

City of Goodyear Arizona
CDBG Policies and Procedures Manual
June 2021

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1 INTRODUCTION AND OVERVIEW

The primary purpose of this manual is to serve as the City of Goodyear administrative policy and procedures manual for its Community Development Block Grant (CDBG) program. It is a source of information and guidance for both the city and subrecipients when conducting CDBG-funded activities. Subrecipients must familiarize themselves with this manual and ensure policies and procedures are in place for CDBG-funded activities.

This manual is not meant to be a substitute for CDBG regulations, but as a supplement to them. It is not exhaustive regarding all considerations affecting the use of CDBG funds. Where a conflict of language or omission of requirements occurs, the requirements of Federal Notices and U.S. Department of Housing and Urban Development (HUD) CDBG and cross-cutting regulations and any amendments will prevail. The City of Goodyear may add, remove, or change policies, procedures or forms in this manual.

If a city department or subrecipient is unsure how to proceed after reading the manual, they are encouraged to contact their Goodyear CDBG program representative for assistance. They are also encouraged to review available resources on the HUD website.

1.1 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM

Authorized by Title I of the Housing and Community Development Act of 1974 (HCD Act) as amended, the Community Development Block Grant program provides annual grants on a formula basis to states and entitled cities and counties to develop viable urban communities by providing decent housing and a suitable living environment, and by expanding economic opportunities, principally for low and moderate income (LMI) persons. Grants are awarded to entitlement communities to carry out a wide range of community development activities directed toward neighborhood revitalization, economic development, and the provision of improved community facilities and services.

As a CDBG entitlement grantee, the Mayor and City Council are ultimately responsible for ensuring that the activities of the CDBG Program are conducted in compliance with the HCD Act and federal implementing regulations. All policies relevant to program implementation, as well as final approval of the application for funds, must be approved by the Mayor and City Council.

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2 PROJECT AND ACTIVITY ELIGIBILITY

Prior to recommending a project or activity for funding, Neighborhood Services will review the project and project activities or subrecipient application to determine whether it:

1. Is an eligible activity;
2. Meets a CDBG National Objective;
3. Has clearly identified objectives, outcomes and indicators;
4. Addresses a priority need identified in the city's current 5-year Consolidated Plan; and
5. Meets the criteria and requirements specified for the activity in any city-issued request for proposals or applications, or notice of funding availability.

2.1 ELIGIBLE ACTIVITIES

Prior to approval of CDBG funding for a project or activity, the city will determine eligibility, and ensure the activity can be assigned a matrix code and meets the regulatory requirements as an eligible activity using the CDBG regulations at 24 CFR 570.201 and HUD's matrix code summary <https://files.hudexchange.info/resources/documents/Matrix-Code-Definitions.pdf>. Each activity will be given a title and may be given an internal identification number.

CDBG-eligible activities fall within five categories, each of which is described in a chapter of this manual.

1. Housing;
2. Public Facilities and Infrastructure;
3. Public Services;
4. Economic Development;
5. Program Administration, Planning and Capacity Building; and
6. Other Activities.

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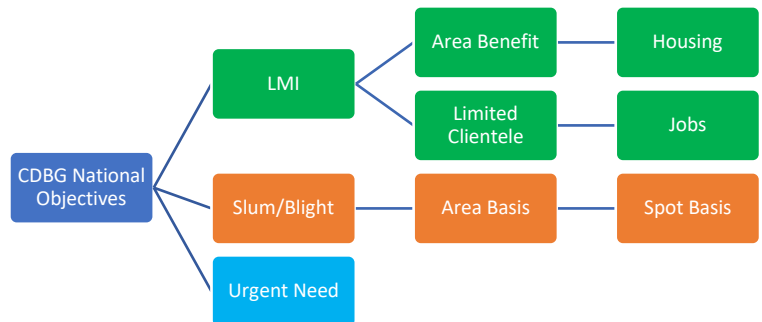
2.2 INELIGIBLE ACTIVITIES

1. Buildings used for the general conduct of government.
2. General government expenses.
3. Political activities.
4. The following activities may not be assisted unless certain criteria are met or they are carried out under the authority of §570.203 or §570.204.
 - a. Purchase of construction equipment;
 - b. Purchase of furnishings and personal property, unless part of a public service activity or necessary for use by the city in the administration of the CDBG program;
 - c. Repair, operation and maintenance of public facilities, improvements and services, except expenses associated with eligible public service activities, interim assistance and office space for CDBG program staff;
 - d. New housing construction, except under the special provisions provided under §570.207(b)(3)(i)-(ii); and
 - e. Subsistence income payments beyond a single three-month period.

2.3 NATIONAL OBJECTIVES

All CDBG-funded activities and projects must meet one of the following National Objectives:

1. Low- and Moderate-Income (LMI):
 - a. Area Benefit;
 - b. Limited Clientele;
 - c. Housing;
 - d. Job Creation or Retention.
2. Slum or Blight:
 - a. Area Basis;
 - b. Spot Basis.
3. Urgent Need.



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2.3.1 LMI NATIONAL OBJECTIVE

The city must ensure that not less than 70% of CDBG funds benefit LMI persons and that the activities, when taken as a whole, do not benefit moderate-income persons to the exclusion of low-income persons. If fees are charged to use a facility or service, the fees must be affordable to LMI persons.

2.3.1.1 LMI Area Benefit

The city will review the proposed project or activity to ensure:

1. The boundaries of the service area are accurately and completely described. The area must be primarily residential, and at least 51% of the residents must be LMI persons (unless HUD has provided an exception limit).
2. The approach to determining the service area is documented, and results in a service area that is reasonable given the nature and scope of the activity. The service area must be the entire area served by the activity and is not required to be coterminous with census tracts or census block groups.
3. The service area description identifies whether the area is primarily residential, the percentage of LMI persons in the service area, and the source of documentation used to compute the percentage of residents that are LMI.

2.3.1.1.1 *Primarily Residential Area*

At least sixty percent (60%) of all existing structures within the service area must be for residential use. This condition must be documented in one of the following ways:

1. A utility company(s) serving the service area;
2. A physical survey;
3. Information drawn from property tax rolls; or
4. Land use designation information.

2.3.1.1.2 *LMI Summary Data and Special Surveys*

HUD provides LMI Summary Data (LMISD) for use in determining compliance with the CDBG National Objective of providing benefit to LMI persons on an area basis. HUD requires the LMI Summary Data be used “to the fullest extent feasible”. When the city believes that the data are not current or do not provide enough information regarding income levels in the entire service area, a special survey must be conducted following HUD guidance (CPD Notice 14-13) found at <https://www.hud.gov/sites/documents/14-13CPDN.PDF>.

