and certification are inaccurate.

c. In cases in which HUD has approved a certification and RROF but subsequently learns (e.g., through monitoring) that the recipient violated Sec. 58.22 or the recipient or responsible entity otherwise failed to comply with a clearly applicable environmental authority, HUD shall impose appropriate remedies and sanctions in accord with the law and regulations for the program under which the violation was found.

Sec. 58.73 Objections to release of funds.

HUD (or the State) will not approve the RROF for any project before 15 calendar days have elapsed from the time of receipt of the RROF and the certification or from the time specified in the notice published pursuant to Sec. 58.70, whichever is later. Any person or agency may object to a recipient's RROF and the related certification. However, the objections must meet the conditions and procedures set forth in subpart H of this part. HUD (or the State) can refuse the RROF and certification on any grounds set forth in Sec. 58.75. All decisions by HUD (or the State) regarding the RROF and the certification shall be final.

Sec. 58.74 Time for objecting.

All objections must be received by HUD (or the State) within 15 days from the time HUD (or the State) receives the recipient's RROF and the related certification, or within the time period specified in the notice, whichever is later.
Sec. 58.75 Permissible bases for objections.

HUD (or the State), will consider objections claiming a responsible entity's noncompliance with this part based only on any of the following grounds:

a. The certification was not in fact executed by the responsible entity's Certifying Officer.

b. The responsible entity has failed to make one of the two findings pursuant to Sec. 58.40 or to make the written determination required by Secs. 58.35, 58.47 or 58.53 for the project, as applicable.

c. The responsible entity has omitted one or more of the steps set forth at subpart E of this part for the preparation, publication and completion of an EA.

d. The responsible entity has omitted one or more of the steps set forth at subparts F and G of this part for the conduct, preparation, publication and completion of an EIS.

e. The recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by this part before release of funds and approval of the environmental certification by HUD (or the state).

f. Another Federal agency acting pursuant to 40 CFR part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality.

Sec. 58.76 Procedure for objections.

A person or agency objecting to a responsible entity's RROF and certification shall submit objections in writing to HUD (or the State). The objections shall:

a. Include the name, address and telephone number of the person or agency submitting the objection, and be signed by the person or authorized official of an agency.

b. Be dated when signed.
c. Describe the basis for objection and the facts or legal authority supporting the objection.

d. State when a copy of the objection was mailed or delivered to the responsible entity's Certifying Officer.

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Subpart H--Release of Funds for Particular Projects

Sec. 58.77 Effect of approval of certification.

a. Responsibilities of HUD and States. HUD's (or, where applicable, the State's) approval of the certification shall be deemed to satisfy the responsibilities of the Secretary under NEPA and related provisions of law cited at Sec. 58.5 insofar as those responsibilities relate to the release of funds as authorized by the applicable provisions of law cited in Sec. 58.1(b).

b. Public and agency redress. Persons and agencies seeking redress in relation to environmental reviews covered by an approved certification shall deal with the responsible entity and not with HUD. It is HUD's policy to refer all inquiries and complaints to the responsible entity and its Certifying Officer. Similarly, the State (where applicable) may direct persons and agencies seeking redress in relation to environmental reviews covered by an approved certification to deal with the responsible entity, and not the State, and may refer inquiries and complaints to the responsible entity and its Certifying Officer. Remedies for noncompliance are set forth in program regulations.

c. Implementation of environmental review decisions. Projects of a recipient will require post-review monitoring and other inspection and enforcement actions by the recipient and the State or HUD (using procedures provided for in program regulations) to assure that decisions adopted through the environmental review process are carried out during project development and implementation.

