

CHAPTER 2 – ADMINISTRATIVE OVERVIEW

ADMINISTRATIVE REQUIREMENTS

Recipients of CDBG funds from the State of Nebraska must 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].

Department guidance is a supplement to federal and state requirements enumerated and discussed in brief within this manual. Grantees are responsible for understanding and complying with federal or state requirements located within the original source. In some instances, the Department may require a more stringent approach in which case those requirements are detailed.

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 on upcoming workshops at the Department’s website, opportunity.nebraska.gov/events.

The principal contact at the Department for information on a particular CDBG project 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

Funding within the CDBG Program is available to local governments on a competitive basis. The Department notifies the public 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, opportunity.nebraska.gov.

Notice of Approval or Non-Select

Following the Department's application review period, all applicants will receive notification regarding the status of their application. 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 informs 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 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, or with the, the Notice of Approval. Any items requiring revision within the application related to project activities, etc. should be received by the Department *prior* to a Contract being fully executed. The Department must have the necessary information in order to draft the Contract. Where the grantee identifies a need to request a change to the Sources and Uses prior to execution of the Contract by the Department, contact your Program Representative.

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 twenty-four months. (Refer to Chapter 5 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/Environmental Clearance

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 Notice of Release of Funds/Environmental Clearance 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 the specified time frame.

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

In general the Special Conditions found in each Contract 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
- Leverage activities, where applicable

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/Environmental Clearance will be issued for that project.

Additional guidance on fulfilling contract conditions is available in Chapter 5 of the manual. The Department's website, opportunity.nebraska.gov, also contains the forms and templates needed to complete Special Condition requirements.

Notice of Release of Funds/Environmental Clearance

Upon receiving a Notice of Release of Funds/Environmental Clearance, the grantee may obligate non-administrative costs and draw down funds for eligible costs incurred. A Notice of Release of Funds/Environmental Clearance 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 (including supporting project 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 or if there is any incorrect information. 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.

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.

NOTE: if an update occurs on this form, the grantee may need to update the "Grantee Information Sheet" form.

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 State Accounting System 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.

Refer to Chapter 12 for more information concerning the request, receipt and expenditure of CDBG funds.

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 are required before payment requests are processed.

Matching Requirements/Other Funds/Leverage

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 application 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 contract. 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.

Match is proportionally injected into the project as CDBG-funded activities are drawn down. If the Grantee is unable to provide local matching funds in the exact proportions stated in the contract 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.

For the purposes of the CDBG Program, Leverage is a defined term for funds that are committed to the project activities in addition to the required match. Leverage may include public and private funds, or in-kind services, such as materials, labor, or other items that are directly related to the project. Through negotiation with the Department, Leverage may be used for project activities that demonstrate benefit to the target area that may not be specific to those project activities proposed for CDBG funding. Leverage is not listed in the CDBG Contract Sources and Uses of Funds table. As such, where Leverage is required within the funding category, it is more flexible in comparison to required matching funds.

Leverage amounts are met at any time during the project duration (i.e. CDBG Contract Time of Performance) and should not be carried into the next local government fiscal year for a CDBG project to be completed. In other words, contract **extensions should not be necessary to meet local cost-share requirements.**

In addition to being expended during the contract effective dates, grantee must provide documentation of leverage funds to the Department following expenditure and prior to project closeout. In other words, where match must be accounted for and documented throughout the project as it is directly associated with the drawdown of CDBG funds, **Leverage is documented at any time prior to closeout.** When those leveraged activities/projects are not completed within that time, the result is a Concern regarding Performance/Capacity, a component of the Performance and Compliance Monitoring stage of the grant. This factors into risk analysis when reviewing applications for future funding.

Typically, the grantee identifies Leverage within the application, officially proposes the activities as a part of special conditions, and documents the completion of those activities as a part of final reporting. As a part of Special Conditions grantees submit a letter indicating the local leveraged funds, including a description of the activities to be carried out during the course of the grant to fulfill the leveraged funds requirements. Documentation of actual expenditure will be required prior to project closeout to

demonstrate that funds were expended as described and within the life of the project. This process is similar to how fair housing actions are demonstrated.

Leverage is required in certain funding categories, consult the Application Guidelines and your Program Representative for more information.

Contract Amendments

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 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 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, for more information.

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 throughout the life of the project. These reports include, but not limited to:

- **Semi-Annual Project Status and Compliance Reports:** All grantees must submit this report every six months by January 30 and July 30.
- **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 30 and July 30.
- **Program Income Reports:** Grantees must report on program income earned from CDBG projects every six months by January 30 and July 30.
- **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 the report they are submitting. Current forms are available at the Department's website. The grant's program representative will provide assistance, if needed, with locating the current on-line form. Refer to Chapter 13 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 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.

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 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 a Notice of Release of Funds/Environmental Clearance, 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 the Notice of Release of Funds/Environmental Clearance.
- 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 CDBG Full Certification Training. This training 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 training, each person seeking the Certified Administrator designation must complete the written 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 Full 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.

The Department will notify individuals who have successfully completed the training and exam. The period of certification is 3 years 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 complete the Full Certification exam given during the CDBG Workshop 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 exam and will receive a letter which will identify that they are now a Conditional Certified Administrator for a period between passing the Full Certification Exam and the time of the next scheduled Full Certification Training. Certified Administrators who receive Conditional Certification will be required to attend the next available Full Certification Training 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 Training, 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.

Re-Certification Process

During each calendar year, the Department will also host a CDBG Re-Certification Training. This 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 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.

Waiver Provisions: *If an individual is unable to attend the scheduled re-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.*

At the conclusion of the Re-Certification Training, 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 training, 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.

The Department will notify the individual's who have successfully complete the Re-Certification exam and they will certified 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 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 3 years after attending the Certification Workshop and successfully passing the Certification Exam.

CERTIFIED ADMINISTRATOR IN GOOD STANDING AND TYPES OF VIOLATIONS

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 Approval.
- 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 the timeframe stated in 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 five business days of drawing down CDBG funds, this is a Grantee 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 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 a designated timeframe 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's certification.

Clearing Violations from Certified Administrator's Record

A violation will remain on the Certified Administrator's record for a period of one year. 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 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 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 CDBG Manager 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 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 (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.ⁱⁱ

- 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 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 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

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^{iv}, 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.^v
- 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.^{vi}
- 2) Dentro de 30 días de haber recibido el reclamo, el Administrado 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

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

^v 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.

^{vi} 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.