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CPD Notice 14-13 describes guidelines for conducting income surveys to ascertain whether or not a CDBG-funded activity designed to benefit an area generally qualifies as primarily benefiting LMI persons, including:

1. Confidentiality;
2. Definitions of family, household, and income;
3. Steps in conducting special surveys; and
4. Procedures for conducting a methodologically-sound survey that meets standards of statistical reliability compared to that of the American Community Survey for areas of similar size.

2.3.2 LMI LIMITED CLIENTELE

The city will review the proposed project or activity to ensure:

1. All proposed beneficiaries will be LMI persons and documented following the appropriate Section 8 income limits for the program year based on the nature or location of the project or activity; or
2. At least 51% of the proposed beneficiaries will be LMI persons and documented following the appropriate Section 8 income limits for the program year; or
3. The proposed beneficiaries will be entirely limited to one of the following HUD-defined presumed benefit categories:
 - a. Abused children;
 - b. Domestic violence survivors;
 - c. Elderly persons (age 62 and older);
 - d. Adults with severe disabilities, who are sixteen (16) years of age and older who:
 - i. Use a wheelchair or have used another special aid for six (6) months or longer;
 - ii. Are unable to perform one (1) or more Functional Activities or need assistance with an Activity of Daily Living (ADL) or Instrumental Activity of Daily Living (IADL);
 - iii. Are hospice patients;
 - iv. Are prevented from working at a job or doing housework;
 - v. Have a selected condition including autism, cerebral palsy, Alzheimer's disease, senility or dementia or mental retardation; or
 - vi. Are persons under sixty-five (65) years of age and covered by Medicare.

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- e. People experiencing homelessness;
 - f. Illiterate adults, defined as those served by English as a Second Language (ESL) programs but not participants in GED programs;
 - g. Persons living with AIDS; and/or
 - h. Migrant farm workers.
4. The activity consists solely of the removal of architectural barriers that restrict the accessibility of elderly persons or persons with severe disabilities to publicly and privately owned, non-residential buildings, facilities and improvements, or to common areas of residential structures containing more than one (1) dwelling unit.

2.3.3 LMI HOUSING

The city will review the proposed project or activity to ensure:

1. How the activity will meet a national objective if the property currently has no structures.
2. For rental housing, the owner or developer requesting CDBG assistance:
 - a. Has provided information on the total number of dwelling units in each structure and the total number of dwelling units that will be occupied by LMI households following completion of the project. The number of dwelling units that will be initially occupied by LMI households must be:
 - i. At least 51% of the units in the development; or
 - ii. At least 20% of the units in a non-elderly new construction development and not less than the proportion of CDBG funding to total development costs.
 - b. Agrees in writing to land use restrictions for the number, size, and type of dwelling units that will be occupied by LMI households;
 - c. Agrees in writing to submit an occupancy report to the city detailing household income level of tenants upon initial occupancy and not less than annually thereafter;
 - d. Agrees to periodic on-site monitoring by the city to ensure LMI occupancy. The city may rely on other monitoring entities for projects that are 100% low-income.
 - e. Has provided information on:
 - i. The monthly rent that will be charged for each LMI unit by number, size and type of dwelling units and how those rents compare to the affordability standard established by the city;

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- ii. If units will be provided in multiple structures, whether those units are under common ownership and management and located on the same or contiguous properties; and
 - iii. If the project is a two-unit structure at least one of the units is initially occupied by a LMI household.
3. For owner-occupied housing, all assisted owners will be LMI following the appropriate Section 8 income limits for the program year.

2.3.4 LMI JOB CREATION OR RETENTION

The city will review the proposed project or activity to ensure:

1. For job creation activities:
 - a. The assisted business has agreed that at least 51% of the jobs created will be held by LMI persons, on a full-time (40 hrs./week) equivalent basis.
 - b. The assisted business has submitted:
 - i. A listing by job title of permanent jobs that will be created and which are part-time;
 - ii. Information regarding any special skills or education needed to fulfill the basic job requirements for each position that will be required; and
 - iii. Information regarding the training that will be provided for any jobs requiring special skills and education.
 - c. The assisted business agrees to report not less than annually for five years the number of actual jobs created by position and the number of jobs created by position that are filled by LMI persons, and documentation of household size and annual income for LMI persons following the appropriate Section 8 income limits for the program year.
2. For job retention activities:
 - a. The business has submitted documentation:
 - i. Evidencing the number of jobs on a permanent full-time (40 hrs./week) equivalent that would have been lost without the CDBG assistance;
 - ii. A listing by job title of permanent jobs that will be retained, which are part-time, and which are currently held by LMI persons;
 - iii. Estimating the number of retained jobs that will become available during the following two years to LMI persons and the basis for the turnover projection;

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- iv. Any special skills or education needed to fulfill the basic job requirements for each position that may turnover; and
 - v. The training that will be provided for any turnover jobs requiring special skills and education.
- b. The business agrees to submit reports regarding jobs that will turnover describing:
- i. The hiring process that was used;
 - ii. LMI persons (by name) interviewed for each job; and
 - iii. LMI persons (by name) hired for each job.
- c. The business agrees to submit a report of the number of permanent full-time jobs that were retained at the time of project completion and annually thereafter for not less than five years.

2.3.5 SLUM OR BLIGHT ON AREA BASIS

Slum or blight may be declared for an area, on the basis of deteriorated or deteriorating buildings, and/or on the basis of condition of public improvements.

The city will review the proposed project or activity to ensure:

1. The activity will address one or more of the conditions that contributed to the deterioration of the area;
2. The area has been designated by city council as a slum, blighted, deteriorated or deteriorating area in accordance with state law. The date of the designation and state law citation will be retained in the project file;
3. The boundaries of the area are clearly defined; and
4. The conditions are documented through completed maps and photos or video that will be retained in the project file. If the area was qualified on the basis of deteriorated or deteriorating buildings, not less than 25% of the buildings met the definition of deteriorated or deteriorating and a map and photos or videos are completed and will be retained in the project file.

2.3.6 SLUM OR BLIGHT ON SPOT BASIS

The city will review the proposed project or activity to ensure:

1. The activity consists of acquisition, clearance, relocation, historic preservation, and/or building rehabilitation;

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2. Documentation supports how the activity will eliminate the specific condition of blight or physical decay; and
3. If the activity is building rehabilitation, excluding historic preservation, the CDBG assistance will be limited to rectifying conditions detrimental to public health and safety, and those conditions are clearly documented and detailed in the rehabilitation scope of work.