d. Responsibility for monitoring and training.
   1. At least once every three years, HUD intends to conduct in-depth monitoring and exercise quality control (through training and consultation) over the environmental activities performed by responsible entities under this part. Limited monitoring of these environmental activities will be conducted during each program monitoring site visit. If through limited or in-depth monitoring of these environmental activities or by other means, HUD becomes aware of any environmental deficiencies, HUD may take one or more of the following actions:
      i. In the case of problems found during limited monitoring, HUD may schedule in-depth monitoring at an earlier date or may schedule in-depth monitoring more frequently;
      ii. HUD may require attendance by staff of the responsible entity at HUD-sponsored or approved training, which will be provided
periodically at various locations around the country;

iii. HUD may refuse to accept the certifications of environmental compliance on subsequent grants;

iv. HUD may suspend or terminate the responsible entity's assumption of the environmental review responsibility;

v. HUD may initiate sanctions, corrective actions, or other remedies specified in program regulations or agreements or contracts with the recipient.

2. HUD's responsibilities and action under paragraph (d)(1) of this section shall not be construed to limit or reduce any responsibility assumed by a responsible entity with respect to any particular release of funds under this part. Whether or not HUD takes action under paragraph (d)(1) of this section, the Certifying Officer remains the responsible Federal official under Sec. 58.13 with respect to projects and activities for which the Certifying Officer has submitted a certification under this part.
§200.317 Procurements by states.

When procuring property and services under a Federal award, a state must follow the same policies and procedures it uses for procurements from its non-Federal funds. The state will comply with §200.322 Procurement of recovered materials and ensure that every purchase order or other contract includes any clauses required by section §200.326 Contract provisions. All other non-Federal entities, including subrecipients of a state, will follow §§200.318 General procurement standards through 200.326 Contract provisions.

§200.318 General procurement standards.

(a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this part.

(b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(c)(1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

(2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct
covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

(d) The non-Federal entity’s procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.

(f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also §200.212 Suspension and debarment.

(i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(j)(1) The non-Federal entity may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to a non-Federal entity is the sum of:

(i) The actual cost of materials; and

(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual
responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.


§200.319 Competition.

(a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

1. Placing unreasonable requirements on firms in order for them to qualify to do business;
2. Requiring unnecessary experience and excessive bonding;
3. Noncompetitive pricing practices between firms or between affiliated companies;
4. Noncompetitive contracts to consultants that are on retainer contracts;
5. Organizational conflicts of interest;
6. Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
7. Any arbitrary action in the procurement process.

(b) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(c) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

1. Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and
(2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(d) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.


§200.320 Methods of procurement to be followed.

The non-Federal entity must use one of the following methods of procurement.

(a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (§200.67 Micro-purchase). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

(b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

(c) Procurement by sealed bids (formal advertising). 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 sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.

(1) In order for sealed bidding to be feasible, the following conditions should be present:

(i) A complete, adequate, and realistic specification or purchase description is available;

(ii) Two or more responsible bidders are willing and able to compete effectively for the business; and

(iii) 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.

(2) If sealed bids are used, the following requirements apply:

(i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for state, local, and tribal governments, the invitation for bids must be publically advertised;

(ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;

(iii) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
(iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(v) Any or all bids may be rejected if there is a sound documented reason.

(d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(2) Proposals must be solicited from an adequate number of qualified sources;

(3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;

(4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors’ qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(e) [Reserved]

(f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

(1) The item is available only from a single source;

(2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or

(4) After solicitation of a number of sources, competition is determined inadequate.


§200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.
(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

(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 paragraphs (1) through (5) of this section.


A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.


§200.323 Contract cost and price.

(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

(b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E—Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

§200.324 Federal awarding agency or pass-through entity review.

(a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

1. The non-Federal entity’s procurement procedures or operation fails to comply with the procurement standards in this part;

2. The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

3. The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a “brand name” product;

4. The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

5. A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

1. The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;

2. The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.
§200.325  Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor’s obligations under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

§200.326  Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.
Memorandum  
CDBG Policy Guidance  

Nebraska Department of Economic Development, 301 Centennial Mall South, Lincoln, NE 68509  
http://www.neded.org/

Date: March 9, 2015  
Policy: 14-01  

Effective: March 9, 2015  
Subject: CDBG Limited English Proficiency Access Requirements

A. PURPOSE.

The purpose of this document is to provide guidance regarding the responsibility to provide Limited English Proficient (“LEP”) Persons access to federally conducted programs and activities. This guidance is prepared for Sub-recipients that receive Community Development Block Grant (“CDBG”) funding from the Nebraska Department of Economic Development.

