

Appendix 4 - Record of Changes

Date		Description of Change	Section
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APPENDIX
SECTION
4

CDBG Certified Administrator Guidance

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CERTIFIED ADMINISTRATOR REQUIREMENTS

All subrecipients who receive a CDBG grant from DED, 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 subrecipient or a consultant that has been procured for and under contract with the subrecipient. The Certified Administrator works with the subrecipient to ensure the project and parties involved are in good standing. All certifications will expire on the last day of the specified calendar year.

In order to obtain a Notice of Release of Funds/Environmental Clearance, the subrecipient must identify the Certified Administrator for the project as part of the Special Conditions of the subrecipient agreement. Below is specific information for CDBG Certified Administrators.

In order to be a CDBG Certified Administrator, a candidate must:

- 1) Attend a designated Certification Workshops and/or comparable training event
- 2) Successfully complete the Certification written exam
- 3) Have no outstanding balances for training events, which includes registration fees

There are two classifications of certified administrators:

- **Provisional Certified Administrator** describes an individual newly certified for the first time, an individual that allowed their certification to lapse, or an individual that has obtained their certification following a period of “de-certification”. This classification may also include those certified administrators subject to a conditional term, or probationary term related to performance and/or compliance issues. Unless otherwise specified and informed by DED, provisional certification has a term of three years from date of certification, ending on December 31st of the third year. Re-certification must occur prior to expiration. On rare occasions, an administrative certification extension may be issued by DED.
- **Experienced Certified Administrator** describes an individual that has been in good-standing and maintained their certification. Unless otherwise specified and informed by DED, participants in the experienced certification are subject to a term of four years from date of certification, ending on December 31st of the fourth year. Re-certification must occur prior to expiration. On rare occasions, an administrative certification extension may be issued by DED.

Certified Administrator Required Knowledge, Duties, and Performance Overview

Certification by DED is based upon the premise that the person who will be assisting a subrecipient in meeting CDBG requirements must have a high level of proficiency in all areas of CDBG project management. Significant knowledge of the federal CDBG program, as implemented and administered by DED 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
- Organization and management skills

These skills will be utilized to perform several duties and responsibilities that include, but are not limited to, ensuring subrecipient meets and/or complies with:

1. All federal and state laws, regulations, and policies that are relevant to the project
2. All of the Special Conditions of the Subrecipient’s Agreement within the specified time frame stated in the grant agreement in order to obtain the Notice of Release of Funds/Environmental Clearance
3. All federal, state, and local requirements for procuring professional services and construction services
4. Financial management requirements associated with the CDBG grant, including having an appropriate financial management system in place

In addition, Certified Administrator must ensure:

1. Timely and accurate submission of at least one draw per activity during a six-month period
2. All environmental, labor, acquisition, and relocation requirements are followed over the course of the project
3. All reporting is submitted to DED by required deadlines
4. Proper closeout and compliance review of each CDBG project is completed that meets all federal, and state reporting requirements

CERTIFICATION PROCESS AND REQUIREMENTS

Participants seeking certification (provisional or experienced) must participate in a training and pass an exam which covers the content of the training and materials thereof. On an annual basis, DED offers formal training for Provisional Certification and Re-Certification Training.

Provisional Certification Process

Provisional Certification Training is intended for those persons who are seeking Certified Administrator designation, and either are receiving certification for this first time or following a conditional certification, or term of probation, lapse of certification, or de-certification. The training will provide comprehensive training on CDBG topics and provide individuals with the necessary information to effectively administer a project.

At the conclusion of the training, each person seeking the Certified Administrator designation must complete the certification exam consisting of questions that cover primary CDBG topic areas. The exam will be open book, but only the Nebraska CDBG Administration Manual, and other materials provided during the training may be used during the testing.

Each person taking the 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 Certification Exam will not be certified.

DED will notify individuals who have successfully completed the training and exam. The period of certification for Provisional Certified Administrators is three years as designated by DED. The actual period of designation is solely at DED's discretion and may be revised as necessary for proper administration of CDBG programs.

Persons who do not successfully complete the Certification exam given during the training will be notified by DED. Those individuals may request to retake the certification exam by making special arrangements with the CDBG Training Coordinator or CDBG Program Manager at a mutually agreed upon time/date. Following a failed certification exam, a reduced two-year certification period is allowed upon successful completion of the exam.

Re-Certification Process

Re-Certification Training is intended for those persons who are seeking to retain their Certified Administrator designation. The training will provide comprehensive review 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 must attend Certification Training and pass the 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.