2.3.7 URGENT NEED

The city will review the proposed project or activity to ensure:

1. The condition of particular urgency or that poses a serious and immediate threat to the health or welfare of the community is documented. The condition must have become critical within the 18 months preceding the certification of urgent need;
2. There is a direct connection between the activity and the urgent need it will address; and
3. Other sources of funding are not available to cover all of the activity costs.

2.4 OBJECTIVES, OUTCOMES AND INDICATORS

All CDBG activities must demonstrate that they meet the objectives, outcomes and indicators required by the HUD CPD Outcome Performance Measurement System.

2.4.1 OBJECTIVES

The activity must meet one of the following three objectives:

1. Create Suitable Living Environments by addressing issues in the living environment. This includes activities that are intended to address a wide range of issues faced by LMI persons, from physical problems with their environment, such as poor-quality infrastructure, to social issues such as crime prevention, literacy, or elderly health services.
2. Provide Decent Housing where the purpose is to meet individual family or community housing needs, but not when housing is an element of a larger effort to make community-wide improvements, which would be more appropriately reported under Suitable Living Environments.
3. Create Economic Opportunities through economic development, commercial revitalization, or job creation.

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2.4.2 OUTCOMES

Outcomes are defined by the type of change that is sought. The activity must meet one of the following three outcomes:

1. Availability/Accessibility - activities that make services, infrastructure, public services, public facilities, housing, or shelter available or accessible to LMI people, including persons with disabilities. In this category, accessibility does not refer only to physical barriers, but also to making the basics of daily living available accessible to LMI people where they live.
2. Affordability - activities that provide affordability in a variety of ways to LMI people, including the creation or maintenance of affordable housing, basic infrastructure hookups, or services such as transportation or day care. Affordability is an appropriate objective whenever an activity is lowering the cost, improving the quality, or increasing the affordability of a product or service to benefit a LMI household.
3. Sustainability – multiple activities or services that are aimed at improving communities or neighborhoods, helping to make them livable or viable by providing benefit to LMI persons.

2.4.3 INDICATORS

In addition to activity-specific indicators described in the chapter relevant to an activity, all activities must develop indicators that will later be reported, including:

1. Amount of money leveraged from other Federal, state, local, and private sources;
2. Number of persons, households, businesses, units or beds assisted, as appropriate;
3. Income levels of persons or households by HUD income level (30% AMI, 50% AMI and 80% AMI);
4. For area benefit activities, the total number of persons served and the percentage of LMI individuals served; and
5. Race, ethnicity, and disability data when the activity is specifically undertaken to directly benefit persons or households.

2.5 CONSOLIDATED PLAN PRIORITY NEEDS

Every five years the city completes a Consolidated Plan that identifies priority needs that will be addressed by HUD CPD resources. Proposed activities must address a priority need identified in the city's current Consolidated Plan.

3 HOUSING ACTIVITIES

CDBG-eligible housing activities include:

1. Owner Occupied Housing Rehabilitation;
2. Rental Rehabilitation, including Public Housing Rehabilitation and Modernization;
3. Homeownership Assistance;
4. Construction of New Housing by a CBDO;
5. Loss of Rental Income;
6. Lead Based Paint Hazard Evaluation or Reduction Activities;
7. Individual Development Accounts (IDAs); and
8. Public Infrastructure.

3.1 OWNER OCCUPIED HOUSING REHABILITATION

Eligible Owner-occupied Housing Rehabilitation activities include:

1. Repair, rehabilitation, or reconstruction/replacement of site-built and permanently-affixed manufactured housing;
2. Connection of homes to utility lines;
3. Assistance to owners to refinance existing loans secured by the property being rehabilitated, if the refinancing is determined to be necessary or appropriate;
4. Flood insurance premiums;
5. Hazard insurance premiums;
6. Actions to inspect, test for, and abate lead-based paint hazards;
7. Improvements to increase energy efficiency in structures through means such as full home energy audits, the installation of storm windows and doors, water-saving features, water leak repairs, siding, wall and attic insulation, and conversion, modification or replacement of heating and cooling equipment including the use of solar energy;
8. Installation of security devices, including smoke detectors and dead bolt locks;
9. Appliances (i.e., refrigerator, stove, dishwasher, washers and dryers) that are compliant with Energy Star standards;
10. A lump-sum drawdown to establish a revolving loan fund for rehabilitation of privately owned properties;

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11. Emergency repairs to correct local code and/or HUD Housing Quality Standards violations;
12. Costs of acquiring tools to be lent to or used by owners, tenants and others who will use such tools to carry out rehabilitation;
13. Rehabilitation services to pay for staff that provides rehabilitation counseling, energy auditing, work specifications, loan processing, inspections and other services related to the rehabilitation; and
14. Costs associated with temporary relocation including rent, utilities, food allowance and moving costs.

Ineligible Owner-occupied Housing Rehabilitation activities include:

1. Reimbursement to a homeowner for the cost of his/her labor involved in a rehabilitation activity;
2. Furniture, swimming pools, and luxury items; and
3. Rehabilitation not undertaken by licensed contractors.

3.2 RENTAL REHABILITATION

Eligible Rental Rehabilitation activities include:

1. Repair, rehabilitation or reconstruction;
2. Acquisition of property for the purpose of rehabilitation;
3. Connection of residential structures to utility lines;
4. Assistance to owners to refinance existing loans secured by the property being rehabilitated, if the refinancing is determined to be necessary or appropriate;
5. Flood insurance premiums;
6. Actions to inspect, test for, and abate lead-based paint hazards;
7. Improvements to increase energy efficiency in structures through means such as full home energy audits, the installation of storm windows and doors, water-saving features, water leak repairs, siding, wall and attic insulation, and conversion, modification or replacement of heating and cooling equipment including the use of solar energy;
8. Installation of security devices, including smoke detectors and dead bolt locks;
9. Appliances (i.e., refrigerator, stove, dishwasher, washers and dryers) compliant with Energy Star standards;

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10. Rehabilitation that meets HQS or state or local code;
11. Rehabilitation services to pay for staff that provides rehabilitation counseling, energy auditing, work specifications, loan processing, inspections and other services related to the rehabilitation;
12. Assisting owners, tenants, contractors and other entities participating or seeking to participate in the rehabilitation program, regardless of the funding source for the actual rehabilitation as long as the overall activity meets a National Objective; and
13. Costs associated with temporary relocation including rent, utilities, food allowance and moving costs.

Ineligible Rental Rehabilitation activities include:

1. Rehabilitation not undertaken by licensed contractors; and
2. Rehabilitation of rental housing where:
 - a. The rents are not “affordable” to LMI persons; or
 - b. There is no written legally binding commitment from the owner to meet certain requirements including affordability, non-discrimination, affirmative marketing, record collection and retention, and access to records and tenants.