B. HISTORY & APPLICABLE LAW.

Title VI of the Civil Rights Act of 1964 is a federal law which protects individuals from discrimination on the basis of their race, color, or national origin in programs that receive federal financial assistance. In certain situations, failure to ensure that persons who have Limited English Proficiency can effectively participate in, or benefit from, federally assisted programs may violate Title VI’s prohibition against national origin discrimination.

Persons who, as a result of national origin, do not speak English as their primary language and who have limited ability to speak, read, write, or understand English may be entitled to language assistance under Title VI in order to receive a particular service, benefit, or encounter.

On August 11, 2000, Executive Order 13166, titled, “Improving Access to Services by Persons with Limited English Proficiency,” was issued. Executive Order 13166 requires federal agencies to assess and address the needs of otherwise eligible persons seeking access to federally conducted programs and activities who, due to LEP cannot fully and equally participate in or benefit from those programs and activities. Section 2 of the Executive Order 13166 directs each federal department or agency "to prepare a plan to improve access to…federally conducted programs and activities by eligible LEP persons…".

On August 16, 2000, the U.S. Department of Justice ("DOJ") issued guidance setting forth principles for agencies to apply in response to Executive Order 13166. Based on this model guidance, the U.S. Department of Housing and Urban Development ("HUD") published guidance for its grantees in the Federal Register on January 22, 2007 (72 Fed. Reg. 2732).  
C. DEFINITIONS

**Beneficiary:** The ultimate consumer of HUD programs who receives benefits from a HUD Recipient or Sub-recipient.

**Limited English Proficient Person (LEP):** Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English because of national origin.

**Language Assistance Plan (LAP):** A written implementation plan that addresses identified needs of the LEP persons served.

**Sub-recipient:** Any public or private agency, institution, organization, or other entity to whom Federal financial assistance is extended, through the Nebraska Department of Economic Development (“Department”), for any program or activity, or who otherwise participates in carrying out such program or activity but such term does not include any Beneficiary under any such program.

**Vital Document:** Any document that is critical for ensuring meaningful access to the Recipient’s major activities and programs by Beneficiaries generally and LEP persons specifically.

D. SUB-RECIPIENT RESPONSIBILITIES.

Pursuant to the requirements of Title VI, Sub-recipients are required to make reasonable efforts to provide timely, meaningful access for LEP persons to programs and activities. In order to do so, Sub-recipients should first conduct an assessment to determine the need for language assistance within their service area. This is accomplished by conducting what is referred to as completion of the Four Factor Analysis, which is described in Section E. of this guidance. After completion of the Four Factor Analysis, the Sub-recipient will understand the languages spoken by LEP persons in their service area, and can determine how to provide needed language assistance.

Based upon the findings of the Four Factor Analysis, and when deemed necessary, the Sub-recipient should prepare a Language Access Plan addressing the Sub-recipient’s plan for providing meaningful access to programs and activities for LEP persons. A Sub-Recipient may conclude that different language assistance measures are sufficient for the different types of programs or activities in which it engages. For instance, a Sub-recipient may determine that certain activities are more important and/or have greater impact on or contact with LEP persons, and thus such programs or activities require more in the way of language assistance. Although the Department is providing Sub-recipients with a template from which to develop a LAP, Sub-recipients have flexibility in determining how to appropriately address the needs of the LEP populations they serve.

