Community Development Block Grant

State of Indiana Grantee Implementation Manual

Indiana

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Chapter Listing

Table of Contents

Chapter 1: Introduction

Chapter 2: Project Overview

Chapter 3: Procurement

Chapter 4: Contract Development

Chapter 5: Financial Management

Chapter 6: Environmental Review

Chapter 7: Land Acquisition and Relocation

Chapter 8: Civil Rights

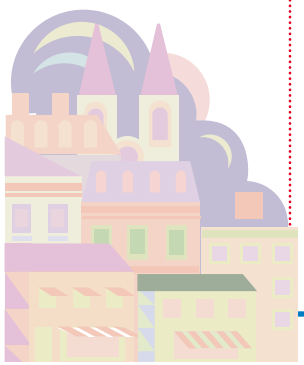
Chapter 9: Labor Standards

Chapter 10: Modifications

Chapter 11: Grant Closeout

Chapter 12: Program Income

Chapter 13: Miscellaneous Reporting



Form Listing

Procurement Section

Form 1 ..... County Bidding Thresholds
Form 2 ..... Request for Quotation
Form 3 ..... Cost Analysis
Form 4 ..... Request for Proposal/Qualifications
Form 5 ..... Request for Proposal/Qualifications Legal Advertisement
Form 6 ..... Scoring Evaluation Documentation
Form 7 ..... Interview Invitation
Form 8 ..... Vendor Decline Notification
Form 9 ..... Interview Evaluation Documentation
Form 10 ..... Invitation for Bid Legal Advertisement
Form 11 ..... Bid Tabulation Sheet

Project Overview

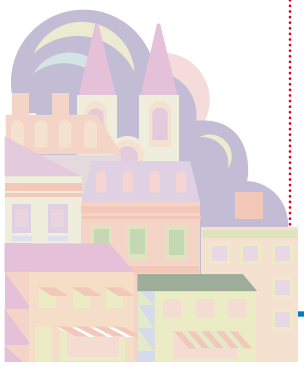
Other Chapters

Contract Development Section

Form 1 ..... Firm, Fixed-Price Contract
Form 2 ..... Cost Reimbursement Contract
Form 3 ..... Contingent Contract Clause
Form 4 ..... Professional Third-Party Provisions
Form 5 ..... Disclosure Report
Form 6 ..... Escrow Agreement

Financial Management Section

Form 1 ..... Authorized Signature Card
Form 2 ..... W-9 Form
Form 3 ..... Federal Cash Control Register
Form 4 ..... Contract Obligation Control Ledger
Form 5 ..... Contractor Expenditure Ledger
Form 6 ..... Property Inventory Form
Form 7 ..... Release of Funds Checklist
Form 8 ..... Drawdown
Form 9 ..... Semi-Annual Grantee Performance Report



Form Listing

Environmental Review Section

Form 1 ..... Exempt Activity Notification
Form 2 ..... Categorically Excluded Activity Notification
Form 3 ..... Notice of Intent to Request Release of Funds Advertisement
Form 4 ..... Request for Release of Funds Certification
Form 5 ..... Environmental Agencies Listing
Form 6 ..... Format II Environmental Equivalency Review
Form 7 ..... Combined Notice of FONSI/Request for Release of Funds

Land Acquisition and Relocation Section

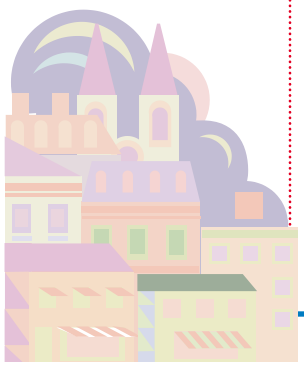
Form 1 ..... When A Public Agency Acquires Your Property
Form 2 ..... Appraisal Invitation
Form 3 ..... Purchase Offer
Form 4 ..... Full Donation Waiver
Form 5 ..... Partial Donation Waiver
Form 6 ..... Property Questionnaire
Form 7 ..... Willing Buyer/Seller Offer
Form 8 ..... Waiver of Acquisition Rights

Civil Rights Section

Form 1 ..... Civil Rights Officer Notification
Form 2 ..... Fair Housing Ordinance
Form 3 ..... Pre-Bid Meeting Notification
Form 4 ..... Section 3 Compliance Form
Form 5 ..... Certification of Accessibility

Project Overview

Other Chapters



Labor Standards Section

Form 1 ..... Labor Standards Officer Notification
Form 2 ..... Request for Wage Determination
Form 3 ..... 10 Day Wage Determination Verification
Form 4 ..... Final Wage Compliance Report
Form 5 ..... Monthly Payroll Report Summary
Form 6 ..... Fringe Benefit Certification
Form 7 ..... Contractor/Subcontractor Verification
Form 8 ..... Contract Award
Form 9 ..... Pre-Construction Conference Notification
Form 10 ..... Employee Interview
Form 11 ..... Final Inspection/Project Completion

Project Overview

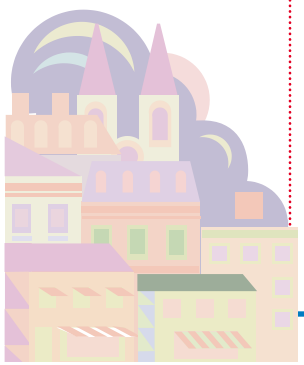
Modifications Section

Form 1 ..... Category 1 Modification Request Letter
Form 2 ..... Category 2/3 - Notice of Grant Modification
Form 3 ..... Category 2/3 - Grant Modification Request
Form 4 ..... Category 3 Grant Modification Resolution

Other Chapters

Grant Closeout Section

Form 1 ..... Status of Federal Cash and Leveraging Statement
Form 2 ..... Grantee Performance Report
Form 3 ..... Financial Settlement/Expenditure Report
Form 4 ..... Administrative Closeout Form



Program Income Section

Form 1 ..... Expenditure Notice
Form 2 ..... PI Quarterly Report
Form 3 ..... RLF Quarterly Report

Miscellaneous Reporting Section

Form 1 ..... Subrecipient Agreement
Form 2 ..... Subrecipient Semi-Annual Report
Form 3 ..... Drug Free Workplace Ordinance
Form 4 ..... Income Intake Documentation

Project Overview

Other Chapters

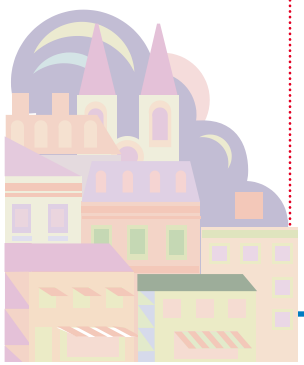


Table of Contents

Chapter 1: Introduction

Manual Purpose 1
Manual Design and Usage 2
Acronyms Defined 3

Chapter 2: Project Overview

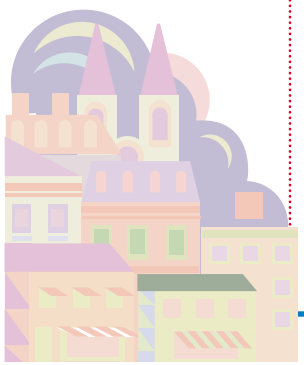
Chapter Overview 5
Applicable Regulation Summary 5
Project Development 6
Project Award 7
Project Implementation 8
Project Completion 10

Chapter 3: Procurement

Chapter Overview 17
Applicable Regulation Summary 18
Responsible Party 20
- Conflict-of-Interest Clause 20

Procurement Methods 21
- Small Purchase Method 21
- Competitive Negotiation Method 22
- Competitive Sealed Bid Method 23
- Noncompetitive and Sole Source Purchasing Method 25

Project Overview
Other Chapters
Forms



Chapter 4: Contract Development

Chapter Overview 26

Applicable Regulation Summary 27

Responsible Party 28

- Professional Service Contracts 28
- Construction Related Contracts 28

Contract Types 29

- Firm, Fixed – Price Contract 29
- Cost Reimbursement Contract 29
- Cost Plus Percentage of Cost Contract 29

Bonding and Insurance Requirements 30

- Bid Guarantee 30
- Performance Bond 30
- Payment Bond 30
- Insurance Coverage 31

Contract Contents and Provisions 32

- Third-Party Provisions 32
- Federal Construction Contract Provisions 32

Disclosure Reports 32

Retainage Accounts 33

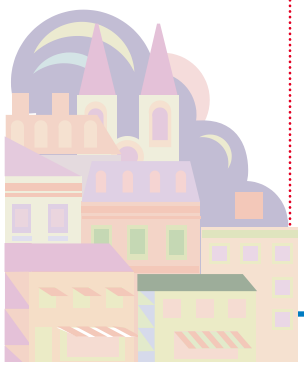
Change Order Procedures 34

Contractor Debarment 34

Project Overview

Other Chapters

Forms



Chapter 5: Financial Management

Chapter Overview 35
Applicable Regulation Summary 35
Responsible Party 35
Line of Credit Establishment 36
- Execution of Grant Agreement 36
- Authorized Signature Card 36
- W-9 Form 36

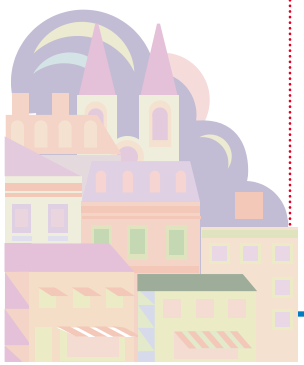
Required Financial Records 37
- Federal Cash Control Register 37
- Contract Obligation Control Ledger 37
- Contractor Expenditure Ledger 38
- Property Inventory Form 38

Listing of Activity Codes 39
Required City, Town, and County Financial Records 40
- State Board of Accounts 40

Release of Funds 41
- Phase One 41
- Phase Two 41
- Phase Three 42
- Notification of Release of Funds Letter 43

Drawdowns 43
Semi-Annual Reporting 44

Project Overview
Other Chapters
Forms



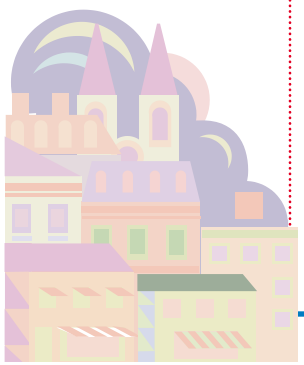
Chapter 6: Environmental Review

Chapter Overview 45
Applicable Regulation Summary 45
Responsible Party 46
Classifying the Activity 46
Project Tiering 46
Listing of Activity Codes 47
Exempt Activities 48
Categorically Excluded Activities 49
Notice of Intent 51
Assessed Activities 51
Format II Equavilancy Environmetal Review 52
Combined Notice 53
Environmental Impact Statement 53

Chapter 7: Land Acquisition and Relocation

Chapter Overview 54
Applicable Regulation Summary 54
Uniform Relocation Act 54
Responsible Party 55
Real Property Appraisal/Compensation 55
Willing Buyer/Seller Transaction 58
Property Donation 59
Relocation 59

Project Overview
Other Chapters
Forms



Chapter 8: Civil Rights

Chapter Overview 60
Applicable Regulation Summary 60
Responsible Party 62
Fair Housing 63
Minority and Women Business Enterprises 64
Construction Bidding Requirements 65
- Pre-Bid Meeting 65

Construction Contract Award 66
- Equal Employment Opportunities 66
- Affirmative Action Plan 66

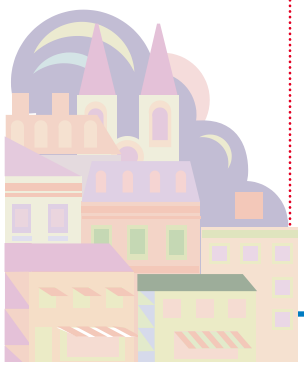
Section 3 Requirements 67
Accessibility Certification 68

Chapter 9: Labor Standards

Chapter Overview 69
Applicable Regulation Summary 70
Responsible Party 71
Davis Bacon Wage Rates 72
- Apprentices 72
- Force Account Work 72
- Unlisted Wage Classifications 74

Payroll Reports 75
Fringe Benefits 76
Overtime 77
Copeland Anti-Kickback Act 77
Miscellaneous Labor Standard Requirements 78
- Pre-Construction Meeting 78
- Employee Interviews 79

Project Overview
Other Chapters
Forms



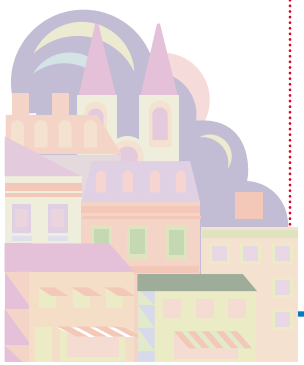
Chapter 10: Modifications

Chapter Overview 80
Applicable Regulation Summary 80
Responsible Party 81
Areas of Modification Evaluation 81
Types of Modifications 82
Category 1 Modification 82
Category 2 Modification 84
Category 3 Modification 85
Approval Procedures 86
Notes of Caution 86

Chapter 11: Grant Closeout

Chapter Overview 87
Applicable Regulation Summary 87
Responsible Party 88
Initiation of Closeout Process 88
Closeout Process 88
Stage 1/Financial Settlement 89
Grant Monitoring 89
Stage 2/Administrative Closeout 90
Stage 3/Final Closeout 91
Certificate of Project Completion 91

Project Overview
Other Chapters
Forms



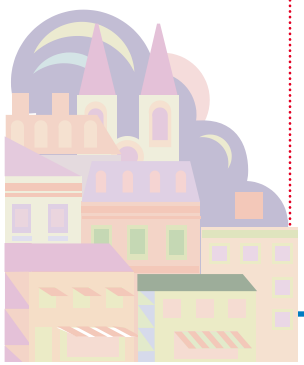
Chapter 12: Program Income

Chapter Overview 92
Applicable Regulation Summary 92
Responsible Party 93
Program Income Defined 93
Sources of Program Income 94
Special Assessments 94
Program Income Exclusions and Exemptions 95
Program Income Usage 96
Revolving Loan Funds 96

Chapter 13: Miscellaneous Reporting

Chapter Overview 97
Applicable Regulation Summary 97
Responsible Party 97
Subrecipient Information 98
Subrecipient Agreement 98
Subrecipient Semi-Annual Reporting 99
Drug Free Workplace Ordinance 99
Income Intake Verification 100

Project Overview
Other Chapters
Forms



This Manual was produced by **Priority Project Resources**, Indianapolis, Indiana in association with **Spectrum Graphics, Inc.**, Columbus, Indiana, and **Systems Management & Technologies, Inc.**, Indianapolis, Indiana.

Manual Purpose

This Community Development Block Grant (CDBG) Grantee Implementation Manual has been created to assist local officials and administrators in implementing CDBG Grants awarded by the Indiana Department of Commerce (DOC).

The procedures documented in this manual address the required record keeping systems, reporting requirements, monitoring and modification procedures in addition to specific program requirements, regulations and definitions.

The procedures are required by CDBG regulations (24 Code of the Federal Register, Subpart I), related federal regulations, Titles 5 and 36 of Indiana Code, State Board of Accounts administrative procedures, and the policy requirements of (DOC).

In addition, the DOC requires the adherence of the Office of Management and Budget (OMB) Circular No. A-87, Cost Principles for State and Local Governments and OMB Circular No. A-102, and the Uniform Administrative Requirements for grants-in-aid to State and Local Governments.

Project Overview

Other Chapters

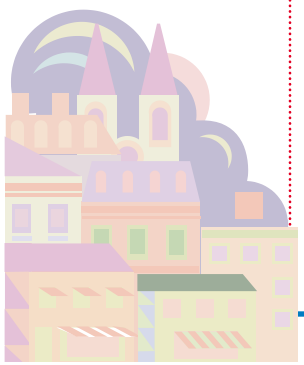
Forms

The fiscal procedures documented in this manual are designed to be incorporated into the existing systems required by the Indiana State Board of Accounts which are described either in the "Manual of Instructions for County Auditors of Indiana" or the "Accounting Manual for Cities and Towns."

Various regulations have been summarized throughout the manual to assist the Grantee in understanding the regulatory requirements; however, the summaries should not be considered a substitute for reading and referring to the regulations for the actual technical requirements for the CDBG program. The summaries are not all inclusive and some technical exceptions may have been inadvertently omitted.

This manual sets forth the minimum requirements to be followed. Whenever procedures are different between state and federal requirements, the stricter of the two regulations must always take precedence. If the Grantee's current procedures are stricter or more sophisticated, then the current procedures should continue to be used. Every effort is made to update the manual regularly to reflect changes in state and federal law. **However, Grantees are responsible for implementing statutory changes immediately upon their effective date, regardless of whether the Grantee Implementation Manual reflects such changes**.

If there are questions about which requirements should be followed, please contact the Indiana DOC, Grants Management Office.



Manual Design and Usage

This manual has been designed to be as "user friendly" as possible. Each chapter begins with an overview section that informs the user of the chapter contents. This section is followed by an applicable regulation section that highlights the federal/state regulations that are pertinent to the administration of the specific chapter topic. The next section of the chapter entails the responsibilities of the Grantee and associated parties regarding the implimentation of the chapter administrative functions. The remaining sections of each chapter focus upon the actual administrative tasks.

Several icons have been created to enhance user awareness of important issues and concerns. These icons and their meanings are listed below:

Reg Indicates an applicable federal/state regulation.

Indicates an important issue or concern.

Def Indicates a term definition.

Indicates a violation or undesirable situation.

Indicates a timing concern.

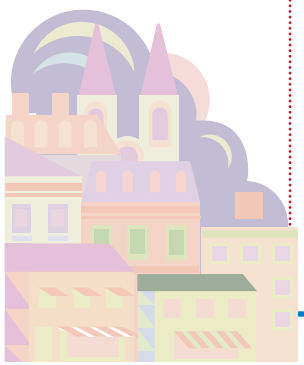
Indicates a need for DOC clarification.

Indicates additional information to be noted.

Project Overview

Other Chapters

Forms



Design and Usage ..... ***Continued***

The manual sidebar includes several links that make accessibility of other chapters and forms automatic when used electronically. The user may click upon the chosen sidebar button to access that particular section. For instance, clicking the "**Project Overview**" button will take the user to the flow chart which has been created to demonstrate the ideal project administration and timeframe. Clicking upon the "**Other Chapters**" button will allow a user to access the other chapters included in the manual. Last, clicking upon the "**Forms**" button will take the user to the beginning of the pertinent form section.

Links have also been created within the body of each chapter. For instance, the user will note several highlighted (**Magenta**) words which link to specific sections and forms.

To further enhance the "user friendliness" of the manual a glossary of definitions has been created.

Project Overview

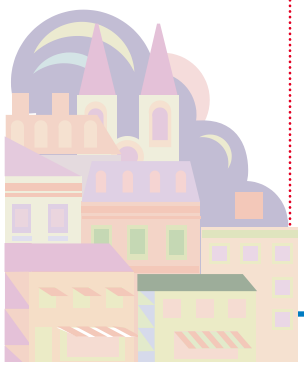
Other Chapters

Forms

Acronyms used in CDBG Program

Throughout the manual the follwing acronyms are used. Below is a listing of these acronyms and their meanings.

- **CDBG:** Community Development Block Grant
- **HUD:** US Department of Housing and Urban Development
- **RD:** Rural Development Administration, US Department of Agriculture (a/k/a Farmers Home Administration)
- **DOC:** Indiana Department of Commerce
- **FONSI:** Finding of No Significant Impact
- **EA:** Environmental Assessment
- **NAV:** Net Assessed Valuation
- **URA:** Uniform Relocation and Acquisitions Policies Act



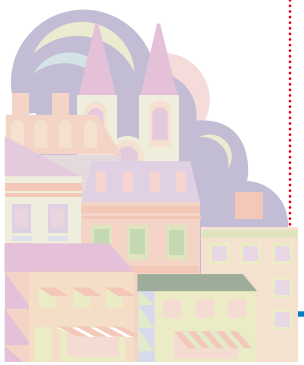
Acronyms ..... ***Continued***

- **LMI:** Low-and-Moderate Income (50% and 80% respectively of median county family income by family size - determined by HUD)
- **S/B:** Slum and Blight
- **CFF:** Community Focus Fund
- **SHPO:** State Historic Preservation Office (Department of Natural Resources)
- **DNR:** Department of Natural Resources
- **EPA:** US Environmental Protection Agency
- **IDEM:** Indiana Department of Environmental Management
- **A/E:** Architectural/Engineering
- **GRANTEE:** Unit of Local Government (county, city, incorporated town)
- **CEO:** Chief Elected Official
- **FEEPS:** Financial-Engineering-Environmental-Permits-Site Control

Project Overview

Other Chapters

Forms



Chapter Overview

There are many steps involved with the implementation of a Community Development Block Grant (CDBG) grant. The required paperwork may seem overwhelming and can quickly frustrate new Grantees. However, this manual was developed to minimize the confusion and easily guide new Grantees through the process of acquiring and administrating a CDBG grant.