3.3 HOMEOWNERSHIP ASSISTANCE

Eligible Homeownership activities include:

1. Interest write-downs.
2. Principal down payment.
3. Acquisition of housing that will be occupied by eligible home buyers.
4. Loan guarantees.
5. Up to fifty percent (50%) of down payment assistance.
6. Reasonable closing costs.
7. Housing counseling as a part of an assistance program.

Ineligible Homeownership activities includes housing counseling that is NOT a part of an assistance program.

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3.4 CONSTRUCTION OF NEW HOUSING BY A CBDO

New construction of housing using CDBG funds is eligible only when undertaken by an approved Community Based Development Organization (CBDO). The CBDO must be approved by the city prior to implementing any aspect of a new construction project. Eligible new housing construction by a CBDO activities include:

1. Acquisition of land or buildings, including appraisals;
2. Construction costs;
3. Engineering and construction of connecting utilities;
4. Architecture and engineering;
5. Clearance or demolition;
6. Soft costs including a market or feasibility study, preliminary architectural drawings, site drawings and utility plans, narrative descriptions of the proposed construction, preliminary cost estimates, and reasonable costs and fees associated with development and/or processing of applications for mortgage and insured loan commitments; and
7. Developer fees and overhead, not to exceed ten percent (10%) of the total development cost, including land acquisition, construction and architectural permits and legal fees.

Ineligible new housing construction by a CBDO activities include improvements to land and property owned by an entity that is not a city-approved CBDO.

3.5 LOSS OF RENTAL INCOME

Loss of rental income includes payments to property owners for loss of income while holding housing units for the relocation of individuals and families displaced by CDBG activities. This is typically considered part of a housing rehabilitation activity.

3.6 LEAD BASED PAINT HAZARD EVALUATION OR REDUCTION ACTIVITIES

The evaluation and reduction of lead-based paint hazards undertaken independently or as part of housing rehabilitation activity.

3.7 INDIVIDUAL DEVELOPMENT ACCOUNTS (IDAs)

CDBG funds may be used as required match for Individual Development Accounts (IDAs) when the family or household of the individual for whom the IDA is established is determined to be LMI prior to assistance being provided.

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3.8 PUBLIC INFRASTRUCTURE

Off-site infrastructure activities are eligible when undertaken in support of homeownership and rental housing development that will be affordable to LMI households. The activity or activities must meet the eligibility criteria for both infrastructure and housing. The outcome of activities is defined as public infrastructure for housing benefit.

4 PUBLIC FACILITIES AND INFRASTRUCTURE ACTIVITIES

Eligible CDBG public facilities and infrastructure activities generally include:

1. Public and Privately Owned Water System Improvements;
2. Public and Privately Owned Wastewater System Improvements;
3. Road/Street Improvements;
4. Parking Facilities;
5. Flood and Drainage Improvements;
6. Other Public and Privately Owned Utilities;
7. Combinations of Public Facilities;
8. Special Assessments;
9. Fire and Police Protection Facilities;
10. Community and Supportive Housing Facilities; and
11. Removal of Architectural Barriers.

4.1 PUBLIC AND PRIVATELY OWNED WATER SYSTEM IMPROVEMENTS

Eligible water system improvements include:

1. Installation of new lines.
2. Replacement of existing lines, only when deteriorated or obsolete based on federal or state requirements.
3. Installation of larger capacity lines.
4. Installation of fire hydrants.
5. Construction of new intake stations.
6. Drilling of new wells in conjunction with hydrology study.
7. Replacement of facilities beyond their expected life.
8. Plant expansions or modifications due to increased water demand.
9. Plant expansions or modifications due to changes in source water quality.
10. Replacement of major equipment (e.g., clarifiers).
11. Construction of elevated or ground storage tanks.
12. Acquisition of real property (including ROW/easements).

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13. Utility connections (physical work only on private property).
14. Payment of assessments for LMI persons.
15. Clearance of land to include demolition or moving buildings.

Ineligible water system improvements include:

1. Cleaning of lines, unless necessary as a prerequisite for undertaking one of the eligible activities.
2. Replacement of minor equipment (e.g., pumps) considered Operations and Maintenance (O&M).
3. Any improvements that will result in operations not compliant with applicable state, federal and local laws and regulations.
4. Installation or expansion that does not actually connect homes to the system, unless funding for connections comes from sources other than CDBG.
5. Improvements that will provide service far exceeding the needs of the current area residents based on past and projected reasonable growth levels.
6. Water systems improvements where a hydrology study is absent.

4.2 PUBLIC AND PRIVATELY OWNED WASTEWATER SYSTEM IMPROVEMENTS

Eligible wastewater system improvements include:

1. Installation of new lines.
2. Replacement of existing lines, only if deteriorated or obsolete based on new federal or state requirements.
3. Installation of larger capacity lines.
4. Construction of new lift stations to expand capacity.
5. Plant expansions or modifications due to changes in influent characteristics.
6. Plant expansions due to increased influent where the existing facility is operating at or near capacity as established by the ADEQ.
7. Construction of a new sewage treatment plant.
8. Acquisition of real property (including ROW/easements).
9. Utility connections (physical work only on private property).
10. Payment of assessments for LMI persons.
11. Clearance of land to include demolition or moving buildings.

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Ineligible wastewater system improvements include:

1. Clearing of lines, unless necessary as a prerequisite for undertaking one of the eligible activities.
2. Rehabilitation of lift stations if no expanded capacity is being added to collection or treatment systems.
3. Replacement of minor equipment (e.g., blowers and pumps).
4. Any improvements that will result in operations not compliant with applicable state, federal or local laws and regulations.
5. Installation or expansion that does not actually connect homes to the system, unless funding for the hookups comes from sources other than CDBG or the LMI homeowners/renters.
6. Improvements that will provide service far exceeding the needs of the current area residents based on past and projected reasonable growth levels evident in the community.

4.3 ROAD/STREET IMPROVEMENTS

The life of all street and road improvements must be documented and extend the life of the road for a minimum of five (5) years. Eligible road/street improvements include:

1. Construction of roadways at new locations, regardless of surface materials.
2. Construction of added width or capacity in the form of additional lanes.
3. Acquisition of additional right-of-way for construction at new locations or for added width capacity.
4. Projects that increase the structural strength of the roadway or improve the service of the roadway (generally, this refers to improvements in the surface material quality (i.e., caliche to crushed rock, crushed rock to asphalt, etc.)).
5. Construction where required to prevent improper drainage onto the street.
6. Curb and gutter, when necessary, as a street improvement and not a flood control activity.
7. Chip and seal as part of a street maintenance program using MAG or equivalent street construction standards.
8. Street lights.
9. Traffic signals.