The Sub-recipient is also required to select an individual responsible for coordination of LEP compliance, train staff involved in programs and activities on LEP requirements, keep records of assistance provided and actions taken, and update the Four Factor Analysis and LAP as needed.
E. THE FOUR FACTOR ANALYSIS.

The Four Factor Analysis involves determining the following:

1) The number or proportion of LEP persons served or encountered in the eligible service population ("served or encountered" includes those persons who would be served or encountered by the Sub-recipient if the persons received adequate education and outreach and the Sub-recipient provided sufficient language services);

2) The frequency with which LEP persons come into contact with the program or activity;

3) The nature and importance of the program, activity, or service provided by the program; and

4) The resources available and costs to the Sub-recipient.

In order to gather information on the number and proportion of LEP persons served or encountered in the eligible service area, Sub-recipients should use data from the U.S. Census Bureau American Community Survey ("ACS"). The ACS provides data that indicates the percentage and/or number of residents that speak English less than “very well.” The Sub-recipient can use the ACS data on a county basis, or more in depth (political subdivision level), or if other data is available from a credible source that is representative of a more defined service area, the Sub-recipient may use that data. This data may include information from school systems, community organizations, or other credible sources of demographic information. If the Sub-recipient is unsure about the appropriateness of other data sources, it is recommended that the Sub-recipient use the ACS information.

In order to determine the frequency with which LEP persons come into contact with the program or activity, Sub-recipients should assess, as accurately as possible, the frequency with which they have or should have contact with LEP individuals from different language groups seeking assistance. The more frequent the anticipated interaction, the more likely there will be a need for language access services. In anticipating interaction, the Sub-recipient should consider all possible forms of contact (e.g. phone inquiries, in-person interaction, written inquiries, etc.).

In regard to the nature and importance of the program, activity, or service provided, the Sub-recipient should examine the consequences of failure to be able to participate. The greater the consequences, the more important it is to provide language access services for participation in the program, activity, or service. As an example, but not necessarily a comparison to other activities, if the program involves housing assistance (e.g. down-payment assistance or owner-occupied rehabilitation), the Department would view this as an activity and/or service that would have significant consequences if there is a failure to provide needed language assistance (i.e. no ability to participate in process or no ability to apply for assistance = inability to receive a housing benefit).

Finally, in regard to assessing resources available, a Sub-recipient should determine what their overall level of resources is, and the costs that would be imposed on it in providing the various types of language assistance. Smaller Sub-recipients with more limited budgets are not expected to provide the same level of language services as larger recipients with larger budgets, but are still expected to provide meaningful access to programs and activities for LEP persons.
HUD has developed examples of applying the Four Factor Analysis to HUD-specific programs. These examples can be accessed in Appendix “A” of HUD’s LEP Final Guidance.

F. THE LANGUAGE ACCESS PLAN.

After completing the four-factor analysis and deciding what language assistance services are appropriate, a recipient would develop an implementation plan to address the identified needs of the LEP populations they serve. This plan is referred to as a Language Access Plan (“LAP”), and is a plan and a policy combined into one. It represents that a Sub-recipient has a policy of providing LEP persons meaningful access to programs and activities, and also lays out the plan for providing such access. Sub-recipients are strongly encouraged to develop a LAP.

The development and maintenance of a periodically updated LAP on language assistance for LEP persons, or a LAP will likely be the most appropriate and cost-effective means of documenting compliance and providing a framework for the provision of timely and reasonable language assistance. However, certain Sub-recipients, such as those serving very few LEP persons and those with very limited resources, may choose not to develop a written LAP.

A Sub-recipient that does not develop a LAP must be able to provide information to the Department that demonstrates sufficient reasoning for not doing so, and must document alternative ways to articulate, in some other reasonable manner, a plan for providing LEP persons meaningful access to programs and activities.