This chapter was designed to be a road map through the State of Indiana's CDBG program administration. For clarity purposes, the CDBG program has been divided into four (4) main phases:

- Project Development
- Project Award
- Project Implementation
- Project Completion

Project Overview

Other Chapters

Forms

Please Note: The information listed within this chapter is a project overview as to "**when**" certain administrative tasks are to ideally be performed. The remaining manual chapters explain "**why**" and "**how**" these administrative tasks are to be performed.

Applicable Regulation Summary

Most of the federal regulations governing the State of Indiana's CDBG program can be found within **Title 24 of the Code of Federal Register** (CFR). However, there are other federal and state regulations that also apply. The pertinent regulations, including Title 24 CFR, are described under each chapter's *Applicable Regulation Summary* section.

Project Development

Project Development is the phase in which an eligible project, that meets a national objective, has been defined. (To determine project eligibility and national objectives, please see the guideline section within the Grant Application.) This is the phase in which the grant application should be completed. In addition to the application, the Grantee must complete the following "readiness to proceed" tasks:

Steps to Follow

1. **Financial**: Once the project has been well defined, the project costs need to be determined. Under the State of Indiana's CDBG program, a maximum of $500,000 can be obtained through the Community Focus Fund (CFF) grant. The Grantee must match the grant request with a minimum of 10% of the total project costs. This match may come from local funds on hand, or from another lending source. Whatever the circumstances, the Grantee must verify, at the time of application, that the local match has been obtained. Please see the Grant Application for more detail.
2. **Engineering**: Prior to the submission of the grant application, the preliminary engineering/architectural plans must be completed. These plans detail the project's scope and costs.
3. **Environmental Review**: Once the preliminary engineering/architectural plans are completed, the Grantee will need to complete an environmental review on the proposed project. Please see the **Environmental Review Chapter** for more detail.
4. **Permits**: Based upon the completion of the preliminary engineering/architectural plans, the Grantee will need to identify a listing of applicable project permits. This list will need to be attached to the grant application.
5. **Site Control**: The preliminary engineering/architectural plans should depict any property that will be needed to complete the project. At a minimum, the Grantee should have a signed option on all required property prior to the submission of the grant application. Please see the **Land Acquisition and Relocation Chapter** for more detail.

The completion of the "FEEPS" tasks listed under the project development phase normally take at least six (6) months to complete. In some instances, project development can take more than a year.

Project Overview
Other Chapters
Forms

Project Award

Typically the Department of Commerce (DOC) takes up to sixty (60) days to review and score all project applications. Once the review process is completed, project awards are made. The successful Grantee must then complete the following tasks within the next four (4) months.

Steps to Follow

1. **Grant Agreement**: The DOC's standard practice is to mail out the grant agreement (contract) to the Grantee within a month after the grant award. Once the agreement has been received by the Grantee it must be immediately signed and returned to the DOC. Please see the **Financial Management Chapter** for more detail. Once the DOC receives the signed agreement, it will forward it to all appropriate state offices for approval and signatures. The signatory process may take another two (2) months due to the need to be approved by four (4) state agencies. As soon as the applicable state offices have signed and approved the agreement, a copy will be returned to the Grantee.

2. **Professional Services**: While the grant agreement is undergoing the signatory and approval process by the state, the Grantee may procure and enter into professional service agreements. (This step may also be completed under the Project Development phase.) In the event local funds are paying for the professional services, federal procurement procedures may not be required. Please see the **Procurement Chapter** for more detail. Nonetheless, all necessary professional services will require the development of an approved contract. Please see the **Contract Development Chapter** for more detail.

3. **Financial Management**: Prior to the expenditure of any "local" funds, a financial recordkeeping system must be established. **(No construction or acquisition grant costs may be incurred prior to the Grantee's official Release of Funds Notification.)** Please see the **Financial Management Chapter** for more detail.

4. **Civil Rights**: No later than thirty (30) days after the Grantee has received the state approved grant agreement, it will need to forward the Notice of Civil Rights Officer, Fair Housing Ordinance and the Drug Free Workplace Ordinance to the DOC's Civil Rights Specialist. Please see the **Civil Rights Chapter** and **Miscellaneous Reporting Chapter** for more detail.

5. **Labor Standards**: No later than thirty (30) days after the Grantee has received the state approved grant agreement, it will need to forward the Notice of Labor Standards Officer to the DOC's Labor Standards Specialist. Please see the **Labor Standards Chapter** for more detail.

Project Overview
Other Chapters
Forms

Steps to Follow ..... ***Continued***

6. **Environmental Review**: No later than thirty (30) days after the Grantee has received the state approved grant agreement, it will need to publish all required environmental legal notices (i.e. "FONSI"). Please see the **Environmental Review Chapter** for more detail.

7. **Land Acquisition and Relocation**: No later than thirty (30) days after the Grantee has received the state approved grant agreement, it will need to submit all applicable land acquisition/relocation documentation to the DOC's Acquisition Specialist. Please see the **Land Acquistion & Relocation Chapter** for more detail.

Project Implementation

Project Overview

Other Chapters

Forms

Once the tasks identified under the Project Award phase have been completed, the Grantee enters into the Project Implementation phase. This phase involves all of the steps that lead to and include the actual project's construction.

The Project Implementation phase has two (2) primary milestones; the Release of Funds and the Substantial Project Completion. The **Release of Funds** milestone must be met within eight (8) months after the notice of grant award. The Grantee must reach the **Substantial Project Completion** milestone and draw all CDBG funds by the ending date prescribed in the CBDG grant agreement.

The Project Implementation phase will entail the following tasks:

Steps to Follow

1. **Procurement**: Once the final design engineering/architectural plans have been completed, the Grantee will need to solicit bids from contractors. In order to do this, the Grantee needs to forward a copy of the **Federal Construction Contract Provisions,** including **HUD Form 4010**, to the design engineer/architect to include within the bid packet. The Grantee also needs to forward the applicable Davis Bacon Wage Determination to the design engineer/architect to include within the bid packet. Please see the **Labor Standards Chapter** for more detail. Once the bid packets are completed, the Grantee, with the assistance of the design engineer/architect, is ready to prepare and publish the Invitation for Bid. The bids are then accepted, evaluated and ultimately a successful bidder is selected. Please see the **Procurement Chapter** for more detail.

Steps to Follow ..... ***Continued***

2. **Civil Rights**: At the same time the Invitation for Bid is published, the Grantee needs to solicit at least two (2) state certified MBE's and invite them to submit a bid on the project. The Grantee should also conduct a Pre-Bid Meeting sometime between the date the Invitation for Bid is published and the time the actual bids are received. Please see the **Civil Rights Chapter** for more detail.

3. **Release of Funds**: After the Grantee has received the bids and tabulated the amounts, it will need to obtain its official **Release of Funds Notification** prior to entering into any construction-related agreements. This is the most significant step of the entire grant process. It requires the review of all grant documentation to date. Please see the **Financial Management Chapter** for more detail.

4. **Contract Development**: After the Grantee has received its official **Release of Funds Notification**, it may enter into an agreement with the successful contractor(s). Please see the **Contract Development Chapter** for more detail.

5. **Labor Standards**: Prior to the start of construction, the Grantee's Labor Standards Officer must conduct a **Pre-Construction Meeting**. At this meeting all applicable federal regulations are discussed and various labor standards documents should be collected from the contractor(s). During construction, employee interviews must be conducted to ensure that the required prevailing federal wages are being paid to all persons working on the federally funded project. Please see the **Labor Standards Chapter** for more detail.

6. **Financial Management**: Throughout the project's construction, an accounting of all financial activities must be maintained. Records pertaining to the encumbrances and disbursements under each contract for the project must be accurately calculated. All federal funds must be accounted for and clearly documented that **no more than $5,000 was held in the local account for a period longer than three (3) business days**. In addition to all the required financial documentation, Semi-Annual Grantee Performance Reports must be submitted to the DOC on a timely basis. Please see the **Financial Management Chapter** for more detail.

7. **Miscellaneous Items**: There are other issues that may arise during the project's implementation that may require documentation from the Grantee. **For example**: If there is a change to the construction contract due to unforeseen circumstances, this will constitute a change order. Please see the **Contract Development Chapter** for more detail. **For example**: If there is a change in the project's scope or a need for a time extension, this will constitute a project modification. Please see the **Modification Chapter** for more detail.

Project Overview
Other Chapters
Forms

Steps to Follow ..... ***Continued***

8. **Substantial Project Completion**: By the ending date specified in the approved grant agreement, all construction activities must be completed and all federal grant funds must be expended. The Grantee should now be ready to financially close the project. Please see the **Grant Closeout Chapter** for more detail.

Project Completion

The final phase of the project is the Project Completion. This is the phase in which the DOC monitors the Grantee's administration of the project. Assuming all required documentation was appropriately executed and filed throughout the project, this phase is relatively simple. To complete this phase and the project, the Grantee must have completed the following steps:

Project Overview

Other Chapters

Forms

Steps to Follow

1. **Procurement**: Properly procured any federally funded supplies/property, professional services and construction – related services according to state and federal regulations. Please see the **Procurement Chapter** for more detail. The required documentation should include the following:

   a. **Supplies/Property**
   - Copy of Request for Quotation (RFQ).
   - Certified mail receipts from MBE vendors.
   - Documentation on all quotes received.
   - Justification of selection.
   - A Cost Analysis must have been performed when only one (1) quote is received.

   b. **Professional Services**
   - Copy of the Request for Proposal (RFP) or Request for Qualifications (RFQ).
   - Copy of the RFP/RFQ newspaper advertisement.
   - Certified mail receipts from MBE firms.
   - Minutes from public meeting where RFP/RFQ were opened.
   - RFP/RFQ evaluation and scoring documents.
   - List of short-listed firms and documentation of interview process.
   - Short-listed firms evaluation and scoring documents.
   - Justification for selection of contractor.

Steps to Follow ..... ***Continued***

c. **Construction – Related Services**

- Copy of Invitation for Bid (IFB).
- Copy of IFB newspaper advertisement.
- Certified mail receipts from MBE firms.
- Minutes from public meeting where IFB's were opened.
- Copy of the bid tabulation sheet, certified by the project architect/engineer.
- Justification of selection.

2. **Contract Development**: The development of contracts for all project related activities is mandatory, regardless of the source of funds paying for the activity. Please see the **Contract Development Chapter** for more detail. The required documentation should include the following:

a. **Professional Services**

- Copy of a Firm, Fixed – Price or Cost Reimbursement Contract with the required Third Party Provisions attached.
- Disclosure Report for each contract.

b. **Construction – Related Services**

- Copy of a Firm, Fixed – Price Contract with the required Federal Construction Contract Provisions attached.
- Copy of the Bid Guarantee.
- Copy of the Performance Bond.
- Copy of the Payment Bond.
- Copy of contractor(s) insurance policy.
- Disclosure Report for each contract.
- Proof of the established Retainage Account.
- Documentation on all Change Orders.

Project Overview

Other Chapters

Forms

Steps to Follow ..... ***Continued***

3. **Financial Management**: There are various financial tasks that must be executed and maintained throughout the entire project's life span. Please see the **Financial Management Chapter** for more detail. The required documentation should include the following:

   - Copy of the state approved grant agreement.
   - Copy of the appropriate signature card.
   - Copy of the Grantee's W-9 form.
   - Copy of the completed Federal Cash Control Register.
   - Copy of the completed Contract Obligation Control Ledger.
   - Copy of the completed Contractor Expenditure Ledger(s).
   - Copy of the completed Property Inventory Form (rarely used).
   - Access to all of the Grantee's standard financial records in respect to the project, e.g. Claims; Ledger of Receipts, Disbursements, and Balances; Ledger of Appropriations, Encumbrances, Disbursements and Balances.
   - Copy of the official Notification of Release of Funds letter issued by the DOC.
   - Copy of all drawdowns (claim vouchers).
   - Copies of all Semi-Annual Grantee Performance Reports.

4. **Environmental Review**: Regardless of the nature of the project, an environmental review must have been completed. Please see the **Environmental Review Chapter** for more detail. The required documentation should include the following:

   a. **Exempt Activity Project Classification**

   - Copy of the Exempt Activity Notification letter.
   - Copy of the DOC Environmental Approval letter

   b. **Categorically Excluded Activity Project Classification**

   - Copy of the Categorically Excluded Activity Notification letter.
   - Copy of the "Notice of Intent to Request Release of Funds" advertisement.
   - Copy of the Request for Release of Funds Certification.
   - Copy of the DOC Environmental Approval letter

Project Overview
Other Chapters
Forms

Steps to Follow ..... ***Continued***

c. **Assessed Activity Project Classification**

- Copy of environmental request packet.
- Copy of all environmental response letters.
- Copy of any environmental studies e.g. archaeological surveys, etc.
- Copy of completed Format II document.
- Copy of the "Combined Notice of No Significant Environmental Impact and a Request for Release of Funds" advertisement.
- Copy of the Request for Release of Funds Certification
- Copy of the DOC Environmental Approval letter

5. **Land Acquisition and Relocation**: Any time acquisition of property or relocation of individuals is a necessary requirement for the completion of the project, the federal rules associated with the **Uniform Relocation and Real Property Acquisition Act (URA)** come into play. Please see the **Land Acquisition and Relocation Chapter** for more detail. The required documentation should include the following:

a. **Property Acquisition**

- Copy of letter to owner(s) informing them of the Grantee's interest in the property and of the owner(s) rights outlined in the URA brochure, "When a Public Agency Acquires Your Property".
- Certified mail receipts and/or signed waivers regarding above referenced letter.
- Copy of market estimates on property valued under $2,500.
- Copies of appraisers' pocket identification cards.
- Copy of property owner(s) certified mailed notification of appraisal.
- Copy of appraisal and review appraisal on property valued over $2,500.
- Copy of compensation/offer to owner(s).
- Copy of purchase option or donation waiver.
- Copy of actual signed purchase agreement/signed easement.
- Copy of completed property questionnaire.

Project Overview
Other Chapters
Forms

Steps to Follow ..... ***Continued***

b. **Relocation** (Please contact the DOC Acquisition Specialist for forms and assistance.)

- Copy of letter to owner(s) informing them of the Grantee's interest in the property and of the owner(s) rights outlined in the appropriate URA brochure.
- Certified mail receipts and/or signed waivers regarding above referenced letter.
- Copy of the Notice of Nondisplacement or Notice of Eligibility for Relocation Assistance.
- Copy of the Wavier of Relocation Rights, if applicable.
- Documentation of the replacement needs assessment.
- Documentation of the comparable replacement dwellings.
- Copy of the Ninety-Day Notice.
- Copy of the Relocation Claim Forms.

6. **Civil Rights**: Because of the importance of civil liberties and equal opportunities , it is mandatory that each Grantee take steps to uphold the rights of every individual associated with the completion as well as the benefits of the project. Please see the **Civil Rights Chapter** for more detail. The required documentation should include the following:

- Copy of Civil Rights Officer Notification.
- Copy of Grantee's Fair Housing Ordinance.
- Copy of all MBE bid solicitation and project participation.
- Copy of Invitation for Bid with appropriate civil rights documentation.
- Copy of construction plans and specifications with appropriate civil rights documentation attached.
- Copy of Pre-Bid Meeting notification.
- Copy of Pre-Bid Meeting minutes and attendance roster.
- Copy of contractor(s) Equal Employment Opportunity Reports, if applicable.
- Copy of contractor(s) Affirmative Action Plans, if applicable.
- Copy of the Section 3 Compliance form.

Project Overview
Other Chapters
Forms

- Copy of the Accessibility Certification form.

Steps to Follow ..... ***Continued***

7. **Labor Standards**: There are various state and federal labor standard issues that must be met on all federally funded projects. Please see the **Labor Standards Chapter** for more detail. The required documentation should include the following:

    - Copy of the Labor Standards Officer Notification
    - Copy of the Request for Wage Determination.
    - Copy of Invitation for Bid.
    - Copy of construction plans and specifications with appropriate labor standards documentation attached.
    - Copy of the Verification of Wage Determination.
    - Copy of the Contractor Verification form.
    - Copy of the Notice of Contract Award.
    - Copy of the construction-related contract(s) with the HUD 4010 form attached.
    - Copy of the Pre-Construction Meeting notification.
    - Copy of Pre-Construction Meeting minutes and attendance roster.
    - Copy of contractor(s) fringe benefit programs.
    - Copy of any apprenticeship certification programs, if applicable.
    - Copy of Contractor(s) Certification form.
    - Copy of Subcontractor(s) Certification forms, if applicable.
    - Copy of the OFCCP Subcontract Notification, if applicable.
    - Copy of all weekly certified payroll reports for contractor(s)/subcontractor(s).
    - Copy of all employee interviews.
    - Copy of the Final Wage Compliance form.
    - Copy of the Final Inspection/Project Completion report.

Project Overview
Other Chapters
Forms

Steps to Follow ..... ***Continued***

8. **Modifications**: Throughout the process of the project's completion, situations may arise that change the project's scope or expiration date. These situations may require a grant modification. Please see the **Modification Chapter** for more detail. The required documentation should include the following:

   a. **Category 1 Modification**

      - Copy of the Modification Request letter.
      - Copy of the DOC approval of the request.

   b. **Category 2 Modification**

      - Copy of the "Notice of Grant Modification" newspaper advertisement.
      - Copy of the minutes and attendance roster of the modification public meeting.
      - Copy of the modification request packet.
      - Copy of the DOC approval of the request.

   c. **Category 3 Modification**

      - Copy of the "Notice of Grant Modification" newspaper advertisement.
      - Copy of the minutes and attendance roster of the modification public meeting.
      - Copy of the modification resolution.
      - Copy of the modification request packet.
      - Copy of the DOC/state approval of the request.

9. **Grant Closeout**: Once the project's construction phase has reached substantial completion and all of the federal funds have been expended, the grant closeout procedures are initiated. Please see the **Grant Closeout Chapter** for more detail. The required documentation should include the following:

   - Copy of the Federal Cash and Leveraging Statement.
   - Copy of the Grantee Performance Report.
   - Copy of the grant monitoring documentation.
   - Copy of the Financial Settlement/Expenditure Summary.
   - Copy of the Administrative Closeout documentation.

Project Overview
Other Chapters
Forms

Chapter Overview

Procurement procedures must be utilized by the Grantee to secure the best possible product or service for the most competitive and advantageous price.

Pursuant to OMB Circular A-102, Attachment O, there are four (4) allowable methods of procurement:

- Small Purchase Method
- Competitive Negotiation Method
- Competitive Sealed Bid Method
- Noncompetitive and Sole Source Purchase Method

One (1) of the above four (4) methods of procurement must be utilized any time the Grantee plans on using federal/state dollars to pay for the product or service obtained.

Please Note: If the Grantee plans on using "local" dollars to pay for the product or service, procurement procedures must comply with Indiana procurement regulations identified in IC Title 5-22-36. However, if the Grantee plans to utilize **both** local and CDBG funds to pay for a product or service, federal CDBG statutes and DOC regulations shall apply.

Project Overview

Other Chapters

Forms

Applicable Regulation Summary

The federal regulations dealing with procurement are 24 CFR, Part 85 and OMB Circular A-102, Attachment O.

Reg **24 CFR Part 85 Chapter 36**: This regulation sets forth the standards that are applicable to procurement. Rules governing the contents of bid specifications, especially the required federal provisions, are included. It also addresses the methods of procurement and all of the rules governing the utilization of the methods. The remaining information under this regulation pertains to the bonding requirements and general contract provisions.

Reg **24 CFR Part 570.489 (h)**: This regulation sets forth the federal requirements regarding conflicts-of-interest.