At the conclusion of the Certification/Recertification Training, each person seeking to retain their Certified Administrator designation must complete the Certification Exam, covering the primary CDBG topic areas. The exam is open book, but

only the Nebraska CDBG Administration Manual, and any other materials provided during the training, may be used during the testing.

Each person taking the 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 exam will be placed on probation (effective the date the Certified Administrator failed the test).

DED will notify the individuals who successfully complete the exam and issue certification for an additional period of four years (from year of recertification) as designated by DED. This period of designation is solely up to DED's discretion and may be revised as necessary for proper administration of CDBG programs.

Persons who do not successfully pass the Certification exam will be notified by DED. Those individuals may request to retake the certification exam by making special arrangements with the CDBG Training Coordinator or Program Manager at a mutually agreed upon time/date. Following a failed certification exam, a reduced two-year certification period is allowed upon successful completion of the exam.

If on the second attempt the individual does not pass the exam, DED will issue notice of decertification. If wishing to certify again, decertified individuals will need to complete the next Certification training.

Persons who do not attend Certification Training will be de-certified and will not be allowed to attend DED training for the purposes of certification for one year.

Waiver Provisions: If an individual is unable to attend the scheduled certification training, they may request a waiver, in advance, requesting to attend the next available certification training in order to be in compliance. Requests will be reviewed by the CDBG Manager and CDBG Training Coordinator on a case-by-case basis. Individuals who receive approval, must attend the entire certification training and pass the written exam.

Administrative Extension: On rare occasions, an administrative certification extension may be issued by DED. This would extend certification expirations to a date designated by DED.

Conditional Certification

Persons who would like to become certified during a time when no Certification training is available can apply for a Conditional Certification, allowing an individual to become certified to administer CDBG-funded projects in Nebraska for a short period of time, not to exceed the time between passing the Certification Exam and the time of the next scheduled Certification Training.

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 an individual authorized by DED. 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 Certification training. Persons who successfully complete the exam will be notified by DED and receive a letter with additional information about their standing, including the requirement to attend the next available Certification Training.

NOTE: the cost of attending annual training is waived

If a Certified Administrator fails to attend the next Certification Training, the Conditional Certification will expire immediately after the training event. In this event, the individual will be "de-certified".

CERTIFIED ADMINISTRATOR IN GOOD STANDING AND TYPES OF VIOLATIONS

To avoid probation or decertification, a Certified Administrator should remain in good standing. In general, the subrecipient relies on the Certified Administrator to remain in good standing and vice versa. This requires a basic understanding of the basic tenants of timeliness and responsiveness and for the Certified Administrator to assist subrecipients in a basic understanding of the CDBG program. A Certified Administrator is considered to be in good standing by achieving the objectives enumerated early in the chapter, and by ensuring the same deficiencies do not occur in multiple monitoring letters, including over multiple grants regardless of the associated subrecipient.

NOTE: This list is not all-inclusive and is subject to change without notice. Of paramount consideration is timely and successful completion of CDBG-funded project.

Violations Affecting Good Standing

Failure to remain in good standing can result in probation or de-certification. Each documented failure of the Certified Administrator to meet any of the above objectives will result in a violation. Please note, untimely and/or inaccurate submission of documents (including drawdowns and reports), affects the good standing of a Certified Administrator. However, DED acknowledges that there may be factors outside of the control of the Certified Administrator; subsequently, the nature and the frequency of the incorrect or untimely document submittals will be taken into consideration when issuing violations related to such factor.

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: Subrecipient Findings, General Findings, and Deficiencies. Each violation has a different effect on a Certified Administrator's standing:

- **Subrecipient Finding¹:** These are the requirements that are the primary responsibility of the subrecipient receiving the CDBG award and involve programmatic errors that cannot be corrected. In most cases, a subrecipient finding will not be counted as a violation on the part of the Certified Administrator. However, if there are repeated Subrecipient Findings, these may result in a violation on the part of the Certified Administrator.

EXAMPLE: if the local government did not issue a check to a contractor within five business days of drawing down CDBG funds, this is a Subrecipient Finding. If the local governmental entity repeatedly fails to follow the five business 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 Subrecipient Finding because it is the Certified Administrator's job to ensure that, in practice, the financial management system at the local level meets the all federal and state rules and regulations.

- **General Finding:** These are any programmatic 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 three General Findings against a Certified Administrator. General Findings against a Certified Administrator are cumulative and can come from multiple projects.

EXAMPLE: 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.