An effective LAP would include the following:

1) An explanation of the procedures the Sub-recipient will use to identify LEP persons with whom they have contact, the size of the LEP populations, and the languages of LEP populations;
2) Points and types of contact the Sub-recipient may have with LEP persons;
3) Ways in which language assistance will be provided;
4) The Sub-recipient’s plan for outreach to LEP persons;
5) The Sub-recipient’s plan for training staff members on the LEP Guidance and the LAP, including specific provisions for training of staff who are responsible for completion and oversight of projects;
6) A list of Vital Documents to be translated, the languages into which they will be translated and the timetable for translations;
7) The plan for translating informational materials that detail services and activities to be provided to Beneficiaries;
8) The plan for providing appropriately translated notices to LEP persons;
9) The plan for providing interpreters for large, medium, small, and one-on-one meetings, and ensuring the competency of interpreters;
10) The plan for developing community resources, partnerships, and other relationships to help with the provision of language services;
11) The provisions for updating the Four Factor Analysis and LAP;
12) Identification of the Sub-recipient’s LEP contact person; and
13) References to applicable LEP resources.
G. SAFE HARBOR.

After conducting a Four Factor Analysis, and in determining what types of written translations are necessary, Sub-recipients should keep in mind that HUD has adopted a “safe harbor” for the translation of written materials. A “safe harbor” means that if a recipient provides written translations under these circumstances, such action will be considered strong evidence of compliance with the recipient’s written translation obligations.

The table below sets forth safe harbors for written translations.

<table>
<thead>
<tr>
<th>Size of Language Group</th>
<th>Recommended Provision of Written Language Assistance</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,000 or more in the eligible population in the service area or among current Beneficiaries</td>
<td>Translated Vital Documents</td>
</tr>
<tr>
<td>More than 5% of the eligible population or Beneficiaries and more than 50 in number</td>
<td>Translated Vital Documents</td>
</tr>
<tr>
<td>More than 5% of the eligible population or Beneficiaries and 50 or less in number</td>
<td>Translated written notice of right to receive free oral interpretation of documents.</td>
</tr>
<tr>
<td>5% or less of the eligible population or Beneficiaries and less than 1,000 in number</td>
<td>No written translation is required.</td>
</tr>
</tbody>
</table>

There are no "safe harbors" for oral interpretation services. Recipients should use the four-factor analysis to determine whether they should provide reasonable, timely, oral language assistance free of charge to any beneficiary that is LEP (depending on the circumstances, reasonable oral language assistance might be an in-person interpreter or telephone interpreter line).

H. RECORD KEEPING REQUIREMENTS.

Sub-recipients must maintain records of their efforts to comply with LEP obligations. This includes documentation of preparation of a Four Factor Analysis and LAP, in addition to documentation of provision of translation or interpretation services. Such records must be kept in accordance with regular CDBG Program recordkeeping requirements, which are outlined in Chapter 2 – Administrative Overview of the CDBG Program Administration Manual: http://www.neded.org/files/crd/cdbg_admin_manual/CDBGAdminMan14_All.pdf.

I. SUB-RECIPIENT COMPLIANCE.

The requirement to provide meaningful access to LEP persons is enforced and implemented by HUD through the procedures identified in the Title VI regulations. These procedures include complaint investigations, compliance reviews, and technical assistance.
The Department intends to meet its responsibilities to ensure Sub-recipient compliance with Title VI and the Title VI regulations through the process of Sub-recipient monitoring, provision of technical assistance, and referral of complaints to HUD for further investigation.

The Department will include as part of a regular CDBG project monitoring, an evaluation of a Sub-recipient’s compliance with LEP requirements. This will include the following:
   1) Determining whether the Sub-recipient has identified a LEP contact person;
   2) Determining whether the Sub-recipient completed a Four Factor Analysis;
   3) Determining whether the Sub-recipient has a LAP;
   4) Determining whether and how LEP persons are being provided meaningful access to programs and activities; and
   5) Whether the Sub-recipient is maintaining records regarding their efforts to comply with Title VI LEP obligations.