Reg **OMB Circular A-102, Attachment O**: This federal Circular outlines the responsibilities of the Grantee as they relate to procurement. Procedures associated with procurement and selection processes are also defined. Attachment O also addresses federal construction contract provisions such as Davis Bacon and Contract Work Hours and Safety Standards Act.

Project Overview

Other Chapters

Forms

The Indiana laws that apply to procurement are IC-5-22, IC- 5-3-1-2, IC-5-16 and IC-36-1-12.

Reg **IC-5-22**: This statute sets forth the general state provisions as they relate to the procurement of professional services and construction related activities. It establishes the need and procedures involved with competitive bidding and/or request for proposals. It further clarifies the qualifications and duties of the prospective contractors as they relate to serving the public agency in the means of specification development, etc.

Reg **IC-5-3-1-2**: This statute outlines the public notice procedures that Grantees must follow when soliciting bids. The specific requirements for a legal advertisement notice include the following:

a. Publish the notice in a "newspaper of general circulation."

b. Publish the notice at least two (2) times with a minimum of seven (7) days in between the first notice and the second notice.

c. Publish the first legal notice no less than 14 days prior to the date bids are received and the second no less than seven (7) days prior to the bid date.

Regulations ..... ***Continued***

Reg

IC-5-16: This statute sets forth the standards for bid openings and contract awards at public meetings. It also discusses the specific issues associated with the procurement of architects, engineers, and land surveyors.

Reg

IC-36-1-12: This statute establishes the dollar limits that distinguish between the utilization of small purchase procurement and the more formal approaches of procurement. It states that formal bidding procedures must be utilized when the price or payment of the product or service exceeds one of the following:

a. $75,000 or more for purchasing agents of a consolidated city or second class city; or a county containing a consolidated city or second class city.

b. $50,000 or more for purchasing agents of a third class city or town with a population of 5,000 or more; or a county containing a third class city or town with a population over 5,000.

c. $25,000 or more for purchasing agents of political subdivisions not described above.

If the price or payment of the product or service desired is less than the amounts described above, the small purchase procurement method should be utilized. However, for those small purchases that are at least $25,000 but less than the amounts specified above, a Request For Quotations (RFQ) must be obtained. More specifically, three (3) quotes are required when estimated total costs are as follows:

a. At least $25,000, but less than $75,000 for purchasing agents of a consolidated city or second class city; or a county containing a consolidated city or second class city.

b. At least $25,000, but less than $50,000 for purchasing agents of a third class city or town with a population of more than 5,000; or a county containing a third class city or town with a population of 5,000 or more.

Please Note: The foregoing state statutes may be amended from time to time by acts of the Indiana General Assembly. Additionally, each unit of local government must establish local procurement-related ordinances/procedures which may be more restrictive than those provided under IC-36-1-12. **Always consult with the Grantee's legal counsel prior to initiating procurement activities for each project**.

Project Overview

Other Chapters

Forms

Responsible Party

Pursuant to IC Title 5-22, each governmental body must designate a central purchasing officer. This person should be an employee of the political subdivision. Small communities may rely upon the community's engineer, consultant, building inspector, public works director, or legal counsel to assist with the procurement process.

The designated purchasing officer is responsible for ensuring the Grantee selects the correct procurement method and maintains appropriate records, as well as the performance of the tasks described below:

Responsibilities of Purchasing Officer

- Determine the need for procurement of supplies, equipment, construction, or services based on the project plan.
- Determine what method of procurement is most applicable for the desired product or service.
- Assign appropriate persons to prepare specifications, manage solicitations, and negotiate contract terms.
- Monitor the solicitation of bids including the preparation of bid specifications, advertising, receipt and evaluation of bids.
- Participate in the final selection of products, consultants, and/or contractors.
- Oversee the negotiation and execution of contracts.
- Determine that the purchase, consultant and/or contractor is in compliance with the **conflict-of-interest** requirement which states that no member, officer or employee of the Grantee or its consultants, designees or agents, or any member of the governing body of locality who (1) exercises any functions or responsibilities with respect to the program during their tenure, or (2) anyone with "inside information", shall have any direct or indirect interest in any contract, subcontract or proceeds thereof, financed in whole or in part with CDBG funds, during their tenure, or for one (1) year there after. **Every CDBG-assisted procurement is subject to prohibited conflict-of-interest provisions set forth under 24 CFR Part 570.489 (h)**.

  Should the Grantee suspect a possible conflict-of-interest situation, the DOC Controller's Office must be contacted for a formal opinion.

- Solicit those services of Minority Owned Business Enterprises (MBE) in an attempt to meet the established DOC goal of 10% participation. **See Civil Rights Chapter for more detail**.

Project Overview

Other Chapters

Forms

Procurement Methods

Small Purchase Method

This method of procurement is relatively simple and informal. It is used for the procurement of services, supplies, and/or other property that has an estimated dollar amount less than the bidding limits and restrictions described in IC-36-1-12.

To identify your community's bidding limits, please reference the County Thresholds provided on **FORM 1 of the Procurement Section**.

Steps to Follow

1. **Determine Bidding Limit**: Determine if the estimated dollar amount of the product or service in which the Grantee is procuring is **equal to or less than** the applicable bidding limit established for the community. If the estimated amount is equal to or less than the amount prescribed, go to Step 2. If the estimated amount will exceed the prescribed limit, use another method of procurement.
2. **Prepare a Request for Quotation (RFQ)**: By letter or fax, contact at least five (5) vendors for competitive quotes. Via "certified mail," contact at least two (2) state certified MBE vendors. **See Civil Rights Chapter for more detail**. Be specific in describing the product or service the Grantee is requesting. (Brand names can be used as long as there is a clause specifying that products equal to the brand name may also be utilized.) An example of a contact letter is provided on **FORM 2 of the Procurement Section**.
3. **Document Quotes**: Maintain and document all quotes received. **Verbal quotes are not valid**.
4. **Make Selection**: If the vendor with the lowest quote is not selected, make sure to document the justification as to why another vendor was selected. Issues such as poor past performance or bad references are typical reasons for selection denial. The Grantee's legal counsel should be consulted on all procurements awarded to vendors not having the lowest quote.

Additional Information

If the Grantee only receives one (1) quote, the consulting engineer must validate that the price is reasonable. For record keeping purposes, a Cost Analysis must be performed. The cost analysis document is **FORM 3 of the Procurement Section**.

☹ **Making several separate small purchases from the same vendor or different vendors in order to stay under the formal bidding threshold is not permitted by Indiana Code.**

Project Overview
Other Chapters
Forms

Competitive Negotiation Method

The Competitive Negotiation Method is to be used for the procurement of professional services. It is slightly more detailed than the Small Purchase Method because a Request for Proposal (RFP) or a Request for Qualifications (RFQ) must be produced, published, and evaluated.

This method must be utilized when the estimated dollar amount of the services required by the Grantee is above those limits described in IC-36-12.

To identify your community's bidding limits, please reference the County Thresholds provided on **FORM 1 of the Procurement Section**.

Steps to Follow

1. **Prepare RFP/RFQ**: The Grantee must prepare a Request for Proposal (RFP) or a Request for Qualifications (RFQ). An example of an RFP/RFQ is provided on **FORM 4 of the Procurement Section**.
2. **Solicitation**: Send the RFP/RFQ to at least five (5) vendors via "certified mail." Make sure at least two (2) vendors are state certified MBE firms located within the general project proximity. **See Civil Rights Chapter for more detail**.
3. **Publish RFP/RFQ**: The Grantee must publicize the RFP/RFQ at least one (1) time in a newspaper of general circulation. (A formal legal advertisement is required.) An example of the advertisement is provided on **FORM 5 of the Procurement Section**.
4. **Establish Evaluation Team**: Appoint an evaluation team (town council, board of public works, etc.) and develop an evaluation plan to rank respondents and assist with the selection process. An example of a scoring criteria evaluation document is provided on **FORM 6 of the Procurement Section**.
5. **Open RFP/RFQ**: Open RFP/RFQ's at a public meeting. An attendance sheet and minutes of the meeting must be kept. The evaluation may take place at the meeting or at a later scheduled executive session. The selection must be announced at a scheduled public meeting.
6. **Short List Vendors**: After evaluation, select two (2) or more vendors to interview and contact them in writing with the time and date of the interview. An example letter is provided on **FORM 7 of the Procurement Section**. The Grantee must also notify those who will not be interviewed. An example letter is provided on **FORM 8 of the Procurement Section**.
7. **Make Selection**: Select the vendor whose proposal is most advantageous to the project based upon quality, price and other factors. Please use **FORM 9 of the Procurement Section** for the selection process. The evaluation team must individually score each proposal. The vendor with the most aggregate points is to be selected. All scoring must be documented and the final selection must be announced at a scheduled public meeting.
8. **Notify Unsuccessful Bidder(s)**: The Grantee must notify all unsuccessful bidders in writing.

Project Overview

Other Chapters

Forms

Additional Information

Price must be one (1) of the evaluation criteria for the selection of professional services other than professional architectural and/or engineering services.

When the Grantee is seeking the services of a licensed architect or engineer, the Grantee should develop a Request for Qualifications (RFQ) that eliminates the use of price as a scoring criterion. The Grantee should use the **A/E Industries' Qualification Based Selection (QBS)** procedures. When using the QBS process, evaluation is based solely upon a firm's qualifications, and a fair and reasonable price is later negotiated.

Competitive Sealed Bid Method

This method of procurement is much more formal than the others and does not allow for negotiation. It is used when soliciting for construction contractors, and/or materials that have an estimated dollar amount that exceeds those limits described in IC-36-12.

Project Overview

To identify your community's bidding limits, please reference the County Thresholds provided on **FORM 1 of the Procurement Section**. **Remember each Grantee may have a local procurement ordinance which is more restrictive. To verify, consult with the Grantee's legal counsel.**

Other Chapters

The final selection is based upon price, if the low bidder is also a **responsive and responsible bidder**. If the Grantee has evidence and can document that the low bidder was not responsive and/or responsible, the Grantee may select the second-to-lowest bidder.

Forms

If the low bidder is not selected, the Grantee's legal counsel must be consulted prior to such selection in case of a formal bid protest and/or possible litigation. A written legal opinion must accompany all procurements where the low bidder was not selected.

Steps to Follow

1. **Prepare IFB**: Develop an Invitation for Bid (IFB) which clearly states what services the Grantee is requiring. Document all technical specifications required, any requirements that apply to the contract, and instructions for preparing and submitting a bid. These are all issues that the architect or engineer should address; however, the Grantee needs to provide to the architect/engineer a copy of the **Federal Contract Construction Provisions**, with the HUD Form 4010 included, as well as the applicable Davis Bacon Wage Decision.

Steps To Follow ..... ***Continued***

2. **Publish IFB**: Pursuant to IC Title 5-3-1-2, publish the IFB at least twice in a newspaper of general circulation. You may also want to publish the IFB in well-known trade journals and/or send a copy of the IFB to the area's local contractors. An example of an IFB advertisement is provided on **FORM 10 of the Procurement Section**.

3. **MBE Requirements**: To adhere to all MBE requirements, a copy of the IFB advertisement must be sent via certified mail to at least two (2) state certified MBE vendors. A copy of the plans and specifications should also be on file with the Department of Administration's Minority Business Development Division. **See Civil Rights Chapter for more detail**.

4. **Receipt of Bids**: On the outside of the bid packet, write the time and date the bid was received from the vendor. **No late bids should be accepted**.

5. **Open Bids**: Publicly open the bids at the time and place indicated in the advertisement. Make sure each bid is prepared according to the instructions of the IFB. Read bid amounts aloud. Have the Grantee's attorney verify that the bonding and certification requirements outlined in the bid packet are attached. Take meeting minutes and keep a sign-in and bid tabulation sheet. The bid tabulation sheet is provided as **FORM 11 of the Procurement Section**. (The bid tabulation sheet is to be certified (stamped) by the project architect or engineer).

6. **Make Selection**: Assuming the bids come in within budget and the Grantee has received its official **Release of Funds**, award a firm, fixed price contract to the "responsible bidder" with the lowest "responsive price". The contract should be awarded on the basis of price. However, if the Grantee has evidence and can document that the low bidder was not responsive and/or responsible, the Grantee may select the second-to-lowest bidder.

If the low bidder is not selected, the Grantee's legal counsel must be consulted prior to such selection in case of a formal bid protest and/or possible litigation. A written legal opinion must accompany all procurements where the low bidder was not selected.

Additional Information

If **all** bids come in over budget and the architect/engineer did not utilize a base bid/deductible alternative method, the Grantee has the right to refuse all bids and re-evaluate/re-bid the project.

If the above situation should occur, the Grantee needs to contact the DOC Controller's Office for further instructions.

Project Overview

Other Chapters

Forms

Noncompetitive and Sole Source Purchasing Method

This method of procurement is used to solicit products or services from a single source. It can only be utilized when it is not possible to utilize the other three (3) methods of procurement. The stipulations that would exclude the other methods of procurement include the following:

- The item or service can only be obtained from one (1) source.
- There is a condition of public emergency or urgency whereas time does not permit the use of a competitive method.
- After a number of sources were solicited, competition was determined to be inadequate.

Steps to Follow

1. **Justification for Use of Method**: Prepare a written justification as to why this method of procurement is being utilized. **Allow the DOC to review this justification prior to proceeding to Step 2**.
2. **Specification of Products/Services**: Prepare a specific list of products or services to be acquired along with a cost price analysis that evaluates specific elements of cost and proposed profit. The document utilized for the cost price analysis is provided as **FORM 3 of the Procurement Section**.
3. **Verify Data**: Have a licensed architect/engineer verify your data to certify the specifications and reasonability of the estimated costs.
4. **Contact Vendor**: Contact the vendor with a specific listing of products or services to be acquired.
5. **Evaluate Bid**: Evaluate the bid based upon responsiveness and price reasonability. Negotiate with the vendor to make sure the most advantageous offer is acquired.

Additional Information

☹ **Noncompetitive and Sole Source procurement is discouraged and must be well documented to avoid disallowance by DOC monitors and Indiana State Board of Accounts examiners.**

Project Overview

Other Chapters

Forms

Chapter Overview

A **contract** is a formal agreement that two (2) or more parties enter into which is then enforceable by law.

The Grantee is required to execute contracts on **all** professional and/or construction-related services. (The Grantee should also obtain copies of any prime contractor/subcontractor agreements.) **Contracts must be developed regardless of the source of funds (local/federal) paying for the activity**.

This chapter will discuss the two (2) types of permitted contracts:

- Firm, Fixed – Price Contract
- Cost Reimbursement Contract

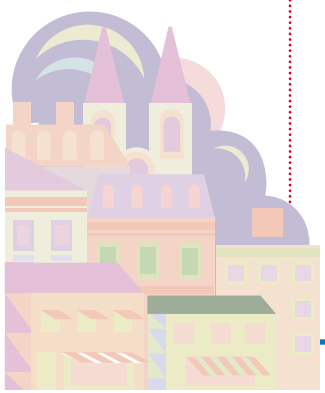
Project Overview

Other Chapters

Forms

Other topics that will be discussed in this chapter include the following:

- Bonding and Insurance Requirements
- Contract Contents and Provisions
- Disclosure Reports
- Retainage Accounts
- Change Order Procedures
- Contractor Debarment



Applicable Regulation Summary

The federal regulations that govern the preparation of contracts are as follows:

Reg **24 CFR Part 85 Chapter 36**: This regulation sets forth the standards applicable to procurement and rules governing the contents of bid specifications, especially the required federal provisions. It also addresses the methods of procurement and all of the rules governing the utilization of the methods.

Reg **OMB Circular A-87**: This Circular sets forth the regulations associated with contract development. Issues dealing with roles and responsibilities, as well as contract contents, are highlighted in this rule. Allowable and unallowable costs are also discussed in this Circular.

Reg **31 CFR Part 223**: The regulations set forth under this law deal with the issuance of certificates of authority to bonding companies that do work on federally funded projects. Issues dealing with performance and payment bonds, as well as insurance requirements are also set forth in this regulation.

The Indiana laws that apply to contract development are as follows:

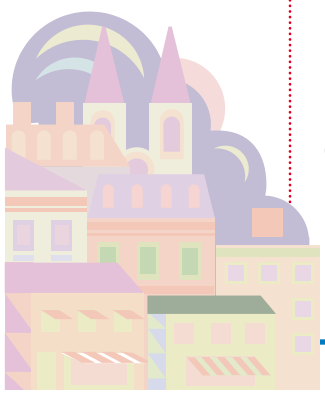
Reg **IC-5-16-5**: This statute details the bonding and payment procedures that are applicable to public works projects within the State of Indiana. It also establishes the usage of retainage accounts.

Reg **IC-5-16-11**: This statute sets forth the requirements involved with financial disclosure of contractors and consultants.

Reg **IC-5-22-17**: This statute establishes the types of contracts that a public agency may enter into with a consultant/contractor. It also describes the provisions that must be included within the contents of the contract.

Reg **IC-36-1-12**: This statute sets forth the elements that a successful contractor must provide prior to bid award. Issues regarding contract award, contractor bonding and escrow accounts are highlighted within the contents of these subsections. Change order procedures are also set forth within this published regulation.

Project Overview
Other Chapters
Forms



Responsible Party

The development of a contract requires the participation of several individuals.

Professional Services Contracts

First and foremost, the Grantee's purchasing agent and governing body, need to determine that all stated requirements within the Request for Proposal (RFP)/Request for Qualifications (RFQ) were met.

After it has been determined that all requirements have been met and a price for the service has been established, the Grantee may proceed with the development of a contract.

Please Note: It is the Grantee's responsibility to review each professional service contract for compliance with applicable state and federal laws. The Grantee must also review the content for its relation to the intended project scope, and avoidance of any **conflict-of-interest** concerns.

Construction-Related Contracts

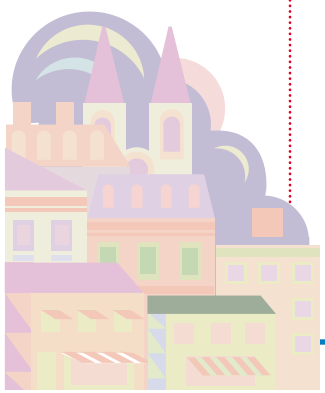
As is the case with the development of a professional service contract, the Grantee's purchasing agent and governing body need to determine that all stated requirements within the Invitation for Bid (IFB) were met. This will also require the assistance of the Grantee's grant administrator, engineering consultant, and legal counsel.

After the Grantee's attorney has reviewed the construction-related contracts for form and legality and the Grantee has received its official notice of a **Release of Funds**, the Grantee may award the contract.

Project Overview

Other Chapters

Forms



Contract Types

After all of the tasks described under the Responsible Party section have been completed, the Grantee needs to determine the type of contract it prefers to develop. There are two (2) types of permitted contracts from which to choose:

- Firm, Fixed – Price Contract (i.e. "Lump-Sum")
- Cost Reimbursement Contract

A **Firm, Fixed – Price Contract** requires that the vendor/contractor delivers the product or service for an agreed-upon price, regardless of the costs the contractor incurs. Simply put, if the contractor goes over budget, it is at his/her expense, not the Grantee's. An example of this type of contract is provided as **FORM 1 of the Contract Development Section**.

A **Cost Reimbursement Contract** allows the contractor/vendor to enter into an agreement based upon an estimated amount, generally with a "not to exceed" limit. This type of contract is developed when the required level of work to complete a specific task is unknown. An example of this type of contract is provided as **FORM 2 of the Contract Development Section**.

Project Overview

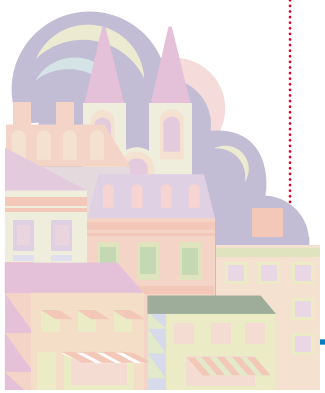
Other Chapters

Forms

Additional Information

A "Costs Plus Percentage of Cost" contract does exist; however, the DOC does not allow such contracts because of the lack of incentive for the contractor to control costs and/or the engineers potential to "over-design" the project. The DOC will not pay for any activity in which this type of contract is utilized.