¹ Finding: A deficiency in subrecipient performance based on a statutory, regulatory or program requirement for which sanctions or other corrective actions are authorized. Also see Chapter 14.

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

Clearing Violations from Certified Administrator's Record

A violation will remain on the Certified Administrator's record for a period of no more than one year. A violation may be removed from the Certified Administrator's record prior to the end of that term 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 six 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 DED's Certification or Recertification trainings or, if there are no Certification or Recertification trainings available within the six-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 DED.

Violation Notices

When violations occur, Certified Administrators will receive 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 subrecipient 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 and local contacts representing those communities where the Certified Administrator has current and open projects; this communication is also shared with all relevant employees within DED.

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 projects to which they are a party, but they may not enter into new agreements 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, DED 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 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 agreements until the end of the probationary period and the Certified Administrator is once again in good standing.

De-Certification

Generally, de-certification occurs where an individual fails to properly administer CDBG projects. At the discretion of DED's CDBG Program Manager, the actions enumerated below in no particular order may automatically result in the implementation of the de-certification process without an initial or additional probationary status. DED 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.

- Consistently bypassing federal or state statutes, regulations or policies of DED, actions that result in the de-obligation or repayment of grant awards
- Two or more substantiated written complaints filed by a subrecipient, DED, agent, elected official or other individual involved in the implementation of federal grants
- Poor performance by the subrecipient, 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 agreement
- 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
- Failure to attend the mandatory trainings and pass the exam administered at the required trainings

Decertification will not take place without the due process. Upon de-certification, the individual will not be recognized as a Certified Administrator by DED and will not be allowed to administer any CDBG grants for a minimum of one year and any subrecipients that have entered into administration agreements with the Certified Administrator will be notified that they must select another Certified Administrator.

A Certified Administrator, who is decertified for any reason, will need to wait one year before attending the Full Certification training. After the conclusion of the one-year de-certification period, the person may attend Full Certification training to pursue certification. Individuals who were de-certified may not attend a Recertification Training to become certified. Such individuals will be treated as first-time participants.

De-certification Process

The de-certification process shall begin with written notice from DED's CDBG Program Manager. Such notice will be mailed to the Certified Administrator via certified mail. The notice will advise the Certified Administrator that DED is seeking de-certification of such administrator. The notice will also include a statement summarizing the reasons for de-certification 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 de-certification as set forth in the de-certification notice.

DED's Deputy Director will make the final decision in regard to a de-certification 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 DED Deputy Director within 20 calendar days from the date of the letter, DED will proceed to de-certify the administrator.

Working with a De-certified Administrator

Given their familiarity with the subrecipient and/or project underway, DED recognizes that de-certified administrators could potentially continue to work on projects with the assistance of a Certified Administrator in good standing. DED 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 agreements. 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 DED DECISIONS

An appeal is a request directed to DED by an applicant, subrecipient, or Certified Administrator for reconsideration of a decision made by DED staff.

Procedures

- 1) An applicant, subrecipient, or a Certified Administrator appealing a decision of DED staff must submit a written appeal requesting a reversal of the decision based upon facts of the situation. This appeal must come to DED 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, subrecipient or Certified Administrator.
- 3) If dissatisfied with the CDBG Program Manager's decision, the applicant, subrecipient or Certified Administrator may appeal to DED Director. The DED 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 DED Director will make a decision within 30 days of the hearing. His/Her decision will be sent to all parties.
- 6) The DED Director's decision is the final administrative action taken by DED.

Certified Administrators – Appeal of Violations/Probationary Status

A Certified Administrator may appeal the issuance of a violation and/or probation in writing to the CDBG Program Manager 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 DED's 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 and may include any supporting documentation as deemed necessary by the Certified Administrator.

Decisions by the CDBG Manager regarding the issuance of a violation or to put a Certified Administrator on Administrative Probation will be final.

PROGRAM ADMINISTRATION COMPLAINT PROCESS

Federal law prohibits housing discrimination based on your race, color, national originⁱ, 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 (or the Fair Housing and Equal Opportunity Office (FHEO) of the Department of Housing and Urban Development (HUD) located in Kansas City.

Against Subrecipient Administration

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

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

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

DED 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 DED determines that a citizen is not reasonably able to submit a written complaint. In these instances, DED may convert these complaints into written form.

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

- 1) When a complaint is received by DED it will be forwarded to the CDBG Program Manager.ⁱⁱⁱ
- 2) Within 30 days of receiving the complaint the CDBG 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 DED 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

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 DED's standard, initial response request letter to a program subrecipient, 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, HTF, or NAHTF Programs.