The Department will inform Sub-recipients of any findings of compliance or noncompliance in writing. The Department will attempt to resolve the findings by informal means such as seeking corrective action. If the Department determines that compliance cannot be secured by voluntary means, the Department may require repayment of CDBG funding received, refer the matter to HUD, or use any other appropriate enforcement mechanism.

J. ADDITIONAL RESOURCES.

HUD Frequently Asked Questions on the Final LEP Guidance:

HUD’s LEP Website:
http://www.hud.gov/offices/fheo/lep.xml

Federal LEP Website:
http://www.lep.gov/

LEP and Title VI Videos:

“I Speak” Card:

Nebraska Department of Economic Development LAP
Housing & Community Development Division
PO Box 94666
Lincoln, NE 68509
K. COMPLAINTS.

Any person that feels that the Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000(d) and Executive Order 13166 regulations were not complied with may file a complaint directly to the Assistant Secretary for Fair Housing and Equal Opportunity at the following address (or as otherwise directed by HUD):

Betty J. Bottiger  
Director, Region VII Office of Fair Housing and Equal Opportunity  
U. S. Department of Housing and Urban Development  
400 State Avenue  
Kansas City, Kansas 66101-2406  
Betty.Bottiger@hud.gov
Memorandum

CDBG Policy Guidance

Nebraska Department of Economic Development, 301 Centennial Mall South, Lincoln NE 68509
http://www.neded.org

Date: April 20, 2015
Policy: 14-02

SUBJECT: System for Award Management (SAM) and Community Development Block Grant (CDBG) projects

This Notice provides guidance on the proper procedures for grantees and staff in utilizing the System for Award Management (SAM) as it relates to CDBG applications and projects that have been funded with CDBG resources. This Notice also replaces the guidance provided with the Memorandum 13-02 titled “System for Award Management (SAM)” from June 2013.

This policy memorandum updates the Community Development Block Grant Program and becomes effective immediately unless otherwise stated. The program documents located on the Nebraska Department of Economic Development website have the most up to date policies of the CDBG program.

As a response to guidance received from the State Auditor, and the requirements of the Federal Funding Accountability and Transparency Act (FFATA) of 2006, the Department will be implementing new policies and procedures for applicants and grantees. These requirements pertain to those units of general local government that will be applying for resources beginning in 2015. This includes all CDBG applicants including: Economic Development (ED); Tourism (TD); Comprehensive Revitalization (CR); Comprehensive Investment & Stabilization (CIS); Public Works (PW); Water/Waste Water (W/WW); Planning; Downtown Revitalization (DTR); and CDBG Housing (HO).

Each applicant applying for CDBG resources in 2015 (and any subsequent year after that) will be required to follow the detailed instructions defined in Exhibit N (titled “Instructions for Exhibit N: SAM database record and clearance”) that is currently located within the 2015 CDBG Application Guidelines. See also the attached excerpt from Exhibit N.

The Exhibit N Instructions require each applicant to complete the following:

1) Obtain a Duns and Bradstreet (DUNS) number;
2) Register in the System for Award Management (SAM);
3) Review registration status in SAM;
4) Print and send in the necessary documentation with each CDBG application as required by Exhibit N.

All CDBG applicants must comply with this guidance. A failure to complete and submit the required application information may result in an applicant not being eligible to receive CDBG resources. In addition to each applicant having to register and provide documentation in SAM, the Department will also review the status of any applicant that is recommended for a Notice of Approval (aka Award Letter). Prior to issuing a Notice of Approval Letter, the Department will ensure the applicant has obtained an “Active” status in SAM and that the applicant is eligible to receive CDBG resources. These tasks will be accomplished by the Department by having staff access SAM; printing out the necessary source documentation; and attaching that source documentation in each project file. Below is an example of what this source documentation would look like and be included in the project file.

Department staff will utilize the attached procedures in order to ensure that SAM documentation is properly obtained and included within project files. See below for more information.
CDBG Grantee Instructions from Exhibit N

Instructions for Exhibit N: SAM database record and clearance

Each applicant must obtain a Duns and Bradstreet (DUNS) number and also register within the SAM system.