Please Note: Under the DOC's "**readiness to proceed**" policies, Grantees may enter into professional service agreements prior to the grant award. These agreements may follow either the firm, fixed – price contract type or the cost reimbursement type. Regardless of the format, the contracts entered into prior to a grant award can be worded in such a manner that reflects payment "contingent" upon grant award. An example of this wording is provided on **FORM 3 of the Contract Development Section**.



Bonding and Insurance Requirements

For all construction contracts, the Grantee must obtain a **bid guarantee**, **performance bond**, **payment bond**, and a **certificate of insurance** from any vendor/contractor whose contract is in excess of $100,000. If the contract amount is less than $100,000, the Grantee may wish to establish its own form of bonding and insurance requirements for general protection. These documents must be acquired from the contractor prior to the "Notice of Contract Award".

Def As a point of clarification, a **bond** is a contractual promise to pay a specified sum of money in the future if certain conditions are not met.

Bid Guarantee (i.e. "Bid Bond")

A bid guarantee insures that the bidder selected will execute the applicable required contract documents within the specified time period. The guarantee can be in the form of a bid bond, certified check, or other negotiable instrument. If federal/state funds are used, the amount of the guarantee from each bidder must be equal to five percent (5%) of the bid price.

Performance Bond

The performance bond ensures that the contractor/subcontractor will fulfill all of the obligations under the contract within one (1) year of substantial completion. If federal/state funds are used, the selected contractor must provide a bond equal to 100% of the contract price.

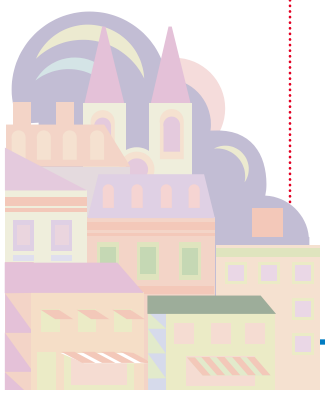
Payment Bond

A payment bond is to ensure that the contractor/subcontractor pays all persons or companies supplying labor or materials for the completion of the job. If federal/state funds are being used, the bond posted by the successful bidder must be equal to 100% of the contract price.

Additional Information

The bonding company supplying the bonds must hold a **certificate of authority** as acceptable sureties in accordance with 31 CFR part 223, "Surety Companies Doing Business with the United States."

Project Overview
Other Chapters
Forms



Bonding and Insurance Requirements ..... *Continued*

Insurance

Insurance coverage for all contractors/vendors working on CDBG funded projects is mandatory. Below is a listing of the types of insurance policies that need to be carried, as well as the minimum levels of coverage:

- Worker's Compensation/Employees' Liability, $100,000 per person.
- Auto Insurance for Injuries and Damages caused by the contractor's vehicle on the job site.
- Comprehensive Public Liability, $250,000 per person.
- Property Damage Policy, $100,000 per accident, with an aggregate limit of at least $300,000.

Please Note: A Grantee can require additional insurance coverage based upon the size and nature of the project; however, these additional requirements may increase the overall project costs.

Project Overview

Other Chapters

Forms

Contract Contents and Provisions

There are a number of items that need to be included within the content of a contract. The following list entails the basic elements that need to be included:

- Effective date of contract.
- Names and addresses of Grantee and firm.
- Names and titles of representatives of the Grantee and firm who will act as liaisons for the administration of the contract.
- Citation of authority for the community, which the contract is entered into, and the source of funds.
- Conditions and terms under which the contract may be terminated by either party and remedies for violation or breach of contract.
- Detailed description of the extent and character of the work to be performed.
- Time for performance and completion of contract services, including milestones.
- Specifications of materials or other services to be provided.
- Access to Records Clause.
- Method of Compensation.
- Required State and Federal Third-Party Provisions. These provisions are **FORM 4 of the Contract Development Section** for Professional Service Agreements and the **Federal Construction Contract Provisions,** including HUD Form 4010, for Construction-Related Agreements.
- Copy of the applicable wage determination if it is a construction-related contract. **See Labor Standards Chapter for more detail.**

Project Overview

Other Chapters

Forms

Disclosure Reports

A Grantee is required to submit a disclosure report with the grant application. This is referred to as the "initial" report. **Update reports must then be submitted, within 10 days, each time a contract under the CDBG grant is awarded**. These reports inform the DOC and federal government as to the pecuniary interest of all parties involved. The disclosure document is **FORM 5 of the Contract Development Section**.

Retainage Accounts

Pursuant to IC 36-1-12-14 a retainage account must be established for any public works project in excess of $100,000.

Def

A **retainage account** is an escrow account where a percentage of the total contract amount due to the contractor is set aside until the project is satisfactorily completed, all suppliers have been paid in full, and all contractors, sub-contractors and suppliers have submitted lien waivers.

Retainage withholdings cannot exceed the following:

- 10% of the dollar value of all work satisfactorily completed until 50% of the project is complete; or
- 5% of the dollar value of all work satisfactorily completed until 100% of the project is complete.

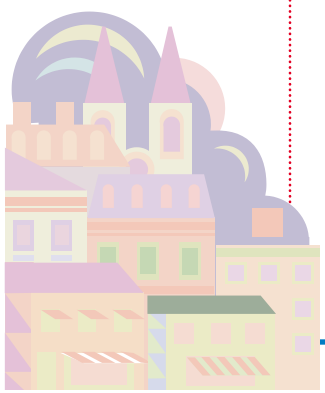
Retainage accounts must:

- The escrow account must be on deposit with a bank or savings and loan institution, or the awarding agency of the state may act as the escrow agent.
- Retainage funds may be held in an interest-bearing account. Any interest accrued on the balance belongs to the contractor. No interest will be paid on funds when the State acts as the escrow agent.
- The escrow account agent must be selected by mutual agreement , in writing, between the Grantee and the prime contractor. A sample escrow agreement is provided as **FORM 6 of the Contract Development Section.**
- Upon the accepted completion of the project, the retainage funds within the escrow account may be released by the signature of both the Grantee and the prime contractor.

Project Overview

Other Chapters

Forms



Change Order Procedures

Change orders are changes to the original project contract due to unforeseen circumstances. A licensed architect or engineer must prepare a change order. Change orders must also be approved and signed by the Grantee and contractor at a public meeting.

The total amount of all change orders that increase the costs of the project may not exceed 20% of the amount of the original contract except for unforeseen circumstances not apparent at the inception of the contract. Such unforeseen circumstances must be certified by the project architect or engineer, and approved by the Grantee's legal counsel. The Grantee's legal counsel must be able to substantiate all change orders totaling greater than 20% of the contract amount to the examiners of the Indiana State Board of Accounts.

If additional units of materials are needed, the cost of these units must be the same as those quoted in the original contract.

Project Overview

Other Chapters

Forms

Contractor Debarment

Contractors, architects/engineers and grant administrators receiving compensation under any CDBG - assisted program, who commit serious or repetitive violations under the state and federal regulations, are subject to debarment proceedings.

Such violations may include the following:

- Serious or repetitive violation of any federal or state law, or department program regulation or instruction.
- Serious or repetitive failure to perform contractual obligations or carry out representations or warranties to the department or to any Grantee under any program administered by the department.
- Acts of misconduct indicating a lack of business integrity directly affecting responsibility to participate in department programs, including, but not limited to, false representation, embezzlement, theft, forgery, fraud, negligent service, bribery, falsification of records, and receipt of stolen property.
- Serious or repetitive violation of any non-discrimination or equal opportunity requirements in connection with any program administered by the department.
- Debarment from any agency of the federal government or any state government.

In the event the Grantee feels that one of the above situations has occurred, or another like situation has arisen, please contact the DOC's Grants Management Office for further instruction.

Chapter Overview

Accurate financial recordkeeping is crucial to the successful management of a CDBG funded project. This chapter will focus upon the records that must be maintained to receive and utilize CDBG funds. Specific topics include the following:

- Line of Credit Establishment
- Required Financial Records
- Release of Funds
- Drawdowns
- Semi-Annual Reporting

Project Overview

Other Chapters

Forms

Applicable Regulation Summary

Reg **24 CFR Part 85:** The regulations under this law deal with the general administrative requirements in regards to the disbursement and accounting of federal funds.

Reg **24 CFR 570.489:** The regulations set forth under this law set forth the specific administrative requirements of the Grantees in respect to the disbursement and accounting of federal funds. This law also highlights such topics as interest earned, gross income, program income and revolving funds.

Reg **OMB Circular A-87:** This Circular establishes principles and standards for determining costs for federal awards carried out through grants, cost reimbursement contracts, and other agreements with state and local governments.

Responsible Party

Financial recordkeeping is the primary responsibility of the Grantee's Financial Officer, e.g. the clerk-treasurer or auditor. However, the Grantee's grant administrator should maintain a second set of financial records. The second set of records acts as a *"check and balance"* mechanism and also provides additional support documentation.

Line of Credit Establishment

The DOC has a letter of credit established with the US Treasury whereby all funds for the CDBG program are electronically transferred to the DOC's designated depository.

In order for the Grantee to receive CDBG funds, it must establish a line of credit with the DOC. To establish the line of credit, the Grantee needs to complete the following steps:

Steps to Follow

1. **Execution of Grant Agreement**: Soon after the Grantee has received notification of its grant award, the DOC will prepare a grant agreement (contract). The grant agreement defines the responsibilities of the Grantee in regards to federal and state regulations. It also contains other important information such as the grant expiration date and budgetary amounts. The Grantee should review the agreement prior to having the Chief-Elected Official sign the agreement. The Grantee then forwards the document to the DOC for final execution. An original, fully executed grant agreement will be returned to the Grantee in approximately 45 days.

2. **Authorized Signature Card**: In addition to the grant agreement, the Grantee will also need to sign and return the authorized signature card for payment of claim vouchers. This form is utilized by the DOC and the Grantee to document the signature of those individuals duly authorized by the Grantee's governing body to approve claims for payment on behalf of the Grantee against the Grantee's line of credit. It is recommended that the Grantee authorize two (2) individuals to sign the claim vouchers in case one (1) would be unavailable. **Typically, the Chief-Elected Official and the Financial Officer sign the card**. Please use **FORM 1 of the Financial Management Section** for a reference.

Please Note: In the event a member listed upon the original signature card should change for any reason, a new signature card bearing the names and signatures of the new individuals should be forwarded to the DOC.

3. **W-9 Form**: The final document that needs to be submitted by the Grantee to establish the line of credit with the DOC is the W-9 Form. This form provides the DOC with the Grantee's taxpayer identification number for the purpose of cross-filing records of payments with the Federal Internal Revenue Service. Please use **FORM 2 of the Financial Management Section** for a reference.

Project Overview
Other Chapters
Forms

Required Financial Records

Prior to receiving any CDBG funds, the Grantee will need to establish a financial recordkeeping system. **It is recommended that a new, non-interest bearing checking account for the CDBG funded project be started**. The establishment of a new checking account helps to simplify the overall project deposit/expenditure tracking and minimize the risk of monitoring findings.

Please Note: If the Grantee does not wish to start a new checking account, the Grantee must establish a separate fund within an existing account.

The Grantee's Financial Officer may already have a recordkeeping system in place that has been approved by the State Board of Accounts. In this instance, the DOC recommends that the Financial Officer utilize its existing system; however, for grant monitoring purposes, the following financial documents must also be maintained.

- **Federal Cash Control Register**: This financial form should be used to control requests for CDBG payment, checks received, contributions and miscellaneous receipts, disbursements, and the balance of federal cash on a daily and cumulative basis. This form only entails information dealing with federal funds; no "local match" information is recorded upon this form. Please use **FORM 3 of the Financial Management Section** for reference and recording.

The Grantee may not hold more than $5,000 of Federal/State funds in its project account for a period over three (3) business days. Adherence to this rule should be reflected upon the Federal Cash Control Register. Federal CDBG funds must be expended within three (3) business days after deposit.

- **Contract Obligation Control Ledger**: This form provides a listing of all contractual obligations. It lists all the contractors, including professional service contractors, performing services on the project. The contract number, contractor, contract date, and contract amount (noting the amount to be paid from CDBG funds) should be entered on the form for each contract under the grant. Please use **FORM 4 of the Financial Management Section** for reference and recording.

Project Overview
Other Chapters
Forms

Required Financial Records ..... ***Continued***

- **Contractor Expenditure Ledger**: This financial document is a supplement to the previously referenced contract obligation control ledger. Whereas the contract obligation control ledger lists all contracts under the CDBG project, the contractor expenditure ledger lists all invoices, payments, change orders, etc. of each contract. A separate ledger should be maintained for each contract under the grant. This ledger is useful to the Financial Officer in monitoring the progress of payments on the contract, which should be compared to the work actually performed to assure that work on the contract is completed according to schedule and budget. This ledger is also maintained to assure that the Grantee is not being invoiced for amounts over the total of the contract and/or change orders. Please use **FORM 5 of the Financial Management Section** for reference and recording.

- **Property Inventory Form**: The Grantee is required to account for any property or equipment acquired with CDBG funds. The Financial Officer must maintain an inventory of property purchased with CDBG funds throughout the life of the grant. Please use **FORM 6 of the Financial Management Section** for recording. The property to be reported on the property inventory form includes the following:

  1. Tangible personal property having a useful life of more than one (1) year and an acquisition cost of $300 or more per unit; or
  2. Tangible personal property, such as equipment, that has a serial number.

Please Note: Do not include equipment purchased by a contractor or administrator, unless it is determined in the bid process that the equipment belongs to the Grantee. Furthermore, do not include major capital infrastructure expenditures, such as water mains or sewer lines.

Project Overview

Other Chapters

Forms

Required Financial Records ..... *Continued*

Although the DOC does not require additional financial records, it is recommended that the Grantee keep a separate ledger for each activity of the project for tracking purposes. The below listed chart of accounts is a universal chart for use by all CDBG Grantees. (The majority of the accounts will not be applicable to each individual grant.)

Activity Code	*Account Description*
01	*Acquisition/Disposition*
02	*Clearance*
03	*Community Center/Facility*
04a	*Water*
04b	*Sewer*
04c	*Flood and Drainage Facilities*
05	*Streets*
06	*Senior Centers*
06	*Parks, Playground and other Recreational Facilities*
06	*Center for the Handicapped*
06	*Neighborhood Facilities*
06	*Solid Waste Disposal Facilities*
06	*Fire Protection Facilities and Equipment*
06	*Parking Facilities*
06	*Public Utilities, other than Water or Sewer Facilities*
07	*Public Services*
08	*Relocation Payments and Assistance*
09a	*Rehabilitation – Residential*
09b	*Rehabilitation – Commercial*
10	*Public Housing Modernization*
11	*Removal of Architectural Barriers*
12	*Planning and Technical Assistance*
13	*General Administration*
14a	*Economic Development Assistance to Non-Profit Entities*
14b	*Economic Development Assistance to For–Profit Entities*
15a	*New Construction – Last Resort*
15b	*New Construction – Rehabilitation Not Feasible*
15c	*New Construction – Other (105)(a)(15)*
16	*Environmental Review*
17	*Program Income*

Project Overview
Other Chapters
Forms

Required Financial Records ..... *Continued*

Additional Information

The State Board of Accounts has standardized the majority of forms to be used by counties, cities, and towns. The forms noted below, in addition to those of the DOC, should be used for the maintenance of fiscal records.

City Forms	Form Number
• Claim	201
• Ledger of Receipts, Disbursements, and Balances	208
• Ledger of Appropriations, Encumbrances, Disbursements, and Balances	209

Town Forms

• Claim	39
• Ledger of Receipts, Disbursements, and Balances	208
• Ledger of Appropriations, Encumbrances, Disbursements, and Balances	209

County Forms

• Claim	17
• Ledger of Appropriations, Encumbrances, Disbursements, and Balances	24A
• Fund Ledger and Ledger of Receipts	24B

All of the above forms can be obtained from the State Board of Accounts.
For more information, please contact the following;

Supervisor Cities and Towns
Indiana State Board of Accounts
Indiana Government Center – South
Indianapolis, Indiana 46204
(317) 232 - 2521

Project Overview
Other Chapters
Forms

Release of Funds

The most significant step under the CDBG program is the Release of Funds. One of the common misconceptions of Grantees is that funds are available to them immediately after they receive their grant award. This is not the case. **A Grantee must receive a Release of Funds prior to the encumbrance of any grant funds.**

In the grant award letter, Grantees are told that specific costs (engineering, environmental, administrative), incurred prior to the Release of Funds, are at their own risk. **Grantees are also told that under no circumstances are they to enter into any construction-related contracts prior to the Release of Funds**. These warnings are put in place for the protection of the Grantee against the potential of deobligated grant funds.

Because of the many rules and regulations associated with the utilization of federal funds, the DOC has established a "*check point*" that enables it to review all required grant documentation prior to any CDBG fund expenditures. After the DOC has verified that the Grantee has complied with all federal and state regulations, the DOC will grant the official Release of Funds.

In order to obtain the Release of Funds, the Grantee must complete the following steps:

Steps to Follow

1. **Release of Funds – Phase One**: Once the grant has been awarded, the DOC will send the Grantee a grant agreement (contract), along with authorized signature card and a W-9 form. These documents must be signed and executed prior to receiving the release of funds. This process usually takes about two (2) months due to the state's multi-agency signatory process. Once the executed agreements, along with the attachments, are on file at the DOC, phase one of the Release of Funds process is complete.
2. **Release of Funds – Phase Two**: No later than thirty (30) days after the Grantee has received the state approved grant agreement, the following documentation must be submitted to the DOC:

   Environmental Review: The Grantee must have its environmental review complete and publish the appropriate environmental information, along with the request for release of funds, in newspaper of general circulation. Please see the **Environmental Review Chapter** for more detail.

Project Overview
Other Chapters
Forms

Release of Funds ..... *Continued*

Land Acquisition: The DOC Acquisition Specialist must review copies of all easements and/or property titles, along with the appropriate waivers and questionnaires. Please see the **Land Acquisition and Relocation Chapter** for more detail.

Civil Rights: The Civil Rights Officer Notification, along with a copy of the Grantee's Fair Housing Ordinance and Drug Free Workplace Ordinance/Policy, should be on file with the DOC Civil Rights Specialist. Please see **Civil Rights Chapter** for more detail.

Labor Standards: A copy of the Labor Standards Officer Notification. Please see **Labor Standards Chapter** for more detail.

3. **Release of Funds – Phase Three**: Phase three is the final stage of the Release of Funds process.

Project Overview

Other Chapters

Forms

The documentation and tasks described within this phase must be completed no later than eight (8) months after the grant award.

Procurement: Documentation regarding the procurement of services and construction-related activities will be reviewed. Generally, this review entails the inspection of request for proposals and advertisements of bids. It also will include the review of project's plans and specifications, bid tabulations, quotes, MBE solicitation, etc. Please see the **Procurement Chapter** for more detail.

Contract Development: Copies of all **service-related contracts** will be reviewed for content and proper execution. Copies of all **construction-related contracts** may be reviewed for content; however, these construction-related contracts should not be executed until the Notification of Release of Funds has been received by the Grantee. Please see **Contract Development Chapter** for more detail.

The execution of construction-related contracts prior to the Notification of Release of Funds is not allowed and will result in the deobligation of grant funds.

Labor Standards: The Request for Wage Determination, Verification of Wage Determination, Contractor Verification forms and Fringe Benefit forms, must be on file with the DOC Labor Standards Specialist. Please see **Labor Standards Chapter** for more detail.

Release of Funds ..... ***Continued***

Financial Management: The Grantee must be able to show proof of its local match commitment. For instance, if the Grantee has obtained a loan from a lending institution, it must have a letter of financial commitment. The Grantee must also have all financial documents compiling the fiscal recordkeeping system for review. Please see the information in this chapter under the **Required Financial Records** section for more detail.

Please use **FORM 7 of the Financial Management Section** as a checklist for the specific documents needed to receive the Grantee's release of funds.

After all of the above tasks and documents have been reviewed and approved by the DOC, the Grantee will receive a "**Notification of Release of Funds**" letter. Upon this letter's receipt, the Grantee may enter into the construction-related contracts and begin drawing grant funds from the DOC as needed.