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10. Street signs.
11. Street furniture.
12. Trees.
13. Alleys.
14. Causeways.
15. Sidewalks.

Ineligible Road/Street Improvements include:

1. Seal-coating.
2. Over-lays.
3. Level-ups.
4. Resurfacing to return to the original design and condition of the roadway.
5. Resurfacing, stabilizing or widening roadway shoulders and side road approaches, except in conjunction with eligible drainage activities.

4.4 PARKING FACILITIES

Eligible Parking Facilities activities include:

1. Acquisition of land.
2. Site improvements.
3. Paving, if currently unpaved.
4. Repaving if there is documentation that the repaving will extend the life of the parking lot or facility for at least five (5) years.

Ineligible Parking Facilities activities include:

1. Repairs.
2. Paving and defining it as “removal of barriers”.

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4.5 FLOOD AND DRAINAGE IMPROVEMENTS

Eligible Flood and Drainage Improvements activities include:

1. Permanent drainage facilities (storm sewer lines, concrete structures, culverts, related ditch grading or curb and gutters where an engineering report indicates such is necessary to prevent flooding and drainage problems).
2. Acquisition of real property, including ROW/easements.

Ineligible Flood and Drainage Improvements activities include ditch cleaning and other operation/maintenance activities.

4.6 OTHER PUBLIC AND PRIVATELY OWNED UTILITIES

Eligible activities:

1. Installation of new lines.
2. Installation of connections.
3. Replacement of existing lines, if deteriorated or obsolete.
4. Installation of larger capacity lines.
5. Replacement of facilities beyond their expected life.
6. Replacement of major equipment.
7. Acquisition of real property (including ROWs/easements).

Ineligible activities:

1. Cleaning of lines.
2. Replacement of minor equipment.
3. Installation that does not connect homes to a system.
4. Any improvements that will result in operations not compliant with applicable state, federal and local laws and regulations.

4.7 COMBINATIONS OF PUBLIC FACILITIES AND INFRASTRUCTURE

Public facilities and infrastructure activities may be combined in an area to serve the same population/beneficiaries (i.e., water, sewer and gas lines that will all be installed along the same street). The aggregation of these items as one activity is intended to avoid duplication of beneficiary information. Each activity must be individually eligible.

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4.8 SPECIAL ASSESSMENTS

The payment of special assessments for all individually income-qualified (LMI) owner households is limited to grants only.

Ineligible Special Assessments activities include:

1. Assessments for non-owner occupants.
2. Assessments in the form of a loan or deferred payment loan to an LMI owner-occupant.

4.9 FIRE AND POLICE PROTECTION FACILITIES

Eligible fire and police protection facilities activities include fire and police station construction, fire trucks, and fire equipment.

4.10 COMMUNITY AND SUPPORTIVE HOUSING FACILITIES

CDBG funds may be used for community and supportive housing facilities when at least 51% of people using the facility are LMI, or CDBG funds are used only for the portion of the facility that serves LMI persons. Facilities include:

1. Neighborhood facilities (i.e., a youth center or a community center).
2. Senior centers/social service centers/facilities, including those serving persons with special needs.
3. Supportive housing facilities, such as shelters and halfway houses, group homes for people with special needs (e.g., people experiencing homelessness, runaway children, domestic violence survivors, drug offenders, parolees, people with developmental disabilities), and temporary housing for disaster victims.

Eligible community and supportive housing facilities activities include:

1. Acquisition of land or structures.
2. Clearance of land or structures.
3. Construction, reconstruction or rehabilitation of structures.
4. Installation of permanent equipment.
5. Accessibility as part of the improvement.
6. Furniture and equipment that is permanently affixed or structurally integral to the facility.
7. Parking improvements.

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8. Trees, similar items and landscaping, if integral to the project.
9. Interior or exterior sprinkler systems.

Ineligible community and supportive housing facilities activities include:

1. Operation and maintenance expenses (may be eligible as a Public Service activity).
2. Expendable equipment (may be eligible as a Public Service activity).
3. Furniture and equipment that is not permanently affixed or structurally integral to the building, such as chairs, tables, drapes, dishes (may be eligible as a Public Service activity).
4. Assistance of any kind if:
 - a. Title will be held by an entity other than the local government without guarantees as to the accessibility of the facility to the general public, LMI persons, or a LMI group; or
 - b. There is less than a five (5) year lease after contract closeout or the lease does not specify access and fee conditions; or
 - c. Fees are determined by the city to be excessive and will preclude LMI persons from utilizing the facility; or
 - d. The facility will be open less than twenty (20) hours per week.

4.11 REMOVAL OF ARCHITECTURAL BARRIERS

Removal of architectural barriers activities remove a human-constructed barrier identified in a Section 504 Transition Plan and include:

1. Installation of elevators in public buildings.
2. Construction or rehabilitation of accessible bathrooms.
3. Construction of ramps, curbs and gutter cuts for accessibility.
4. Signage.
5. Installation of automatic doors.
6. Renovation of counter tops, drinking fountains, aisles and shelving to ensure accessibility.
7. Purchase of accessible, permanently affixed equipment such as picnic tables or swimming pool lifts.
8. Purchase and installation of TDDs and audio systems.

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9. Creation of accessible parking.
10. Any other action that removes material or architectural barriers that restrict the mobility and accessibility of elderly persons or persons with severe disabilities to publicly and privately owned buildings, facilities and improvements.

Ineligible Removal of Architectural Barriers activities include:

1. Any actions that do not comply with UFAS, ADDAG, AZ ADDAG or a more stringent state or local code.
2. The paving of an entire unpaved parking lot or street.
3. Construction of an accessible facility or improvement where there is no current facility or improvement in existence.
4. Pathways or sidewalks (i.e., an accessible route) that are not within the boundary of the site from public transportation stops, accessible parking spaces, passenger loading zones, if provided, and public streets or sidewalks to an accessible building entrance.
5. An accessible route within a site that does not lead to an accessible facility.
6. Large print books and tapes, audio visual and similar equipment for persons with disabilities (these may be eligible as a public service activity).

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5 PUBLIC SERVICES ACTIVITIES

Not more than fifteen percent (15%) of the city's annual CDBG allocation may be used for public services activities. Public services activities must:

1. Be a new service or a service that represents a quantifiable increase of an existing service above what has been provided by or on behalf of the city in the preceding twelve (12) calendar months, regardless of funding source;
2. Continue for not less than one additional year after the expenditure of the CDBG funds based on all known factors at the time of application.