The Federal Funding Accountability and Transparency Act (FFATA) of 2006 mandated specific reporting requirements for recipients of federal funds. In order to report in this system, each State award recipient must have a DUNS and a CAGE code, assigned as a result of registration in the federal SAM.

For more information on obtaining a DUNS number and registering in the System for Award Management (SAM), please review the following information at:
https://www.sam.gov/portal/SAM/

Once registered, each applicant must access SAM, determine that the applicant is eligible within SAM, and provide a print out of the information from SAM. Each applicant must also provide documentation that they are registered in the SAM using the DUNS number entry (refer to the check your registration status in SAM) the last illustration.

Applicant must run a query at the System for Award Management website (www.sam.gov) at the time of application and include a copy of the search record showing the DUNS Number and/or search terms and date. This information must be provided within the application and labeled as “Exhibit N”.

1. Using your internet browser, navigate to www.sam.gov
2. Select “Search Records”, enter the DUNS number, and click “Search”.

3. Review the search results and click “Print” to print the results. Your printed copy should include a date stamp at the bottom of the page.

4. If you need to register in the SAM, click Create User Account. The applicant must Check Status and submit a printout of Status, which must be an active status as the last screen indicates.
5. Check your registration status in the SAM by entering applicant nine digit DUNS number. If result is not active, create a user account. If result is inactive, reactive user account.

![SAM Status Tracker](image)

6. Submit a screen print out of the SAM status tracker that indicates active status for the applicant. The applicant must be in an active status as determined by DUNS number entry.

![SAM Status Tracker](image)

The final Exhibit N that the applicant must submit with their application must contain:

1) Proof of SAM Registration (See Item 6 above) and
2) Proof that the applicant is eligible in SAM (See Item 5 above)
Department Staff Instructions for reviewing applicants in the System for Award Management (SAM)

1) Access SAM at: [https://www.sam.gov/portal/SAM/](https://www.sam.gov/portal/SAM/)

2) Select “Search Records” from the menu list
3) Enter the Applicant’s DUNS number in the “QUICK SEARCH” section next to the “DUNS Number Search:” criteria

4) Once the applicant’s DUNS numbered is entered select the “Search” button
5) Once “Search” has been selected, if an applicant has registered in SAM then a screen should open noting “Your search returned the following results…”

Your search returned the following results...

**Entity** | GRAND ISLAND, CITY OF | Status: Active
--- | --- | ---
DUNS: 040919607 | CAGE Code: 42QF5 | View Details
Has Active Exclusion?: No | DoDAAC: | 
Expiration Date: 08/21/2015 | Delinquent Federal Debt? No | 
Purpose of Registration: Federal Assistance | 
Awards Only | 

6) From this screen select “View Details”

Your search returned the following results...

**Entity** | GRAND ISLAND, CITY OF | Status: Active
--- | --- | ---
DUNS: 040919607 | CAGE Code: 42QF5 | View Details
Has Active Exclusion?: No | DoDAAC: | 
Expiration Date: 08/21/2015 | Delinquent Federal Debt? No | 
Purpose of Registration: Federal Assistance | 
Awards Only | 

7) Once “View Details” has been selected a new “Entity Information” screen should open that includes information on the Registration Status of the applicant; the date the applicant’s registration expires; and whether or not there are any “Active Exclusion Records”
8) Print this page and include it in the project file. Ensure that there are no Active Exclusion Records. If there are any active exclusion records, then the applicant is not eligible for CDBG funding. Note that the Header of the printed page will note “System for Award Management” and the footer will note the website access and the date that SAM was accessed. All this information must be included in the print out for the file.

https://www.sam.gov/portal/SAM/?navigationalstate=JPBNS_r00ABXdcACjQYXZheC5m... 4/1/2015