Project Overview

Other Chapters

Forms

Drawdowns

A drawdown, otherwise known as a "claim voucher," must be completed in order to receive CDBG funds. Once the contractor submits an invoice to the Grantee, the project engineer/architect and the governing body must approve it. Then, the Grantee prepares a drawdown request for the approved amount to be submitted to the DOC for payment.

Requests for drawdowns are to be submitted to the CDBG Accounting Section, Controller's Office, Indiana Department of Commerce, One North Capitol, Suite 600, Indianapolis, Indiana 46204-2288. A sample drawdown request is provided as **FORM 8 of the Financial Management Section**.

Generally, it will take between 10 and 17 days to receive funds from the DOC, assuming the request has been properly completed. This time period usually is extended during the months of June/July and December/January. During these months the State Auditor's Office is preparing the state's year-end reports (June) and/or preparing required budgetary documents for federal agencies (December). Because of this time lag, Grantees should be attentive to forecasting cash-flow needs. Also, during peak periods of construction activities, Grantees should coordinate closely with contractors being paid by CDBG funds as to the timing of their requests for payments.

Drawdowns ..... *Continued*

Please Note: It is suggested that Grantees set an established date each month for the submittal and approval of contractor claims.

Once the Grantee receives the drawdown request from the DOC, it must deposit the funds into the project's account. The Grantee will then have three (3) business days to write out payment(s) to the contractor(s). **Under no circumstances may a Grantee retain more than $5,000 of federal money in its account for a period longer than three (3) business days**. Due to this rule, Grantees are advised to order only the amount required to pay the contractor(s) submitted and approved invoice.

In the event a Grantee retains more than $5,000 of federal funds in its project account for more than three (3) business days, a monitoring finding will be received and the Grantee will be subjected to paying back the amount of interest earned on the federal funds to the U S Treasury.

Project Overview

Other Chapters

Forms

Semi-Annual Reporting

During the course of the project, Grantees are required to submit semi-annual reports. These reports are updates on the project's progress from an accounting and contractual perspective.

The semi-annual reporting requirement begins immediately after the Grantee receives a copy of the fully-executed grant agreement (contract) from the state. **Submittals of semi-annual reports continue until the Grantee has reached Stage 2 of the closeout process unless the Grantee has a subrecipient**. In the case of a subrecipient, semi-annual reports must be submitted for a period of five (5) years after the date the DOC issues a "Certificate of Completion" for the grant. The subrecipient must also meet all of its stated grant beneficiary goals and/or objectives. Please see the **Miscellaneous Reporting Chapter** for more detail.

The first phase of the reporting runs from January 1st to June 30th with reports due no later than July 31st. The second phase of the reporting runs from July 1st to December 31st with reports due no later than January 31st of the following year. The Grantee must submit the original and one (1) copy of the semi-annual report to the DOC. Please use **FORM 9 of the Financial Management Section** for reporting activities.

Chapter Overview

This chapter will cover the environmental regulations that must be followed on all CDBG funded projects. The purpose of the environmental review process is to analyze the effect the proposed project will have on the people and the natural environmental components within the project area.

To begin this process, the Grantee must first determine the environmental classification of each project activity. This chapter will focus upon the **four (4) environmental classifications** that are recognized under the CDBG program.

- Exempt Activities
- Categorically Excluded Activities
- Assessed Activities
- Environmental Impact Statement

Project Overview

Other Chapters

Forms

Please Note: All environmental review procedures must be completed prior to the proposed project's Community Focus Fund (CFF) grant application submission.

Applicable Regulation Summary

Reg

24 CFR Part 58 Subparts A – H: The rules and regulations that govern the environmental review process can be found under 24 CFR Part 58 Subparts A – H. For quick reference, Subpart A defines the purpose of an environmental review and the legalities associated with its completion. Subpart B specifies the roles and responsibilities of those performing the review. Subpart C standardizes the time periods for review and completion. Subpart D documents the activity classification breakdown and project aggregation. Subpart E explains the steps involved with the preparation of the environmental assessment. Subpart F deals with the conditions associated with an environmental impact statement. Subpart G defines the steps associated with the preparation of the environmental impact statement. Last, Subpart H explains the steps associated with a request for release of funds.

Responsible Party

The Grantee must designate an Environmental Officer. This person is the grant administrator or the consulting engineer. The Environmental Officer will be responsible for putting together a project narrative, obtaining maps of the project area, soliciting comments from appropriate local, state and federal agencies, and ultimately completing the environmental review record.

The environmental review usually takes at least 90 days to complete.

Classifying the Activity

Project Overview

Most projects funded under the CDBG program entail more than one (1) activity. **For example:** a new wastewater treatment plant project would have both administrative and construction related activities. The administrative activities would be considered exempt, where as, the construction related activities would be considered assessed.

Other Chapters

Regardless of the number of activities associated with a project, it is only necessary to complete one (1) environmental review; this is due to project tiering. **However, if the activities have separate classifications, such as described above, the Grantee must follow the review steps listed under the most stringent classification**.

Forms

Determining the activity classification is the responsibility of the Grantee's Environmental Officer. To do this, the Environmental Officer must list all of the activities associated with the project, review the information contained within this chapter, and match each activity to the most appropriate classification.

The table, on the following page, has been developed to assist with the classification of activities; however, the Grantee is advised to read the regulations listed under the exempt, categorically excluded, and assessed activity sections of this chapter for more detail.

Classifying the Activity ..... *Continued*

Activity Code	*Account Description*	*Classification*
01	*Acquisition/Disposition*	*Cat. Excluded*
02	*Clearance*	*Cat. Excluded*
03	*Community Center/Facility*	*Cat.Excluded/Assessed*
04a	*Water*	*Cat.Excluded/Assessed*
04b	*Sewer*	*Cat.Excluded/Assessed*
04c	*Flood and Drainage Facilities*	*Cat.Excluded/Assessed*
05	*Streets*	*Cat.Excluded/Assessed*
06	*Senior Centers*	*Cat.Excluded/Assessed*
06	*Parks, Playground and other Recreational Facilities*	*Cat.Excluded/Assessed*
06	*Center for the Handicapped*	*Cat.Excluded/Assessed*
06	*Neighborhood Facilities*	*Cat.Excluded/Assessed*
06	*Solid Waste Disposal Facilities*	*Cat.Excluded/Assessed*
06	*Fire Protection Facilities and Equipment*	*Cat.Excluded/Assessed*
06	*Parking Facilities*	*Cat.Excluded/Assessed*
06	*Public Utilities, other than Water or Sewer Facilities*	*Cat.Excluded/Assessed*
07	*Public Services*	*Exempt*
08	*Relocation Payments and Assistance*	*Exempt*
09a	*Rehabilitation – Residential*	*Cat.Excluded/Assessed*
09b	*Rehabilitation – Commercial*	*Cat.Excluded/Assessed*
10	*Public Housing Modernization*	*Cat.Excluded/Assessed*
11	*Removal of Architectural Barriers*	*Cat.Excluded*
12	*Planning and Technical Assistance*	*Exempt*
13	*General Administration*	*Exempt*
14a	*Economic Development Assistance to Non-Profit Entities*	*Exempt*
14b	*Economic Development Assistance to For–Profit Entities*	*Exempt*
15a	*New Construction – Last Resort*	*Assessed*
15b	*New Construction – Rehabilitation Not Feasible*	*Assessed*
15c	*New Construction – Other (105)(a)(15)*	*Assessed*
16	*Environmental Review*	*Exempt*
17	*Program Income*	*Exempt*

Project Overview
Other Chapters
Forms

Exempt Activities

An activity has an exempt classification when there is no effect whatsoever on the physical environment. According to CFR 24 Part 58 Section 34, the project activities that fall under this classification include the following:

- Environmental and other studies, resource identification, and the development of plans and strategies.
- Information and financial services.
- Administrative and management activities.
- Public services that will not have a physical impact or result in any physical changes, including, but not limited to, services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation, and welfare or recreational need.
- Inspections and testing of properties for hazards or defects.
- Purchase of insurance.
- Purchase of tools.
- Engineering or design costs.
- Technical assistance and training.
- Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair or restoration activities necessary only to control or arrest the effects from disasters, imminent threats, or physical deterioration.
- Payment of principal and interest on loans made or obligations guaranteed by HUD.
- Any of the categorical exclusions listed in Part 58 Section 35 provided that there are no circumstances which require compliance with any other federal laws and authorities cited in Part 58 Section 5.

Project Overview
Other Chapters
Forms

If the proposed project only entails exempt activities, the environmental assessment process is simple. The Grantee is required to undertake the following step.

Step to Follow

1. **Exempt Activity Notification**: Submit a letter to the DOC Environmental Specialist notifying he/she of the proposed project activities and certify that they are all exempt activities. Please use **FORM 1 of the Environmental Section** for notification.

Categorically Excluded Activities

Project Overview

Other Chapters

Forms

Categorically excluded activities are activities that do not have any significant impact on the physical environment. Activities that qualify under this classification, according to CFR 24 Part 58 Section 35, include the following:

- Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20% (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).

- Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.

- Rehabilitation of buildings and improvements when the following conditions are met:

    1. In the case of multifamily residential buildings:

        - Unit density is not changed more than 20%;

        - The project does not involve changes in land use from residential to non-residential; and

        - The estimated cost of rehabilitation is less than 75% of the total estimated cost or replacement after rehabilitation.

Categorically Excluded Activities ..... ***Continued***

2. In the case of non-residential structures, including commercial, industrial, and public buildings:

   - The facilities and improvements are in place and will not be changed in size or capacity by more than 20%; and

   - The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.

- An individual action on a one (1) - four (4) family dwelling or an individual action on a project of five (5) or more units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four (4) units on any one site.

- Acquisition or disposition of an existing structure or acquisition of vacant land provided that the structure or land acquired or disposed of will be retained for the same use.

- Combinations of the above activities.

Project Overview

Other Chapters

Forms

If the proposed project entails any categorically excluded activities, the Grantee is required to complete the following steps.

Steps to Follow

1. **Categorically Excluded Activity Notification**: Submit a letter to the DOC Environmental Specialist notifying he/she of the proposed project activities. Please use **FORM 2 of the Environmental Section** for notification.

   Upon receipt of the letter, the DOC Environmental Specialist will contact the Grantee and inform the Grantee on one (1) of two (2) issues. The first issue may be that the DOC Environmental Specialist feels that the project will require a cursory review by certain environmental agencies. If this is the case, the DOC Environmental Specialist will specify what agencies need to be contacted prior to publishing the "Notice of Intent to Request Release of Funds." The other issue may be that the project will require no further environmental review and the Grantee has the authority to publish the "Notice of Intent to Request Release of Funds."

Steps To Follow ..... ***Continued***

2. **Publication of Notice of Intent**: Prepare a "Notice of Intent to Request Release of Funds" that details the activities associated with the project and publish this notice in two (2) newspapers, if available, of general circulation. Please use **FORM 3 of the Environmental Section** for a reference.

3. **Request Release of Funds**: No earlier than eight (8) days after the notice is published, the Grantee must forward the publisher's affidavit, along with the Request for Release of Funds Certification, to the DOC Environmental Specialist. The DOC will then hold the request for 15 days to allow additional public comment. After the 15 days have elapsed, assuming no negative comments were received, the DOC will grant the environmental release. Please use **FORM 4 of the Environmental Section** for the request.

Example: Notice of Intent Publication Timeframe

May 1	Publish Notice of Intent
May 7	Public Comment Period Expires
May 8	Submit Request for Release of Funds Certification to DOC
May 23	Additional Public Comment Period Expires
May 24	Environmental Release Granted

Project Overview

Other Chapters

Forms

Assessed Activities

An activity is classified assessed when it has a direct impact on the physical environment. According to CFR 24 Part 58 Section 36, an activity is classified assessed if it does not fall under the descriptions listed under the exempt and categorically excluded sections of this chapter. **Any new construction would fall under this classification**.

If the proposed project entails any assessed activities, the Grantee must complete a Format II Equivalency Environmental Review Record.

Assessed Activities ..... ***Continued***

To complete the Format II, the Grantee must undertake the following steps.

Steps to Follow

1. **Environmental Packet Preparation**: The Grantee's Environmental Officer must first put together a packet of information that fully explains the activities associated with the proposed project. This packet should include a project narrative and maps depicting the project site. It is recommended that the Grantee send a United States Geological Survey (USGS) topographical map, floodplain map, wetland map, and soils map, all of which clearly show the project location. If aerial photography is available, it should be included in the informational packet.
2. **Contact Environmental Agencies**: Send the environmental packet to all appropriate local, state and federal agencies requesting an environmental response. It is suggested that these mailings be sent "certified." Please reference **FORM 5 of the Environmental Section** for the list of applicable agencies.
3. **Environmental Response Collection**: If any environmental response contains project concerns or requires further documentation or study, it is the Grantee's responsibility to clarify the concerns and/or obtain further documentation. **For example**: Often the Department of Natural Resources Historic Preservation and Archeology Division will require an archeological survey to be performed. In this event, the Grantee must have the study completed prior to completing the Format II.
4. **Complete Format II**: Once all environmental responses have been received and all concerns/studies addressed, the Grantee may use the information contained in the responses to complete the Format II. Please use **FORM 6 of the Environmental Section**.
5. **FONSI/FSI Determination**: Based upon the completion of the Format II, the project activities will either be determined to have no negative impact on the environment thus being a Finding of No Significant Impact (FONSI); or have a possible negative impact on the environment thus being a Finding of Significant Impact (FSI).

If the project activities are found to have a Finding of Significant Impact (FSI), the Grantee should contact the DOC for further direction.

Project Overview

Other Chapters

Forms

Steps To Follow ..... ***Continued***

6. **Publication of Combined Notice**: If the project activities are determined to have a Finding of No Significant Impact (FONSI), the Grantee needs to prepare and publish a Combined Notice of No Significant Environmental Impact and a Request for Release of Funds. This notice should be published in two (2) newspapers, if available, of general circulation. Please use **FORM 7 of the Environmental Section** for a reference.

7. **Request Release of Funds**: No earlier than 16 days after the notice is published, the Grantee must forward the publisher's affidavit, along with the Request for Release of Funds Certification and the completed Format II to the DOC Environmental Specialist. The DOC will hold the request for an additional 15 days to allow public comment on the project. Once the comment period has expired, providing no negative concerns are raised, the DOC Environmental Specialist will grant the environmental release. Please use **FORM 4 of the Environmental Section** for the request.

Project Overview

Other Chapters

Forms

Example: Combined Notice of No Significant Environmental Impact and a Request for Release of Funds

May 1	Publish Combined Notice
May 15	Public Comment Period Expires
May 16	Submit Request for Release of Funds Certification to DOC
May 31	Additional Public Comment Period Expires
June 1	Environmental Release Granted

Environmental Impact Statement

According to CFR 24 Part 58 Section 37, an Environmental Impact Statement is required when a project is determined to have a potentially significant impact on the physical/human environment. This determination is based upon the environmental responses collected from the applicable contacting agencies.

In the event this situation does occur, the Grantee must contact the DOC Environmental Specialist and discuss possible means of mitigation and/or project modifications.

Chapter Overview

This chapter focuses on the procedures involved with the obtainment of property and/or permanent easements. All of the applicable procedures are set forth by the federal Uniform Relocation and Real Property Acquisition Policies Act (URA).

The information in this chapter will cover the actual acquirement of property and/or easements and relocation procedures. Specific topics include the following:

- Real Property Appraisal/Compensation
- Willing Buyer/Seller Transaction
- Property Donation
- Relocation

Project Overview

Other Chapters

Forms

Please Note: Prior to the Community Focus Fund (CFF) grant application submission, a Grantee must have a signed option on all real property and easement agreement(s) for the proposed project's implementation.

Applicable Regulation Summary

As previously stated, the rules and regulations that govern the acquisition of property and/or permanent easements are set forth by the Uniform Relocation and Real Property Acquisition Policies Act (URA).

Reg

Uniform Relocation Act (URA): The URA details those government regulations found in 49 CFR Part 24. All of the URA rules and procedures are documented in the HUD 1378 Handbook. For reference, the 1378 Handbook contains eight (8) chapters. Chapter 1 defines the terms used under URA. Chapter 2 discusses general relocation and the notices and payments due to tenants. Chapter 3 specifies the steps involved with the relocation of families and individuals. Chapter 4 specifies the steps involved with the relocation of businesses, nonprofits and farms. Chapter 5 highlights the rules and regulations associated with the acquisition of real property. Chapter 6 lists all the recordkeeping requirements noted under URA. Chapter 7 identifies the regulation assistance policies and programs under Section 104. Last, Chapter 8 covers the URA policies as they apply to the governmental programs such as the CDBG Entitlements, State CDBG Programs, and various housing assistance programs.

Responsible Party

Acquiring property and/or permanent easements involves the participation of several individuals. First and foremost, the Grantee or the design engineer/architect needs to identify the property that will be required. Once this has been accomplished, the Grantee must contact the property owner(s) and inform them of the Grantee's interest in the property. (The Grantee may wish to have its attorney make the initial property owner contact.) In the event the estimated price of the property exceeds $2,500, the services of a licensed appraiser and a review appraiser will be required. Ultimately, the Grantee, along with the assistance of its attorney, will close the acquisition transaction.

Acquiring property and/or easements is typically a very time consuming task that requires the participation and coordination of several individuals.

Project Overview

Other Chapters

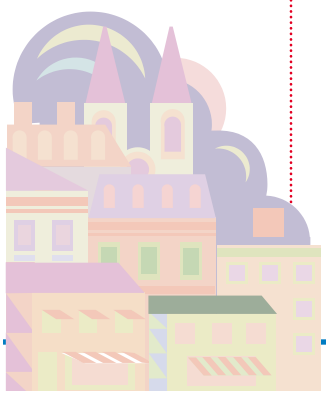
Forms

Real Property Appraisal/Compensation

This section covers the steps that are required when the Grantee acquires property and/or permanent easement(s).

Steps to Follow

1. **Inform Owner**: Once the property and/or permanent easement has been located, the Grantee must prepare a packet of information to be presented to the property owner(s). This packet must include a cover letter explaining the Grantee's interest in the property, a map and description of the property to be acquired, and the informational URA brochure entitled "**When A Public Agency Acquires Your Property**." This packet should be sent certified mail. If certified mail is not used, a signed and dated receipt from each owner identifying the date the packet was received by the owner(s) is required. A copy of the URA brochure is provided on **FORM 1 of the Land Acquisition Section**.



Steps To Follow ..... ***Continued***

2. **Determine Property Value**: The Grantee must determine if the estimated property value is above or below $2,500.

a. If the value of the property is **below $2,500** a market estimate is obtained. The estimate must be in writing and provided by a licensed real estate appraiser.

Please Note: If an owner requests an appraisal on property which the Grantee has determined to be less than $2,500 in value, an appraisal and review appraisal shall be obtained.

b. If the property value is **above $2,500** the Grantee must have an appraisal and review appraisal completed by individuals properly licensed by the Indiana Professional Licensing Agency. A copy of both appraisers' pocket identification cards must be obtained by the Grantee and kept in the grant file.

Once the initial appraiser has been contacted and a date for the appraisal has been established, the Grantee needs to invite the property owner to the appraisal. The property owner must be notified by certified mail, or signed receipt, of the date and time of the appraisal. Please use **FORM 2 of the Land Acquisition Section** for the invitation.

Upon completion of the appraisal, a second licensed individual reviews the document. The review appraiser provides written confirmation of the value of the property. If any inadequacies are found with the initial appraisal, the review appraiser identifies the problem areas and provides an adjusted value.

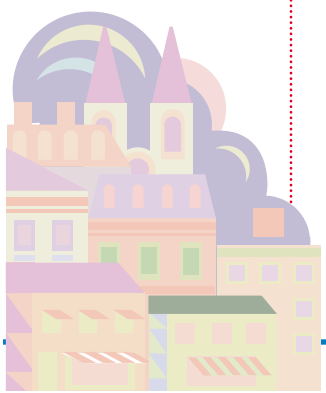
In the event the property values found in the initial appraisal greatly differ from the values established by the review appraisal, the Grantee will need to contact the DOC Acquisition Specialist.

3. **Offer to Owner**: After completion of the appraisal/review appraisal process, or the obtainment of the market estimate, the owner is provided a written offer of compensation. The offer shall not be less than the review appraised value or market estimate. Please use **FORM 3 of the Land Acquisition Section** for a guide.