Eligible public services activities include:

1. Health care.
2. Job training.
3. Education programs.
4. Public safety services.
5. Fair housing activities.
6. Services for HUD specified presumed benefit populations.
7. Drug abuse counseling and treatment.
8. Counseling for abused spouses and children.
9. Literacy training and English-as-a-Second-Language.
10. Energy conservation counseling and testing.
11. Labor, supplies and materials for any of the above.
12. The cost of operating and maintaining that portion of the facility in which the service is located.
13. Equipment used in the provision of any of the above services (i.e., a computer for a job training program).
14. Block watch and similar activities that are above and beyond the definition of code enforcement.
15. Code enforcement/compliance.
16. Emergency assistance not to exceed a single three (3) month period.
17. Individual development accounts for payment of education/job training expenses.

6 ECONOMIC DEVELOPMENT ACTIVITIES

CDBG economic development activities include:

1. Special Economic Development;
2. CBDO Neighborhood Revitalization, Economic Development, and Energy Conservation;
3. Technical Assistance;
4. Microenterprise Assistance;
5. Commercial Rehabilitation;
6. Public Infrastructure; and
7. Job Training.

6.1 SPECIAL ECONOMIC DEVELOPMENT

CDBG funds may be used to undertake certain special economic development activities including:

1. Acquiring, constructing, reconstructing, rehabilitating, or installing commercial or industrial buildings, structures, and other real property equipment and improvements, when undertaken by the city or a nonprofit organization.
2. Assisting a private, for-profit business, including grants, loans, loan guarantees, and technical assistance; and
3. Providing services in connection with otherwise eligible CDBG economic development activities.

6.2 TECHNICAL ASSISTANCE

The city or a subrecipient may provide technical assistance and training on topics such as business planning or accounting under several different eligibility categories as long as it meets a national objective:

- As a part of a special economic development project;
- To the owner of a microenterprise;
- As a public service; and
- By a CBDO as a part of an eligible project.

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6.3 MICROENTERPRISE DEVELOPMENT

Microenterprise development activities are designed to foster the development, support, and expansion of microenterprise businesses. A microenterprise is defined as:

- A commercial enterprise that has five or fewer employees, one or more of whom owns the enterprise.
- A person developing a microenterprise who has expressed an interest and who is, or after an initial screening process is expected to be, actively working toward developing a business that will be a microenterprise at the time it is formed.

Eligible microenterprise activities include:

1. Grants, loans, loan guarantees and other forms of financial support, for the establishment, stabilization, and expansion of microenterprises;
2. Technical assistance, advice, and business services to owners of microenterprises and persons developing microenterprises;
3. General support to owners of microenterprises and persons developing microenterprises including childcare, transportation, counseling and peer support groups; and
4. Training and technical assistance or other support services to increase capacity of the city or subrecipients to carry out microenterprise activities.

6.4 COMMERCIAL REHABILITATION

Commercial rehabilitation includes activities to bring commercial structures up to code or improve facades. If the structure is owned by a private, for-profit entity, the following limitations apply:

1. Rehabilitation is limited to the exterior of the building and the correction of code violations; and
2. Any other improvements are carried out under the special economic development activities category discussed above.

6.5 PUBLIC INFRASTRUCTURE

Public infrastructure activities in support of economic development endeavors include off-site water, sewer, roads, drainage, railroad spurs and other types of public improvements that are otherwise eligible as an infrastructure project and will create or retain jobs.

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6.6 JOB TRAINING

Job training includes providing skill building classes to employees or potential employees; Job training can be undertaken:

- As a part of a special economic development project;
- As a public service;
- By a CBDO as a part of an eligible project; or
- As a part of microenterprise assistance package to the owner of a micro business for his or her employees.

6.7 COMMUNITY-BASED DEVELOPMENT ORGANIZATIONS

Economic development may be undertaken by Community Based Development Organizations (CBDOs) carrying out neighborhood revitalization, community economic development or energy conservation projects. The following restrictions apply when a CBDO undertakes an activity:

- CBDOs may not carry out otherwise ineligible activities (i.e., general government buildings or expenses, or political activities); and
- CBDOs cannot carry out special economic development activities that do not meet the city's underwriting guidelines for economic development projects and HUD's public benefit standards.

CBDOs are also authorized to carry out public services that exceed the 15% public services cap when the services are specifically designed to increase economic opportunities through job training/placement and other employment support services. CBDOs may also provide public services of any type outside of the public services cap if the services are undertaken as part of a HUD-approved Neighborhood Revitalization Strategy Area (NRSA).

6.8 RESTRICTIONS ON ECONOMIC DEVELOPMENT ACTIVITIES

There are numerous restrictions on economic development activities, including:

1. Job pirating is prohibited under Section 588 of the Quality Housing and Work Responsibility Act of 1998. Job pirating refers to the use of federal funds to lure or attract a business and its jobs from one labor market to another.
2. CDBG funds may not be used to assist for-profit businesses, including expansions, infrastructure improvements, or business incubator projects that facilitate business relocation if:

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- a. The funding will be used to assist directly in the relocation of a plant, facility or operation; and
- b. The relocation is likely to result in a significant loss of jobs in the labor market area from which the relocation occurs.

Before assisting a business with CDBG funds, the city will require information from the business regarding whether the assisted activity will result in the relocation of any industrial or commercial plant, facility, or operation from one LMA to another, and the number of jobs that will be relocated from each LMA.

If the assistance will not result in a relocation, a written certification will be required from the assisted business stating that neither it, nor any of its subsidiaries, have plans to relocate jobs at the time the agreement is signed.

The written agreement will incorporate information submitted by the business and require reimbursement of any assistance provided to, or expanded on behalf of, the business in the event that assistance results in a prohibited relocation.

6.8.1 TERMS AND DEFINITIONS

Term	Definition
Business Operation	Includes, but is not limited to, any equipment, production capacity or product line of the business.
Labor Market Area (LMA)	An economically integrated geographic area where individuals can live and work within a reasonable distance or can readily change employment without changing their place of residence.
Significant Loss of Jobs	The number of jobs to be lost in the LMA in which the affected business is currently located is equal to or greater than one-tenth of 1% of the total number of persons in the labor force of that LMA, or in all cases, a loss of 500 or more jobs. A job is considered to be lost due to the provision of CDBG assistance if the job is relocated within three (3) years of the provision of assistance to the business.

7 PROGRAM ADMINISTRATION, PLANNING AND CAPACITY BUILDING

The city may utilize up to 20% of its annual allocation for program administration, planning and capacity building activities, including:

1. Program administrative costs, not including staff and overhead costs directly related to carrying out eligible activities under Sec. 570.201 through Sec. 570.204 as these costs are eligible as part of such activities.
2. General management, oversight and coordination.
 - a. Reasonable costs of overall program management, coordination, monitoring, and evaluation.
 - b. The provision of information and other resources to residents and citizen organizations participating in the planning, implementation, or assessment of activities being assisted with CDBG funds.
 - c. The provision of fair housing services designed to further the fair housing objectives of the Fair Housing Act (42 U.S.C. 3601-20) by making all persons, without regard to race, color, religion, sex, national origin, familial status or handicap, aware of the range of housing opportunities available to them; other fair housing enforcement, education, and outreach activities; and other activities designed to further the housing objective of avoiding undue concentrations of assisted persons in areas containing a high proportion of LMI persons.
3. Planning, including:
 - a. Comprehensive plans.
 - b. Community development plans.
 - c. Neighborhood Revitalization Strategy (NRS).
 - d. Functional plans, such as housing, land use and urban environmental design, economic development, open space and recreation, energy use and conservation, floodplain and wetlands management, transportation, utilities, and historic preservation.
 - e. Other plans and studies such as small area and neighborhood plans, capital improvement programs, individual project plans (excluding engineering and design costs related to a specific activity), development of codes, ordinances and regulations, and analysis of impediments to fair housing choice.
4. Capacity building activities.

8 OTHER ELIGIBLE ACTIVITIES

There are numerous additional eligible activities that may be part of a larger project or undertaken independently. When undertaken as a part of a larger project, other activities are included in the larger project.

1. Pedestrian Malls and Walkways;
2. Historic Preservation;
3. Acquisition, Disposition, Clearance or Demolition of Real Property;
4. Commercial or Industrial Rehabilitation;
5. Planning and Capacity Building Activities;
6. Interim Assistance;
7. Payment of non-federal share required in connection with a federal grant-in-aid program; and
8. Renovation of closed buildings.

8.1 PEDESTRIAN MALLS AND WALKWAYS

Eligible pedestrian mall and walkway activities include:

1. Acquisition of land or right of way.
2. Construction.
3. Improvements and expansions.
4. Reconstruction to extend the useful life by at least eight (8) years.

Ineligible pedestrian mall and walkway activities include repairs and maintenance such as repainting or re-plastering an existing mall.

8.2 HISTORIC PRESERVATION

Eligible historic preservation activities include the rehabilitation, preservation or restoration of historic properties, whether publicly or privately owned. Properties must be listed in or eligible for the National Register of Historic Places, listed in a state or local inventory of historic places or designated as a state or local landmark or historic district by appropriate law or ordinance. All actions must be approved by the State Historic Preservation Office (SHPO) and/or the National Advisory Council on Historic Preservation.

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8.3 ACQUISITION, DISPOSITION, CLEARANCE OR DEMOLITION OF REAL PROPERTY

Real property acquisition must be conducted in compliance with the Uniform Relocation Act. When property is disposed of, the proceeds are program income and must be used for another CDBG-eligible activity.

Clearance and demolition to remove dilapidated buildings is eligible as part of another CDBG-eligible project, or in areas that have been declared slum/blight.

8.4 INTERIM ASSISTANCE

Interim assistance activities may only be carried out to arrest deterioration and alleviate emergency conditions caused by the deterioration. The area must exhibit objectively determinable signs of physical deterioration. The City Council must pass a resolution that immediate action is necessary to arrest the deterioration and that permanent improvements will be carried out as soon as practicable.

Eligible interim assistance activities include:

1. Repair of streets, sidewalks, parks, playgrounds, publicly owned utilities and public buildings.
2. Execution of special garbage, trash and debris removal, including neighborhood cleanup campaigns, but not the regular curbside collection of garbage.

8.5 PAYMENT OF NON-FEDERAL SHARE

CDBG funds may be used to provide non-federal share or match in connection with a federal grant-in-aid program. The activity must be CDBG eligible and meet a National Objective.

8.6 RENOVATION OF CLOSED BUILDINGS

Closed buildings, such as schools, public facilities, and medical centers may be renovated for any use that is CDBG eligible and meets a National Objective, including use as housing.

9 SUBRECIPIENT AND INTERDEPARTMENTAL WRITTEN AGREEMENTS

Subrecipients approved for funding by Council will receive an initial award letter. Individual contracts are awarded based on the application for funding, including the scope of the identified problem, the proposed project activities, and the resources and administrative capacity of the applicants. City departments approved for funding by Council will receive an email from Neighborhood Services. Amounts less than the original amount requested may be awarded.

Receipt of an award letter or email notice does not imply approval of all proposed activities or specific costs. The proposed activities and budget are subject to negotiation and modification.

9.1 SUBRECIPIENT CONTRACT/WRITTEN AGREEMENT NEGOTIATION

The contract negotiation process includes:

1. Defining project objectives and measurable outcomes;
2. Finalizing the program budget;
3. Finalizing the implementation schedule; and
4. Identifying special conditions to be included in the contract/written agreement.

While the negotiation process is underway, no funds can be obligated until after:

1. Execution of a Grant Agreement between HUD and the city;
2. Completion of an Environmental Review;
3. Execution of the contractual agreement between the subrecipient and the city or interdepartmental agreement between Neighborhood Services and the city department; and
4. Issuance of a written Notice to Proceed by Neighborhood Services.

9.2 SUBRECIPIENT CONTRACT/WRITTEN AGREEMENT

The contract/written agreement is the legal document governing the administration of the CDBG funding. Each contract/written agreement consists of provisions common to CDBG, generally referred to as 'boilerplate' language, as well as provisions specific to the activity, including:

- Amount of funding;
- Termination, modification and amendment;

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- Method of payment;
- Minimum 'match' requirements, if applicable;
- Policy requirements;
- Program or project budget;
- Program or project implementation schedule;
- Requirement to comply with applicable laws and regulations;
- Scope of work;
- Incorporation by reference of this policy and procedure manual; and
- The final subrecipient application, if applicable.

9.3 DE-OBLIGATION, RECAPTURE, AND CONTRACT AMENDMENTS

CDBG funds can only be used according to the contract/written agreement budget, scope of work, and schedule of completion. To the extent that there are deviations from these provisions, Neighborhood Services may:

1. De-obligate funds;
2. Recapture funds; or
3. Amend the Funding Agreement.

9.3.1 DE-OBLIGATION OF FUNDS

De-obligation is the action of removing funds from a contract/written agreement because:

1. The scope of work is completed using less CDBG funds than anticipated and leaving a balance of unexpended funds;
2. The original allocation was a loan and the loan was paid;
3. An activity was changed or cancelled (for reasons other than performance) resulting in excess funding; and/or
4. Expenditures are disallowed or have aged more than ninety (90) days.