Project Overview

Other Chapters

Forms



Steps to Follow ..... ***Continued***

4. **Signing of Purchase Option**: Once the property owner has accepted the written offer, a purchase option may be signed.

Please Note: If the owner states that he/she is willing to take less than the offered price or is willing to donate the property, a waiver of partial donation or donation with appraisal must be signed and attached to the agreement. Please use either **FORM 4 of the Land Acquisition Section** for a full donation or **FORM 5 of the Land Acquisition Section** for a partial donation.

5. **Completion of Questionnaire**: Aside from the signed purchase option, the Grantee must also complete a questionnaire that provides additional information about the property and/or permanent easement. Please use **FORM 6 of the Land Acquisition Section**.

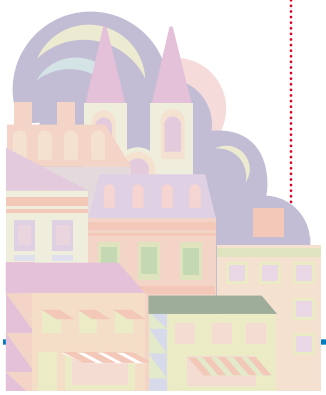
Project Overview

Other Chapters

Forms

Additional Information

In the event an agreement on the purchasing of the property and/or permanent easement can not be reached, the Grantee has the right to exercise its **power of eminent domain**. However, this process is slow and the costs associated are great. The DOC advises all potential Grantees to avoid this situation and try to locate another suitable site. **In the event another site is not available, delay the grant application submission until the matter is completely resolved**.



Willing Buyer/Seller Transaction

Rarely, but on occasion, a Grantee will be fortunate enough to find a suitable piece of property and/or easement in which the property owner is interested in selling. This situation is known as a willing buyer/seller transaction. The advantage to this circumstance is an appraisal may not be required. However, this process does pose some risk for the Grantee in that the Grantee must waive its legal rights to acquire the property in the event the negotiations fail. For this situation to work, the property owner must seriously want to sell the property and the Grantee must have alternative locations in mind in case negotiations fail.

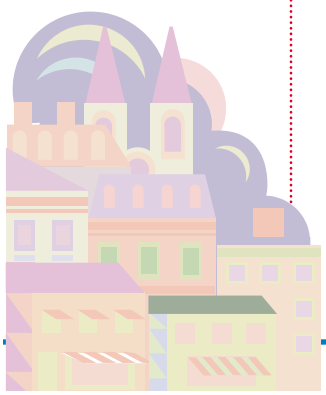
Steps to Follow

1. **Inform Owner**: The Grantee must inform the owner in writing of its interest in the property and/or permanent easement and state that it will not use its power of eminent domain to acquire the property if negotiations fail. The Grantee must also inform the owner of the value of the property. **(If CDBG funds will be used for the purchase of the property, an appraisal is required. If local funds are utilized, a market estimate may be obtained.)** In this letter, an offer can be made. Please use **FORM 7 of the Land Acquisition Section** as a sample.
2. **Owner Response/Purchase Option**: If the owner finds the offer to be acceptable, a purchase option may be signed or an acceptable amount may be negotiated.
3. **Other Documentation**: Aside from the signed purchase option, the Grantee must complete the standard questionnaire. Please use **FORM 6 of the Land Acquisition Section** for the questionnaire.

Project Overview

Other Chapters

Forms



Property Donation

The Grantee may have property owners that do not want any compensation for their property and/or permanent easement. This situation is considered a donation.

Steps to Follow

1. **Inform Owner**: As is the case with acquiring real property, the owner must first be sent a packet of information informing them of the Grantee's interest in the property, a map and description of the property, and the URA informational brochure, "**When a Public Agency Acquires Your Property**." This packet should be sent certified mail. If certified mail is not used, a signed and dated receipt from each owner identifying the date the packet was received by the owner(s) is required. A copy of the URA brochure is provided on **FORM 1 of the Land Acquisition Section**.
2. **Owner Response**: Prior to the appraisal process and negotiation phase, the property owner may inform the Grantee of his/her intent to waive his/her rights to an appraisal based upon his/her desire to donate the property and/or easement.
3. **Additional Documentation**: With a property and/or easement donation, the property owner is required to sign a waiver of acquisition rights. Please use **FORM 8 of the Land Acquisition Section**. The standard property questionnaire must also be completed. Please use **FORM 6 of the Land Acquisition Section**.

Project Overview

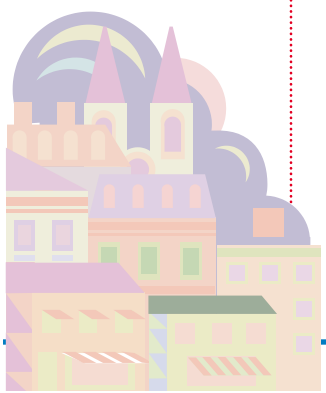
Other Chapters

Forms

Relocation

In the event the Grantee is acquiring a property in that individuals will be temporarily or permanently relocated, the Grantee must follow additional rules and regulations under URA.

If relocation procedures are a part of the undertaken project, the Grantee should contact the DOC Acquisition Specialist for step by step relocation instructions.



Chapter Overview

This chapter covers the rules and regulations that are applicable to upholding the rights of every individual regardless of his/her race, color, religion, sex, disability, age or national origin.

The premise of the established civil rights rules and regulations, as they pertain to CDBG funded projects, is to promote the following areas of concern:

- Equal Employment Opportunities for All Persons
- Equal Opportunity in Services, Benefits, and Participation in CDBG Projects
- Promotion of Fair Housing Practices

Project Overview

Other Chapters

Forms

Applicable Regulation Summary

Reg **Executive Order 11063**: The purpose of this regulation is to prevent discrimination because of race, color, religion, sex, or national origin in the sale, rental or leasing of residential property and related facilities where such property or facilities are owned or operated by the federal government or provided with federal assistance by the Department of Housing and Urban Development.

Reg **Title 6 - Civil Rights Act of 1964**: The purpose of this regulation is to assure no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance from the Department of Housing and Urban Development.

Reg **Title 7 - Civil Rights Act of 1964 (as amended)**: This provision prohibits discrimination in employment on the basis of sex.

Reg **Section 3 of the HUD Act of 1968**: The purpose of this Act requires that recipients of CDBG money and their contractors/subcontractors provide jobs and other economic opportunities to low-income persons in the immediate project area.

Regulations ..... ***Continued***

Reg **Executive Order 11246 (as amended)**: The purpose of this regulation is for the promotion and assurance of equal opportunities for all persons, without regard to race, color, religion, sex, or national origin, employed or seeking employment with government contracts or with contracts performing under federally-assisted construction contracts.

Reg **Architectural Barriers Act of 1968**: The purpose of this Act is to assure all new federally constructed, leased, or financed buildings and facilities, as well as buildings assigned for public use, be designed, constructed, and altered so as to be accessible to and usable by persons with physical disabilities.

Reg **Section 504 Rehabilitation Act of 1973**: Section 504 is to assure no otherwise qualified individual with handicaps in the United States shall solely by reason of his/her disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded with CDBG funds.

Reg **Section 109 of Title I of the Housing and Community Development Act of 1974**: This regulation's purpose is to assure nondiscrimination in programs and activities receiving assistance under Title I. It states that no person in the United States shall, on the grounds of race, color, national origin, religion, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with federal financial assistance.

Reg **Age Discrimination Act of 1975**: The purpose of this Act is to prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance.

Reg **Fair Housing Amendments Act of 1988**: This Act was established to protect against discrimination because of race, color, religion, sex, handicap, familial status, or national origin in the sale, rental, advertising of dwellings, brokerage services, or in the availability of residential real estate related transactions. In addition, the 1988 Amendments established certain design and construction requirements for new multifamily housing built for first occupancy on or after March 13, 1991.

Project Overview
Other Chapters
Forms

Regulations ..... ***Continued***

The Americans with Disabilities Act of 1990: This Act provides comprehensive civil rights protections to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications. It further provides that discrimination includes a failure to design and construct facilities for first occupancy no later than January 26, 1993 that are readily accessible to and usable by individuals with disabilities.

Please Note: The State of Indiana recognizes all of the above federal rules and regulations as the guidepost for all state civil rights issues. For questions or further clarification, please contact the Indiana Civil Rights Commission.

Project Overview

Other Chapters

Forms

Responsible Party

Each Grantee needs to designate a Civil Rights Officer and notify the DOC with the name and address of this individual. Please use **FORM 1 of the Civil Rights Section** for notification.

This person oversees the implementation of all applicable civil rights procedures required under the CDBG program. Typically, it is the Grantee's grant administrator who fills this role.

The following information provided within this chapter explains the many responsibilities of the Civil Rights Officer.

Fair Housing

Pursuant to Executive Order 11063, Section 109 of Title I and the Fair Housing Amendments Act of 1988, every recipient of CDBG funds must promote fair housing practices within its community.

Although there are a variety of ways a Grantee can encourage fair housing practices, the DOC has established the following guidelines. The Grantee's Civil Rights Officer, prior to the Grantee's Release of Funds, must perform the below listed tasks.

Steps to Follow

1. **Develop Ordinance**: Have the Grantee's attorney assist the Grantee with the development of a fair housing ordinance or resolution. Once developed, this ordinance or resolution must be adopted by the Grantee and submitted to the DOC Civil Rights Specialist for review. Please use **FORM 2 of the Civil Rights Section** as an example.
2. **Display Posters**: Display fair housing posters in public buildings, such as banks and local government buildings. (These posters will be forwarded to the Grantee after the DOC receives the Notification of Civil Rights Officer and reviews the Grantee's fair housing ordinance.)
3. **Further Promotion**: Develop additional steps to further promote fair housing practices within the community. **Examples include**: formal fair housing complaint process and additional public educational programs on fair housing procedures.

Please Note: A fair housing ordinance must be passed prior to the Community Focus Fund (CFF) grant application submittal.

Project Overview
Other Chapters
Forms

Minority and Women Business Enterprises

Several of the rules and regulations described promote equal opportunities in services, benefits, and participation in federally funded projects. These opportunities must be extended to business enterprises classified as a minority and/or women-owned business enterprises (MBE/WBE).

Def A MBE/WBE owned business is defined as a business that has been established for one (1) year or more and is 51% owned, operated, and controlled by a minority and/or woman. A directory of all state **certified MBE/WBE's** can be obtained through the Minority Business Development Division's web site located @ **www.state.in.us.com/idoa/minority**.

It is the policy of the federal and state governments to see that these business enterprises have the maximum feasible opportunity to participate in the performance of contracts awarded under the CDBG programs. The DOC has adopted a goal of 10% aggregate participation for minority firms.

The Grantee's Civil Rights Officer is required to maintain documentation supporting the Grantee's "best efforts" to achieve the state goal of 10% minority business enterprise participation on each CDBG funded project.

Project Overview

Other Chapters

Forms

Steps to Follow

1. **Solicitation**: Solicit two (2) certified MBE firms for contract opportunities by certified mail. Maintain the returned mail receipt in the Civil Rights file.
2. **Documentation**: If applicable, document reasons MBE firms were not selected.
3. **Recordkeeping**: If applicable, maintain and document information regarding the amount of the MBE contracts for final monitoring purposes.

Please Note: The DOC promotes the utilization of MBE firms certified through the Indiana Department of Administrations Minority Business Development Division via an incentive program that allows Grantees to receive back 5% of the total MBE contract amount or up to $ 25,000, whichever is less.

Construction Bidding Requirements

All prospective contractors/subcontractors, regardless of classification, need to be aware that certain federal and state civil rights requirements are applicable on federally funded projects. In order to do this, the DOC has established the following requirements:

Steps to Follow

1. **Bid Specification Completion**: Give the project architect/engineer a copy of the **Federal Construction Contract Provisions** to include in the bid specifications.
2. **Advertise**: Publish "Notice to Bidders" with the appropriate civil rights provisions in a newspaper of general circulation. (Please reference IC 5-3-1-2 for the publication schedule.) An example of the notice can be found on **FORM 10 of the Procurement Section**.
3. **Pre-Bid Notification**: It is highly recommended that a pre-bid meeting be conducted. To do this, a date, no less than 10 days prior to the bid opening, must be selected and included in the bid advertisement. Forward the date, time, and location of the meeting to DOC Civil Rights Specialist. Please use **FORM 3 of the Civil Rights Section** for notification.
4. **Pre-Bid Meeting**: Conduct pre-bid meeting that details all civil rights rules and regulations applicable to project.
5. **Pre-Bid Minutes**: Submit minutes and sign-in sheet of the pre-bid meeting to the DOC Civil Rights Specialist.

Project Overview

Other Chapters

Forms

Construction Contract Award

Once the project has been bid and the Grantee is ready to award contracts, it is the responsibility of the Grantee to guarantee the contractor(s)/subcontractor(s) adhere to the applicable civil rights rules and regulations pertaining to equal employment opportunities. In order to do this, the Grantee's Civil Rights Officer must implement the following steps:

Steps to Follow

1. **Federal Third Party Provisions**: Include in the executed contract agreement the Equal Employment Opportunity (EEO) clause. This clause is referenced within the **Federal Construction Contract Provisions**.
2. **EEO Posters**: Have the contractor(s) post the EEO posters at the job site. (The DOC Civil Rights Specialist will forward posters to Grantee.)
3. **EEO Report**: In the event the contractor(s) has 50 or more employees, and the executed contract with the Grantee is over $50,000, the contractor(s) must submit an Employment Information Report EEO - 1 to the Joint Reporting Committee. (This form is included in the **Federal Construction Contract Provisions**.)
4. **Affirmative Action Plan**: In the event the contractor(s) has 50 or more employees, and the executed contract with the Grantee is over $50,000, the contractor(s) must submit an Affirmative Action Plan to the DOC. (This form is included in the **Federal Construction Contract Provisions**.)

Project Overview
Other Chapters
Forms

Section 3 Requirements

The purpose of Section 3 of the HUD Act of 1968 requires that recipients of HUD funds and their contractor(s)/subcontractor(s) provide jobs and other economic opportunities to low-income persons within the project area.

Section 3 automatically applies to Grantees of HUD housing and community development program assistance, and all entities that receive funds under the programs must follow Section 3 requirements.

Section 3 requires that to the greatest extent feasible, recipients of CDBG (and their contractors and subcontractors) provide jobs to low-income persons, particularly public housing residents; and/or provide contracting opportunities for businesses that are owned by low-income people or that employ low-income people.

Project Overview

Other Chapters

Forms

To qualify as a Section 3 resident, the employee or business owner must reside in public housing and/or be a low-income person who lives in the area in which a HUD assisted project is located. "Low-Income" means families, including single persons, whose incomes do not exceed 80% of the HUD median income for the area for the number of persons in the household.

To qualify as a Section 3 business, 51% or more of the owners must qualify as a Section 3 resident or the business must employ Section 3 resident in full-time positions. This includes subcontractors on the project.

Priority is to be given to persons who qualify as Section 3 residents in the areas of training and employment, and priority in contracting is to be given to businesses that qualify as Section 3 businesses.

To fulfill the Section 3 requirement, it is the responsibility of the Grantee's Civil Rights Officer to complete the following tasks:

Steps to Follow

1. **Section 3 Compliance**: Submit the Section 3 Compliance form to the DOC Civil Rights Specialist within 30 days of construction completion. Please use **FORM 4 of the Civil Rights Section**. (This form is also included in the **Federal Construction Contract Provisions**.)

Accessibility Certification

Aside from equal employment opportunities and participation in CDBG funded projects, it is the responsibility of the Grantee's Civil Rights Officer to insure that all newly constructed, leased, or financed buildings and facilities, as well as buildings assigned for public use, are designed, constructed and altered so as to be accessible to and usable by persons with physical disabilities. To accomplish this, the Grantee's Civil Rights Officer must complete the following tasks:

Steps to Follow

1. **Architect/Engineer Coordination**: Coordinate activities with the design architect or engineer.
2. **Certification of Accessibility**: Complete and submit to the DOC Civil Rights Specialist a Certification of Accessibility form prior to the start of construction. Please use **FORM 5 of the Civil Rights Section** for notification.

Project Overview

Other Chapters

Forms

Chapter Overview

A vast array of rules and regulations fall under labor standards. These rules are in place to protect the rights of those individuals participating in the construction of federally funded projects.

This chapter will discuss the following labor standard topics:

- Davis Bacon Wage Rates
  - Apprenticeship Programs
  - Force Account Work
- Payroll Reports
- Fringe Benefits
- Overtime
- Copeland Anti – Kickback Act
- Miscellaneous Labor Standard Requirements
  - Pre-Construction Conference

Project Overview

Other Chapters

Forms

Applicable Regulation Summary

Reg **Davis Bacon Act (DBA):** This Act provides that contracts in excess of $2,000, to which the federal government is a party for the construction, alteration, and/or repair, must contain provisions with respect to minimum wages, fringe benefits, payments without deductions or rebates, withholding funds from contractors to ensure compliance with the wage provisions, and termination of the contract or debarment for failure to adhere to the required provisions.

Reg **Contract Work Hours and Safety Standards Act (CWHSSA)**: This Act provides that all overtime hours must be compensated at a rate not less than one and one half times the regular basic rate of pay.

Reg **Copeland "Anti-Kickback" Act**: This Act makes it a criminal offense for any person to induce, by any manner whatsoever, any person employed in the construction, prosecution, completion, or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the federal government, to give up any part of the compensation to which he/she is entitled under his/her contract of employment. This Act also provides for the submission of weekly certified payroll reports by all contractors and subcontractors, as well as the maintenance of records for a period no less than three (3) years.

Reg **Fair Labor Standards Act (FLSA)**: This Act governs such matters as federal minimum wage rates and overtime. These standards are generally applicable to all labor performed and may be pre-empted by other (often more stringent) federal standards such as the DBA requirements and the CWHSSA.

Reg **29 CFR Parts 1, 3, 5, 6 and 7**: The US Department of Labor has published regulations corresponding to DBA, CWHSSA and Copeland Act administration and enforcement at 29 CFR 1, 3, 5, 6 and 7. Part 1 explains how the US Department of Labor establishes and publishes DBA wage determinations and provides instructions on how to use the determinations. Part 3 describes Copeland Act requirements for payroll deductions and the submission of weekly certified payroll reports. Part 5 covers the labor standards provisions related to Davis Bacon Act wage rates and the responsibilities of contracting agencies to administer and enforce the provisions. Part 6 provides for administrative proceedings enforcing federal labor standards on construction and service contracts. Last, Part 7 sets parameters for practice before the wage appeals board.

Project Overview
Other Chapters
Forms

Responsible Party

Once the grant is awarded, the Grantee needs to designate a Labor Standards Officer whom is an accredited grant administrator. Notify the DOC of this persons name and address. Please use **FORM 1 of the Labor Standards Section** for notification.

Once this form has been submitted to the DOC Labor Standards Specialist, the Grantee's Labor Standards Officer will need to forward a copy of the **Federal Construction Contract Provisions** (including HUD Form 4010) and the applicable **Davis Bacon Wage Decision**, to the design architect/engineer to include in the bid specifications.

Project Overview

Other Chapters

Forms

Davis Bacon Wage Rates

The most significant regulation listed under the labor standards category is the Davis Bacon Act. This Act was adopted to guarantee that workers on federally-funded construction projects receive no less than the prevailing wages as determined by the US Department of Labor for that locality.

Davis Bacon wage rates apply to all CDBG construction, alteration or repair contracts over $2,000. Both the prime contractor(s) and his/her sub-contractor(s) are subject to paying Davis Bacon wages to his/her employees. The only exemptions from Davis Bacon are as follows:

- Rehabilitation or new construction contracts on residential property that contains less than eight (8) units.
- Individuals classified as an **apprentice** may be paid less than the prevailing wage rate. However, the apprentice must be registered in a bona fide apprenticeship program approved by the US Department of Labor through its Bureau of Apprenticeship and Training or recognized by the State Apprenticeship Council. Prior to any work performed by the apprentice on the job site, **copies of the apprenticeship certification must be obtained** for the labor standards file.
- Any regular employee of the state or a political subdivision may work at less than the prevailing wage rate. This is known as **force account work**. **For example**: a town may receive CDBG funds to construct a new water line and the town feels its own employees can handle the construction. In this event, the town employees would work for their regular hourly rate that may be less than the prevailing wage rate.

If the Grantee would like to utilize the force account work option, the Grantee should reference IC-36-1-12-3 and contact the DOC Labor Standards Specialist prior to beginning any construction work.

Project Overview
Other Chapters
Forms

Davis Bacon Wage Rates ..... *Continued*

If the Grantee's project circumstances are not subject to an exemption, Davis Bacon wage rates must be utilized. To obtain a copy of the wage decision, the Grantee must complete the following steps:

Steps to Follow

1. **Request Wage Decision**: Complete and mail a Request for Wage Decision to the DOC Labor Standards Specialist. Upon receipt, the DOC Labor Standards Specialist will forward the applicable provision to the Grantee. The wage decision must be included in the bid specifications. Please use **FORM 2 of the Labor Standards Section** for the request.

2. **10-Day Wage Verification**: Because the US Department of Labor continually monitors the economic conditions of the construction contracting discipline, the wage rates are subject to change. It is essential that the Grantee verify the most current rates are being utilized. To do this, the Grantee must forward a Wage Verification form to the DOC Labor Standards Specialist 10 days prior to the bid opening. Please use **FORM 3 of the Labor Standards Section** for verification.

   In the event the wage decision has been modified, the DOC Labor Standards Specialist will send the Grantee a copy of the new wage decision. A copy of this new wage decision must be immediately forwarded to the Grantee's engineer/architect. The engineer/architect will need to send it to all potential bidders (plan holders) no less than 72 hours prior to the bid opening.

Please Note: The wage decision will remain valid for 90 days after the bid opening. In the event the project is not awarded within 90 days after the opening, the Grantee must contact the DOC Labor Standards Specialist and utilize the wage decision that is valid on the date the construction contract(s) are executed.

3. **Final Wage Rate Compliance**: During the construction phase of the project, the Grantee's Labor Standards Officer will need to check the contractor's weekly payroll reports. Upon the completion of the construction activities, the Grantee must submit a Final Wage Rate Compliance form. Please use **FORM 4 of the Labor Standards Section** for compliance.

If any discrepancies are found, the Grantee needs to take immediate action to resolve the issue(s). All payments to the contractor should be withheld until the contractor rectifies the situation. If the contractor fails to make restitution, the Grantee will be held responsible for the additional payments owed to the contractor's employees.

Project Overview
Other Chapters
Forms

Davis Bacon Wage Rates ..... *Continued*

Additional Information

The Davis Bacon wage rate provisions also apply when CDBG funds are used to purchase equipment that requires installation and the installation involves more than an incidental amount of construction work. **For example**: CDBG funds are used to purchase a press that needs to be professionally installed. The contract for the press installation is over $2,000 and thereby entitles the installation workers to Davis Bacon wage rates.

Please Note: When using the $2,000 amount to trigger Davis Bacon, HUD looks at the total project amount. **For example**: If a $500,000 building is being built and a subcontractor is doing landscape work for $1,500, he is still subject to Davis Bacon even though his contract amount is under $2,000.

Project Overview

Other Chapters

Forms

If the contractor plans to utilize a **work classification** that is **not listed on the wage decision**, the Labor Standards Officer must request an "additional classification and wage rate." The request must be made in writing and sent to the DOC Labor Standards Specialist. The request must identify the work classification that is missing and the work that the new classification will perform. If possible, the Labor Standards Officer should recommend a wage rate, which would usually be the rate typically paid to employees performing the same kind of work within that area. The DOC Labor Standards Specialist will assign a conforming wage rate for the new classification or make a request for an additional classification to the US Department of Labor. The Labor Standards Officer will be notified in writing of the decision and the prime contractor must post the notification on the job site with the wage decision.

Payroll Reports

The contractor/sub-contractor may submit his/her payroll reports on the **standard payroll report** form, or he/she may use a computerized printout with an attached **Statement of Compliance** form. Both of these forms **require the original signature of the contractor/subcontractor**.

(A copy of the payroll forms and filing instructions can be found in the **Pre-Construction Conference Packet**.)

The Certified Payroll Report must clearly identify hours worked on the project for the reporting period. Gross wages from this job and from all other jobs worked during the week must be reported in the gross amount earned column. Deductions listed are to be based on the gross amount earned so that the net amount due to the employee corresponds with the payroll check issued to the employee.

Project Overview

Other Chapters

Forms

The contractor/subcontractor must also **number and date his/her payroll reports**. The first week work is performed, the payroll report must be dated and marked "initial." The contractor/subcontractor is required to submit a payroll report for each consecutive week until the project is complete. The last payroll report must be dated and marked "final."

Please Note: "No Work" payrolls must be submitted whenever there is a temporary break in the work on the project. **For example**: If the construction firm is not needed on the project for a few weeks but will be returning to the job site at a later date, the contractor would still be required to submit weekly payroll reports for the weeks he/she was not on site by simply indicating that "No Work" was performed on the payroll report.

In order to assist the Grantee with the monitoring of the payroll reports, a monthly payroll report summary should be maintained. Please use **FORM 5 of the Labor Standards Section** for this summary.

Fringe Benefits

In the event the contractor is paying his/her employees' fringes in cash, the amount of fringe benefits due should be added to the amount of the base wage with the total amount due reflected in the hourly rate column on the certified payroll report. The contractor should also mark the certified payroll report in Part 4(b)-where fringe benefits are paid in cash.

In some instances, the applicable hourly fringe benefit amount may not be reflected on the payroll form. This circumstance may arise if the contractor/sub-contractor has a bona fide fringe benefit plan for his/her employees. In this case, the contractor should mark the certified payroll report in Part 4(a)-where fringe benefits are being paid into an approved plan.

The Grantee's Labor Standards Officer must obtain verification from the contractor/sub-contractor of his/her fringe benefit program and amounts. (If the contractor/subcontractor has union employees, a copy of the union benefit page will suffice.) **In addition to the verification, the prime contractor and all sub-contractors are required to complete a Wage/Fringe Benefit Certification form**. Please use **FORM 6 of the Labor Standards Section** for certification. This completed form, signed by an officer of the company, must be forwarded to the DOC's Labor Standards Specialist prior to requesting the first drawdown of grant funds.

Project Overview

Other Chapters

Forms

The DOC recognizes the following as bona fide fringe benefit plans:

- Health, life or other similar insurance.
- Pension or retirement contributions recognized by the Internal Revenue Service (IRS).
- Expenses of recognized apprenticeship or other training programs.

Please Note: Fringe benefits do not include employer payments or contributions required by other federal, state, or local laws, such as the employer's contribution to Social Security or Workmen's Compensation.

The Grantee's Labor Standards Officer will need to verify that the fringe benefit amount being paid to the employee is **equal to or greater than the amount specified in the Davis Bacon wage provision**. To do this, the Grantee's Labor Standards Officer will need to take the yearly total amount paid in fringes and divide it by 2080 hours; this will determine the hourly fringe benefit amount being paid.

Fringe Benefits ..... ***Continued***

If the contractor's total wage plus fringe benefits package equates to less than the total wage plus fringe benefits amount specified in the Davis Bacon wage decision, the difference should be paid directly to the employee as part of his/her weekly check. **For example**: ABC Construction pays $3,000 per year to Redline Insurance for John Smith. They also contribute $5,000 per year to a 401K plan for John. ABC's yearly fringe benefit contribution on John Smith is $8,000. On an hourly basis, this equates to $3.85 ($8,000/2,080 hours per year). The specified fringe benefit amount according to the applicable wage decision for John's classification is $5.20. Therefore, ABC Construction will need to add the difference of $1.35 ($5.20 - $3.85) to John's hourly rate. This difference should be indicated on John's weekly payroll report and check.

Overtime

All employees that work over 40 hours in a week on the CDBG funded project are eligible for overtime pay. **For example**: An employee may work 55 hours one week (45 at the CDBG job site and 10 at another non-federal job site). The five (5) additional hours worked on the CDBG job site are subject to Davis Bacon wages at time and one half where as the additional 10 hours at the other site are subject to overtime at the contractor's regular hourly rate.

Please Note: Overtime hours must be paid at no less than one and one-half times the regular rate of basic pay plus the straight-time rate of any required fringe benefits.

Copeland Anti-Kickback Act

The Copeland Anti-Kickback Act requires:

- No contractor/subcontractor may coerce or intimidate any employees to take less than their determined rate and/or give back any of their wages.
- All contractor/subcontractors must keep accurate payroll records and maintain his/her records for a minimum of three (3) years. However, the State of Indiana requires that records be maintained for a period of five (5) years.
- No contractor/subcontractor may pay his/her workers with an I.O.U., equipment, or other form of barter. All payments must be direct in the form of a weekly check written to the employee.

Project Overview
Other Chapters
Forms

Miscellaneous Labor Standard Requirements

To complete the labor standards file, the Grantee's Labor Standards Officer is responsible for making sure that each of the following tasks are completed:

Steps to Follow

1. **Bid Specification Completion**: Give the project architect/engineer a copy of the **Federal Construction Contract Provisions**, along with a copy of the applicable wage decision, to include in the bid specifications. (The wage decision is obtained from the DOC Labor Standards Specialist.)
2. **Contractor Verification**: Prior to bid award, verify that all contractors bidding on the project are not listed in the "Parties Excluded from Federal Procurement Programs", published by the US General Services Administration. To check contractors' status, submit the Contractor Verification form to the DOC Labor Standards Specialist. Please use **FORM 7 of the Labor Standards Section** for verification.
3. **Notice of Contract Award**: Once the Grantee has received its **Release of Funds**, it may award the contract and submit the Notice of Contract Award form to the DOC Labor Standards Specialist. Please use **FORM 8 of the Labor Standards Section** for notification.
4. **HUD 4010 Form**: Make sure that a copy of the Federal Labor Standards Provisions HUD 4010 is physically attached to each construction contract; both the prime contractor and sub-contractor. (A copy of this form is included in the **Federal Construction Contract Provisions**.)
5. **Pre-Construction Meeting**: Prior to the start of construction, the Grantee's Labor Standards Officer will need to schedule and conduct a Pre-Construction Meeting. The purpose of this meeting is to outline once again all of the applicable labor standard rules and regulations that apply on the job. The DOC Labor Standards Specialist should be notified of the meeting no less than 10 days prior to the date. Please use **FORM 9 of the Labor Standards Section** for notification.

Please Note: A "**Pre-Construction Conference Packet**" containing the information to be explained at the Pre-Construction Conference is provided upon this CD-Rom. A copy of the **signed acknowledgement of receipt of the rules, procedures, and requirements** regarding a construction contract between the Grantee and contractor, found within the contents of the packet, must be forwarded to the DOC Labor Standards Specialist along with a copy of a **sign-in sheet and minutes of the meeting.**

Project Overview
Other Chapters
Forms

Steps To Follow ..... ***Continued***

6. **Miscellaneous Forms**: The Grantee's Labor Standards Officer will need to collect the following documents from the contractor/sub-contractor within 10 days of the contract award:

   - Contractor Certification
   - Sub-Contractor Certification
   - Copy of the OFCCP Subcontract Notification for subcontracts over $10,000

   (These forms are included in the **Federal Construction Contract Provisions**.)

7. **Postings at Construction Site**: Make sure the contractor displays the following posters and documents at the construction site:

   - Federal IOSHA poster
   - Federal Polygraph poster
   - Secretary of Labor's Wage poster
   - Copy of the Applicable Davis Bacon Wage Decision

   (The posters are mailed out with the Davis Bacon wage decision to the Labor Standards Officer. Copies of the posters are also included in the **Federal Construction Contract Provisions**.)

8. **Employee Interviews**: Throughout the construction phase, the Grantee's Labor Standards Officer will need to interview 10% of each class of employees working on the job. Interviews should be obtained from the employees of the prime and sub-contractor(s). These interviews should be performed at the beginning of the job and throughout its completion. These interview forms must be checked against the certified payroll reports for job classification and rate of pay. Please use **FORM 10 of the Labor Standards Section** for the interviews. (A copy of the interview form is also included in the **Federal Construction Contract Provisions**.)

9. **Final Inspection/Project Completion**: Once construction is completed and the proposed improvement is functioning as intended, a copy of the Final Inspection/Project Completion report must be forwarded to the DOC Labor Standards Specialist. Please use **FORM 11 of the Labor Standards Section** for notification.

Project Overview

Other Chapters

Forms

Chapter Overview

Throughout the implementation of a CDBG project, an assortment of situations may arise that require a change in the project scope and/or time schedule. If the Grantee is faced with this type of situation, a grant modification is required. Possible reasons for a modification request include the following:

- Increase or decrease in the amount of the grant;
- Change of grant-ending date;
- Change in project activities, site, or area;
- Reallocation of funds budgeted between approved activities;
- Change in the use of principal and interest payments received by the Grantee;
- Change in private sector participants, investment, job creation, or housing goals;
- Change of project beneficiaries (increase or decrease).

This chapter will focus upon the types of situations that may require a grant modification and the steps associated with the DOC approval of the requested modification.

Project Overview

Other Chapters

Forms

Applicable Regulation Summary

Reg **24 CFR Part 85:** The regulations set forth under this law deal with the general administrative requirements in regards to the disbursement and accounting of federal funds.

Reg **24 CFR 570.489(d):** This section of the regulation deals with the fiscal controls and accounting procedures in respect to federal funds. Its purpose is to ensure that funds received are only spent for reasonable and necessary costs eligible under the federally funded program and that all program goals and objectives are met.

Responsible Party

Should a project modification be required, it is the responsibility of the Grantee with the assistance of the grant administrator to document the justification for the change and formally request the grant modification.

The Grantee should allow a minimum of eight (8) weeks for DOC approval when requesting a Category 2 or a Category 3 modification. Category 1 modifications are usually processed within two (2) weeks. **If the Grantee is requiring a change in the grant expiration date, the Grantee is advised to request the modification as soon as the time delays are noted because grant funds cannot be accessed once the grant has expired**.

Each modification request is reviewed by the DOC and evaluated. The four (4) areas of evaluation include the following:

- Did the Grantee proceed in a timely and responsible manner;
- Does the proposed modification present new problems in meeting federal or state regulatory or policy requirements;
- Does the request in any way change the review factors (including point awards) that initially led to the grant funding;
- Does the Grantee have an outstanding Semi-Annual Report?

If the proposed modification significantly alters the project from what was originally granted, it may be advisable for the Grantee to voluntarily return the grant award and re-apply for funding when the project is solidified.

Project Overview

Other Chapters

Forms

Types of Modifications

There are three (3) principal types of modifications:

- Category 1 Modification
- Category 2 Modification
- Category 3 Modification

Categories 2 and 3 Modifications are changes to the amount of funds obligated under the grant. They may require a formal amendment of the grant contract and approval by the state officials who signed the original grant agreement.

Category 1 Modifications include all other changes to the grant project and simply require the approval of the DOC.

Project Overview

Other Chapters

Forms

Category 1 Modification

Category 1 modifications include the following situations:

- An extension of the expiration date of the grant agreement (contract);
- A transfer of federal CDBG or local funding between project line items which is less than 10% of the approved grant budget; and/or
- Other minor modifications needed by the Grantee that are not specified as a Category 2 or Category 3 modification listed herein and has been approved in advance by the DOC's CDBG Program Manager.

Please Note: **Although expiration date changes are the most common requested grant modification, it is important to note that these requests are not automatically granted**. In signing the grant agreement, the Grantee has certified that the project can be completed within an 18 month time period. When a time extension is required, the Grantee has not fulfilled its contractual obligations. In addition, the DOC is required by HUD to meet certain performance standards for expenditure of funds. As a result, it is the policy of the DOC to permit changes in grant expiration dates only when the Grantee can demonstrate the following:

- The Grantee could not have reasonably foreseen the delays; and
- The Grantee acted responsibly and in a timely manner to overcome the delays; and
- The Grantee informed the DOC immediately upon learning that the project could not be completed within the time frame specified in the grant agreement; and

Category 1 Modification ..... ***Continued***

- All aspects of the project can be completed within a very short period of time after the original end date (usually not to exceed six (6) months); and
- The Grantee has drawn and expended the majority of its CDBG funds.

In all other instances, it is recommended that the Grantee voluntarily return the grant award and re-apply for the funding when the project is ready to proceed or, where possible, consult with the DOC to consider re-design of the project in order to allow for the earlier completion.

Extensions beyond one (1) year of the original end date as defined in the grant agreement will not be approved.

If the circumstances for the time extension meet those defined, the modification can be accomplished through an exchange of letters between the Grantee and the DOC. The steps involved are described below:

Project Overview

Other Chapters

Forms

Steps to Follow

1. **Modification Request Letter**: A letter from the Chief Elected Official to the DOC should be written requesting the change in expiration date. Attached to this letter should be a detailed outline of the events causing the change and the anticipated time frame for project completion (no more than an addition of six (6) months). Please use **FORM 1 of the Modification Section**. Upon approval, the DOC will notify the Grantee in writing.

Category 2 Modifications

Category 2 modifications include the following situations:

- The movement of 10% or more of any CDBG approved grant budget line item into one or more other line items; or
- The change of 10% or more in grant goals to be accomplished.

The steps associated with the approval of a Category 2 modification are listed below:

Steps to Follow

1. **Citizen Notification**: Publish a "**Notice of Grant Modification**" that describes the circumstances involved with the modification request and how these proposed changes will affect the citizens. This notice should also set forth a date for a public hearing to obtain citizen input. The notice should be published in two (2) newspapers, if available, of general circulation with the notice being published no less than 10 days prior to the meeting. (Follow I.C. 5-3 for advertising the hearing). Please use **FORM 2 of the Modification Section** as a reference. (A copy of the publisher's affidavit regarding the Notice of Grant Modification must be submitted to the DOC with the modification request documents.)
2. **Conduct Public Meeting**: Conduct the public meeting to gather citizen input regarding the proposed change. Circulate an attendance roster for all participants to sign, and keep accurate minutes of the meeting.
3. **Preparation of Modification Packet**: Once the above two (2) steps have been completed, the Grantee needs to prepare a modification packet. This packet includes a formal letter written by the Chief Elected Official requesting the modification; justification documenting the need of the modification; changes in the budget, scope and/or time frame due to the modification; and notification/documentation of the public hearing. Three (3) copies of this packet must be submitted to the DOC, all bearing original signatures. Please use **FORM 3 of the Modification Section**.

Project Overview
Other Chapters
Forms

Category 3 Modifications

Category 3 modifications include the following situations:

- A change in the project location or participants; or
- An increase in the grant amount.

The steps associated with the approval of a Category 3 modification are listed below:

Steps to Follow

1. **Citizen Notification**: Publish a "**Notice of Grant Modification**" that describes the circumstances involved with the modification request and how these proposed changes will affect the citizens. This notice should also set forth a date for a public hearing to obtain citizen input. The notice should be published in two (2) newspapers, if available, of general circulation with the notice being published no less than 10 days prior to the meeting. (Follow I.C. 5-3 for advertising the hearing). Please use **FORM 2 of the Modification Section** as a reference. (A copy of the publisher's affidavit regarding the Notice of Grant Modification must be submitted to the DOC with the modification request documents.)
2. **Conduct Public Meeting**: Conduct the public meeting to gather citizen input regarding the proposed change. Circulate an attendance roster for all participants to sign, and keep accurate minutes of the meeting.
3. **Adopt Modification Resolution**: Based upon the evaluation of the public input and the circumstances associated with the need of the modification, the governing body needs to adopt a resolution to submit the modification request to the DOC for formal approval. Please use **FORM 4 of the Modification Section** as a reference.
4. **Preparation of Modification Packet**: Once the above three (3) steps have been completed, the Grantee needs to prepare a modification packet. This packet includes a formal letter written by the Chief-Elected Official requesting the modification; justification documenting the need of the modification; changes in the budget, scope and/or time frame due to the modification; notification and documentation of the public hearing including the attendance roster; and the resolution adopting the submission of the modification request to the DOC. Three (3) copies of this packet must be submitted to the DOC, all bearing original signatures. Please use **FORM 3 of the Modification Section**.

Project Overview

Other Chapters

Forms

Approval Procedures

As previously indicated, grant modification request require different approvals from the State of Indiana. A Category 1 modification will require the approval of the DOC. A Category 2 modification may require additional approval other than DOC. A Category 3 modification will require the approval of various state officials.

The Grantee should allow eight (8) weeks for the approval of a Category 2 or Category 3 modification and at least two (2) weeks for the approval of a Category 1 modification.

Unless otherwise communicated in writing to the Grantee by the DOC, all modifications will become effective as of the date signed by the responsible state official.

Project Overview

Other Chapters

Forms

Notes of Caution

When any modification other than an extension of time is anticipated, the Grantee must also consider the impact of the proposed modification on other regulatory requirements.

A change in project location or participants may trigger a new environmental review. Also, certain modifications such as changes in project site and/or change in construction, architectural, or engineering plans may require an update to the environmental review. A change in participating business or project size may affect job creation requirements.

Grantees should carefully review the anticipated changes against all regulatory requirements to determine the full range of possible impacts, including unanticipated expenses or even the possibility that the proposed project will no longer be eligible for funding.

In the event of a needed increase of the original grant amount, a call needs to be placed to the DOC to verify the availability of additional funds . **If funds are available, the request must be submitted to the DOC prior to the original ending date as specified in the CDBG grant agreement**. CDBG projects that have been awarded the maximum dollar amount cannot request additional funding. **For example**: Additional funds cannot be obtained for an awarded $50,000 planning project or a $500,000 CFF project.

Chapter Overview

The final phase of the CDBG project administration involves the closeout and settlement process. This process is comprised of a series of activities that verify the proper expenditure of CDBG funds and the project's completion. This chapter will discuss the steps associated with the grant closeout process.

Applicable Regulation Summary

Reg **24 CFR 570.489 (d):** This section of the regulation deals with the fiscal controls and accounting procedures in respect to federal funds. Its purpose is to ensure that funds received are only spent for reasonable and necessary costs eligible under the federally funded program and that all program goals and objectives are met.

Reg **24 CFR 570.503:** This section of the regulation deals with the administrative requirements of subrecipients in relation to federally funded projects. Issues such as records and reports and reversions of assets are covered under this law.

Reg **OMB Circular A-133:** This Circular is issued pursuant to the Single Audit Act of 1984 and the Single Audit Act Amendments of 1996. It sets forth standards for obtaining consistency and uniformity among Federal agencies for the audit of States, local governments, and non-profit organizations expending Federal awards.

Project Overview

Other Chapters

Forms

Responsible Party

It is the responsibility of the Grantee with the assistance of the grant administrator to initiate the closeout process no later than 30 days after the project's completion or the last CDBG disbursement, whichever is first. (If CDBG funds were simply used for the acquisition of the property, the Grantee should wait to initiate the closeout process until the project is complete and all stated objectives have been met.) **Regardless, the project must be completed by the ending date specified in the grant agreement.**

Initiation of Closeout Process

As noted above, the Grantee has approximately 18 months to complete the CDBG project and initiate the closeout process. In order to initiate the process, the following conditions must be met:

- All costs to be paid with CDBG funds must be incurred and paid. No contingent liabilities should be outstanding unless the DOC provides written consent for such contingent liabilities.
- The work to be assisted with CDBG funds must be completed and the facility/improvement must be available for use by the grant beneficiaries.

When these stated conditions have been met, the Grantee should immediately proceed with the closeout process.

Project Overview

Other Chapters

Forms

Closeout Process

The closeout process involves three (3) distinct progressive stages:

- Stage 1 - Financial Settlement/Grant Monitoring
- Stage 2 - Administrative Closeout
- Stage 3 - Final Closeout

Closeout Process ..... *Continued*

The **Stage 1 - Financial Settlement** involves the verification of the expenditure of all CDBG funds. The documentation associated with this activity must be submitted to the DOC within 30 days after the project's completion or the end of the month in which the last CDBG disbursement was made, whichever is first.

Steps to Follow

1. **Status of Federal Cash & Leveraging Statement**: The Grantee must document all CDBG expenditures on this form. Please use **FORM 1 of the Closeout Section**.

2. **Grantee Performance Report**: This report is similar to the Semi-Annual Reports filed throughout the CDBG project's implementation; however, this report documents the final amount of all expenditures, both federal and local. Please use **FORM 2 of the Closeout Section**.

   Upon receipt of the above two (2) forms, the DOC's Controller's Office personnel will review the financial information and either reject or approve the information based upon the contents within the original grant agreement.

   If rejected, the DOC will ask the Grantee to audit its records and submit revised documentation.

   When approved, the DOC's Controller's Office will forward the financial settlement documents to the Grants Management Office for the purpose of the project monitoring. The DOC Grants Management personnel will then contact the Grantee's grant administrator and set up a date for the monitoring. A letter from the DOC confirming the date of the monitoring, along with an outline of the documentation to be reviewed, will be sent to the Grantee's grant administrator.

3. **Grant Monitoring**: The DOC will conduct an on-site monitoring of the grant documentation, financial records, and actual facility/improvements. The purpose of the monitoring visit is to verify that the project has met the stated goals/objectives and all of the federal CDBG regulations. Typically, the monitoring meeting takes three (3) to four (4) hours. Successful monitoring meetings largely depend upon the organization and accurate recordkeeping of the grant administrator.

   Within 30 days after the monitoring meeting, the DOC will forward a letter to the Grantee informing them of their grant status. This letter will state one (1) of two (2) results:

Project Overview

Other Chapters

Forms

Closeout Process ..... ***Continued***

- **No Findings**: If the Grantee's performance was found to be in compliance with all CDBG and DOC regulations, the DOC will state that the project had no findings and inform the Grantee to proceed to the next step of the closeout process.
- **Unresolved Findings**: If issues were raised at the monitoring meeting that were not in compliance with the CDBG and DOC regulations, the DOC will address these issues in writing. The Grantee will then have 30 days to resolve these issues and proceed to the next step of the closeout process.

☹ **Until the Grantee has resolved all findings, the Grantee will not be eligible to apply or receive any other CDBG funding.**

4. **Financial Settlement/Expenditure Summary**: Once it has been determined that the Grantee has no findings, the Grantee needs to submit a financial settlement/expenditure summary report to the DOC. The submission of this form completes the financial settlement portion of the closeout process. Please use **FORM 3 of the Closeout Section**.

Project Overview

Other Chapters

Forms

The second stage in the grant closeout process is known as **Stage 2 - Administrative Closeout**. This stage involves the verification of attained goals/objectives (e.g. job-creation or housing-occupancy goals) that were in conjunction with the original grant request. These goals/objectives will be reviewed at the monitoring visit.

If at the monitoring visit these goals/objectives were met or found not to be applicable, the Grantee may proceed to Step 5.

If the goals/objectives were not met, the Grantee must continue to submit the Semi-Annual Reports (see the **Financial Management Chapter** for more detail) until such time the goals/objectives have been met or modified by the DOC. Once the DOC has determined that the Grantee has met its obligations, the Grantee may proceed to Step 5.

5. **Administrative Closeout**: Once the goals/objectives of the grant have been met, the Grantee will need to submit the administrative closeout form to the DOC. Please use **FORM 4 of the Closeout Section**. (If the goals/objectives were met at the time the grant was financially settled, this form may be submitted to the DOC with FORM 4.) Upon approval of the administrative closeout form, the DOC will sign the form and place the grant in a Stage 2 - Administrative Closeout status pending completion of the final audit by the Indiana State Board of Accounts. (The Indiana State Board of Accounts will audit the financial recordkeeping of the CDBG project at the time they audit all of the Grantee's financial records.)

Closeout Process ..... *Continued*

Please Note: When the DOC has approved a Grantee's administrative closeout form and placed it in the Administrative Closeout status, the Grantee does not need to submit any more Semi-Annual Reports. However, if the Grantee has a subrecipient, the subrecipient must submit Semi-Annuals for a period of five (5) years after the date of the DOC's issuance of a "Certificate of Completion".

The final stage associated with the closeout process is known as **Stage 3 - Final Closeout**. The DOC completes this activity with the issuance of a "Certificate of Project Completion." This certificate is issued when the DOC receives the audit report from the Indiana State Board of Accounts which covers the Grantee's fiscal year in which the final payment is made by the Grantee on the grant project expenses.

Project Overview

If no discrepancies or findings by the State Board of Accounts are noted, the "Certificate of Project Completion" is issued and a copy is forwarded to the Grantee.

Other Chapters

If there are findings issued by the State Board of Accounts for a CDBG grant that were not previously issued by the DOC monitors, the Grants Management Office will assist in coordinating resolution of such findings with the Grantee and the State Board of Accounts. Upon resolution, the certificate will be issued.

Forms

Findings by the State Board of Accounts will prevent the Grantee from receiving further CDBG funding until all such findings are resolved.

Issuance and full execution of a "Certificate of Project Completion" signifies that the applicable CDBG grant is considered closed by the DOC with no further associated requirements for the Grantee except for compliance with the records retention requirements of the federal government and the State of Indiana. According to I.C. 5-15-5, all records must be retained for a period no less than five (5) years after the project's final closeout (i.e. date of execution of "Certificate of Project Completion" by the DOC). Pursuant to 24 CFR 570.503 and 570.505, all Grantees and their subrecipients may not change the use or type of beneficiaries of real property acquired or improved with CDBG funds without the advanced written approval of the DOC.

Chapter Overview

This chapter will define "program income" and focus upon the administrative requirements associated with the retention and disbursement of program income funds.

Grantees may not apply for any other type of CDBG funds until all program income is expended.

Applicable Regulation Summary

Reg

24 CFR Part 570.489 (e): This section of the regulation defines program income as gross income received by a state, unit of local government or a subrecipient that was generated from the use of CDBG funds. It goes on further to explain the specific types of items that are considered to be program income and the administrative and accounting requirements.

Project Overview

Other Chapters

Forms

Responsible Party

It is the responsibility of the Grantee to administer and track all program income activities. The specific responsibilities of the Grantee are listed below:

- The Grantee may only use program income to fund eligible CDBG activities that meet a specific national objective. **All program income expenditures must be approved in advance by the DOC**. Please use **FORM 1 of the Program Income Section**.

- The Grantee must maintain financial records on the receipt and expenditure of program income funds separately from other CDBG program funds currently being administered at the local level. **A separate bank account must be established and entitled the "CDBG Program Income Account."** DOC field monitors and State Board of Accounts examiners will compare all receipts and disbursements against the information supplied by the Grantee in its quarterly program income reports.

- The Grantee must **submit quarterly status reports** on the program income received and disbursed to the DOC. Grantees administering local revolving loan funds must also report to the DOC on a quarterly basis. Please use **FORM 2 of the Program Income Section**.

- The Grantee must **treat program income as any other form of CDBG funding and adhere to the specific CDBG program requirements** as it relates to procurement, environmental reviews, labor standards, etc.

Project Overview

Other Chapters

Forms

Program Income Defined

Program income is defined as gross income received by the Grantee or a subrecipient that was directly generated from the use of CDBG funds. When such income is generated by an activity that is only partially assisted with CDBG funds, the income shall be prorated to reflect the percentage of CDBG funds used.

Program income receipts by a Grantee of less than $25,000 in any given calendar year is exempt from the requirements set forth in this chapter pursuant to 24 CFR Part 570.489(e).

Sources of Program Income

Program income includes, but is not limited to the following:

- Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds (the time period of applicability is governed by CDBG regulations and is dependent upon date of final grant closeout);
- Proceeds from the disposition of equipment purchased with CDBG funds as allowed in advance by the DOC;
- Gross income from the use or rental of real or personal property acquired by the recipient or a subrecipient with CDBG funds, less the costs incidental to the generation of such income;
- Gross income from the use or rental of real property owned by the recipient or a subrecipient that was constructed or improved with CDBG funds, less the costs incidental to the rental of the property;
- Payments of principal and interest on loans made using CDBG funds;
- Proceeds from the sale or assignment of loans made with CDBG funds;
- Proceeds from the sale of obligations secured by loans made with CDBG funds;
- Interest earned on funds held in a revolving fund account;
- Interest earned on program income pending disposition of such income and/or,
- Funds collected through **special assessments** made against properties owned and occupied by households not of low and moderate income, where such assessments are used to recover all or part of the CDBG portion of a public improvement.

Project Overview

Other Chapters

Forms

Program Income Exclusions and Exemptions

Program income does not include the following:

- Receipts for subrecipient controlled property of for recipient controlled property that are:

  a. Proceeds from fundraising activities carried out by subrecipients receiving CDBG assistance.

  b. Proceeds from the disposition of real property acquired or improved with CDBG funds when such disposition occurs after the applicable time period specified by CDBG regulations.

- Interest earned by units of general local government on grant funds before disbursement of the funds for activities is not program income, and must be returned to the US Treasury;

- Relocation payments;

- Payments for loss of rental income.

Project Overview

Other Chapters

Forms

Program Income Usage

As previously stated, program income funds may be used to fund an eligible CDBG activity that meets a national objective. However, it is required prior to disbursement of any program income that the DOC approves the project and program income use. Below is a listing of typical program income uses:

- A revolving loan fund to continue the same activity from which the program income was generated; the activity must be carried out in compliance will **all** applicable CDBG laws and regulations. Examples of "same activity" include:

  a. Economic Development Loans
  b. Housing Rehabilitation Loans

- Program income proceeds may be used to support another eligible CDBG activity as prescribed under Title I of the Housing and Community Development Act of 1974, as amended. Each activity must also be carried out in compliance with all applicable CDBG laws and regulations.

- Program income may be used to provide local matching funds or cost sharing for other CDBG grants programs administered by DOC.

Project Overview
Other Chapters
Forms

Revolving Loan Funds

A revolving loan fund means a separate fund (with a set of accounts that are independent of other program accounts) established for the purposes of carrying our a specific activity which, in turn, generate payments to the fund for use in carrying out the same activity. The DOC must approve revolving loan funds, in advance. Stipulations of the revolving loan fund include the following:

- A separate bank account must be established for a local revolving fund. This bank account will be separate from the bank account(s) required for any other program income retained by the Grantee.

- Payment to a revolving loan fund are program income and must be substantially disbursed from the revolving loan fund before additional grant funds are drawn from the State for the activity addressed by the revolving loan fund. Such program income is not required to be disbursed for non-revolving fund activities, as is the case for other program income received or on hand in the Grantee's account. Please use **FORM 3 of the Program Income Section**.

- Expenditures from the revolving loan fund account must be made in accordance with the Grantee's guidelines/standards that must be approved by the DOC.

Chapter Overview

There are a few topics of discussion that do not conveniently fit into any other chapter of this manual, thus the need for the development of this Miscellaneous Reporting Chapter. The discussion items included within this chapter are:

- Subrecipient Reporting
- Drug Free Workplace Ordinance
- Income Intake Verification

Applicable Regulation Summary

Reg **24 CFR Part 570.503**: The regulations set forth under this law have to deal with the development of a subrecipient agreement and all of the reporting regulations in that subrecipients are subject to in respect to the CDBG funded project.

Reg **24 CFR Part 24.600**: This regulation was written in conjunction with the Drug Free Workplace Act of 1988. It defines the parameters of a drug free workplace and the substance abuse policies affiliated with individuals associated with a federal/state grant project.

Reg **24 CFR Part 570.200**: This regulation defines the criteria associated with defining an eligible activity and verifying the pertinent national objective in the means of low-moderate income benefit.

Responsible Party

All of the topics of discussion within this chapter are the responsibility of the Grantee and grant administrator to execute and maintain.

Project Overview
Other Chapters
Forms

Subrecipient Information

A subrecipient is a public or private non-profit agency or organization receiving CDBG funds from a local Grantee or another subrecipient to undertake eligible activities. In Indiana, the subrecipient is typically the non-profit entity who will operate the public facility that is being built with CDBG assistance.

Some of the typical types of organizations that serve as subrecipients are:

- Nonprofit senior citizen service organizations;
- Daycare providers;
- Volunteer fire departments; and
- Regional water and sewer corporations/conservancy districts.

Project Overview

Other Chapters

Forms

A subrecipient arrangement entails the consideration of many factors. First and foremost, the Grantee must make sure that the project is considered eligible under the CDBG and State of Indiana criteria. It must also make sure that all of the activities affiliated with the development and implementation of the project have been identified and that all are realistic and executable. Furthermore, the Grantee must feel confident in the ability of the subrecipient to utilize and maintain the CDBG assisted facility. Once all of these factors have been taken into consideration and negotiated, the Grantee and subrecipient must finalize the arrangement by means of a contractual agreement.

A sample subrecipient agreement has been developed by the DOC for use by all Grantees and subrecipients. Please use **FORM 1 of the Miscellaneous Reporting Section** for reference. This agreement must be executed prior to the submission of the CFF application.

If the CFF grant request is awarded and the project involves the purchase of real property or property construction/improvements, the Grantee and subrecipient must file the subrecipient agreement with the County Recorder's office. Verification of this filing will be requested at the time of Release of Funds.

Subrecipient Information ..... ***Continued***

During the implementation phase of the project, it is the responsibility of the Grantee to carry out all administrative tasks affiliated with the CFF grant. **Once the project has been administratively closed and issued a "Certificate of Completion" by the DOC, the subrecipient must continue to submit reports to the DOC for a period of five (5) additional years**. These reports are maintained to verify that stated goals and objectives were met and continue to be met for the period of time in consideration. They also verify that the establishment is being utilized for the original intended purpose.

Please use **FORM 2 of the Miscellaneous Reporting Section** for reporting. These reports must be submitted on a Semi – Annual basis; being due on July 31st for the period of January 1st – June 30th and January 31st for the period of July 1st – December 31st of the previous year.

Project Overview

Other Chapters

Forms

Drug Free Workplace Ordinance

The execution and submission of a drug free workplace ordinance was mentioned previously within this manual, however, not in much detail. This section of the manual focuses upon the need for an ordinance and some steps that may be taken by the Grantee to decrease the numerous problems associated with drug use.

The Grantee must be concerned about alcohol and other drug use in the workplace. It is the Grantee's responsibility to assure that the individuals associated with the project have a safe and productive environment in which to operate. Because the Grantee is in a position to bring drug free regulations to the forefront, it is in a position to initiate cooperative approaches with all employees and individuals associated with the project in order to reduce any unsafe/unhealthy incidents.

A good drug free workplace program can:

- Reduce operational costs;
- Protect local employees;
- Improve products and services;
- Result in better service to customers and clients;
- Increase profitability; and
- Help many people lead healthier lives.

Drug Free Workplace ..... ***Continued***

To establish a drug free workplace environment, the Grantee must first adopt a Drug Free Workplace Ordinance. This ordinance is a written and communicated substance abuse policy that articulates the Grantee's position on alcohol and other drugs, using the rationale that use in the workplace will not be tolerated. At a bare minimum, it should define the personnel actions that will be taken when the policy is violated. Please use **FORM 3 of the Miscellaneous Reporting Section** for reference. The Grantee's approved drug free workplace ordinance must be attached to the CFF application. Furthermore, a copy must be sent to the Civil Rights Specialist within 30 days after the receipt of the fully executed CFF agreement.

Other steps associated with the development of a drug free workplace include:

- Employee Drug Education and Awareness Programs
- Supervisor Training Programs
- Employee Assistance Programs
- Detection Programs
- Evaluation Process

Project Overview

Other Chapters

Forms

Although the development of the above-mentioned programs is not required by the DOC, the Grantee may obtain more information on them by phoning the DOC Civil Rights Specialist.

Income Intake Verification

Most of the eligible CDBG projects funded by the DOC involve a benefit to be received by low – moderate income individuals. For larger projects, such as the installation of water or sewer lines, the number of individuals to receive benefit may be area wide and require the completion of an income survey. However, often the project to be assisted with CDBG funds is very specific and will only be utilized by a select group of individuals. **For example**: CDBG funds may be acquired to assist with the construction of a new day care facility. Obviously, not everyone in the community will utilize this service. However, due to the funding requirements, it is necessary to document that at least 51% of the individuals that do utilize this service are of low-moderate income status.

In order to assist Grantees in their efforts to verify incomes, the DOC has developed an income intake document. Please use **FORM 4 of the Miscellaneous Report Section** for verification. This form must be completed at the time of individual application and must be made available to DOC representatives at the time of project monitoring