When Neighborhood Services de-obligates funds, it may:

1. Reallocate funding to another CDBG-funded activity, if there is demonstrated need for additional funding; or
2. Retain funding and reallocate it for the next years' activities.

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9.3.2 RECAPTURE OF FUNDS

Recapture is the action of removing funds from a contract because:

1. Neighborhood Services has determined that CDBG funds were not used in compliance with the contract/written agreement or with federal regulations; or
2. The subrecipient or city department fails to perform according to the performance criteria outlined in the scope of work, schedule and/or other specified performance criteria.

When Neighborhood Services recaptures funds, it may:

1. Reallocate funding to another CDBG-funded activity, if there is demonstrated need for additional funding; or
2. Retain funding and reallocate it for the next years' activities.

9.3.3 CONTRACT/WRITTEN AGREEMENT REVISIONS

Either party may request modifications in the scope of services, or terms and conditions of the contractual agreement. Proposed modifications that are mutually agreed upon will be incorporated by written amendment to the agreement.

Substantial changes to CDBG funded projects require a contract/written agreement amendment, and may require an Annual Action Plan amendment. Amendments are required for:

1. Scope of work changes;
2. Changes to the activity location or beneficiaries;
3. Introduction of new project funding;
4. Changes in staff or a project team member; and
5. Schedule changes.

Any of the above changes must be requested in writing at least thirty days prior to implementation of the change. All change requests must specifically state the reason(s) for the request and documentation/justification supporting the change. Neighborhood Services will accept no more than two revisions to the project schedule before de-obligating or recapturing funds.

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9.4 ANNUAL ACTION PLAN AMENDMENT

Some changes will require a minor or substantial amendment to the Annual Action Plan before allowing the subrecipient or city department to proceed with proposed changes. Minor amendments can generally be accomplished within thirty days. Substantial amendments will take not less than sixty days. Changes that will require an Annual Action Plan substantial amendment are:

1. Changes in the use of CDBG funding from one eligible activity to another in an amount greater than twenty percent (20%) of the annual CDBG allocation, including project deletions, and reprogramming funds from one activity or project to another.
2. Changes made in allocation priorities or methods of distribution.
3. Funding an activity not described in the Annual Action Plan.
4. Receipt of any additional federal funds considered part of the Consolidated Plan.

When a substantial amendment is made to the Consolidated Plan or Annual Action Plan after its formal adoption, the city will:

1. Provide reasonable public notice of the proposed amendment(s) in a newspaper of general circulation to enable review and comment by the public for at least thirty (30) days.
2. Make the amendment available for public review and comment, and post the amendment on the city website.
3. Conduct a public hearing on the subject of the proposed amendment during the 30-day comment period.
4. Obtain City Council approval of the amendment.
5. Submit the amendment to HUD for approval.

9.5 CONTRACT TERMINATION

If a subrecipient or city department is unable or fails to comply with any of the provisions of the contract/written agreement, the contract/written agreement may be terminated. Subrecipients may be required to return all or a portion of funding to the city. Individual contracts/written agreements will detail the specifics of termination.

10 CONSOLIDATED PLAN PROCEDURES

The Consolidated Plan is prepared every five years beginning with the first submission in 2021. The Five-Year Consolidated Plan establishes the framework for the use of Community Development Block Grant (CDBG) funding received by the City of Goodyear from the US Department of Housing and Urban Development. Priority uses of CDBG funds are identified through a process that includes resident and stakeholder input, analysis of data, public meetings and public hearings.

Each year, the city will develop an Annual Action Plan that describes how funds will be distributed and the annual allocation will be used. Planned activities must be tied to the priorities, goals, and objectives of the Five-year Consolidated Plan.

Guidance on using HUD’s Integrated Disbursement and Information System (IDIS) to submit the Consolidated Plan and Annual Action Plan is found in HUD’s eCon Planning Suite Desk Guide, which is periodically updated and found on the HUD exchange website.

10.1 IDIS ACCESS

To access IDIS Online, an individual must have an active IDIS Online User ID. New user requests must be made by the City Manager (or their designee). The HUD IDIS Access Form must be completed by the city, signed by the requesting user and the City Manager (or designee), and submitted to the local HUD field office. The City Manager (or designee) signature must be notarized.

10.2 CONSOLIDATED PLAN CALENDAR

The Consolidated Plan includes 5-year priorities, goals and objectives and the Year 1 Annual Action Plan. Completing the Consolidated Plan and Year 1 Annual Action Plan begins the year prior to submission of the Plans to HUD.

Consolidated Plan Task	Date
Update Citizen Participation Plan, if necessary or desired	By October 1
Public and stakeholder survey	By October 1
Public meeting 1 to gather information regarding needs	By December 1
Stakeholder consultation	July -December
Data collection and analysis	July – January
IDIS input	January – May
Draft document for review	February

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Consolidated Plan Task	Date
Final document for public review	March
30-day public comment period	April
Final public hearing	April - May
HUD submission	May 15th (or later pending HUD allocation date)
HUD follow-up (if necessary)	May – June

10.3 ANNUAL ACTION PLAN PROCEDURES

The Consolidated Plan is carried out through Annual Action Plans that provide a concise summary of the actions, activities, and the specific federal and non-federal resources that will be used each year to address the priority needs and specific goals identified in the Consolidated Plan. The Annual Action Plans describe specific projects to be funded with Community Development Block Grant (CDBG) funds. The following are step-by-step procedures to be followed on an annual basis to complete the Annual Action Plan.

10.3.1 ANNUAL ACTION PLAN CALENDAR

Annual Action Plan Task	Month(s)
Set up new plan in IDIS. Associate the plan with the appropriate 5-year Consolidated Plan. Download the plan in word format.	By October 1
Initiate application/project identification process for program year. Make application and application guidance available (if accepting applications) for program year. Allow at least 30 days between application availability and deadline.	By October 1
Public notice - first public hearing.	Publish at least seven days prior to first public hearing
Hold technical assistance workshop / first public hearing.	By October 1
Application deadline and review.	By January 1
Select program year priority project(s) for recommendation to City Council.	January - February
Draft and update narrative for input into IDIS.	By March 1
Schedule 2 nd public hearing with City Council.	By March 1
Submit prioritized projects to City Council for approval.	March

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Annual Action Plan Task	Month(s)
Public notice – second public hearing (with City Council) and public comment period	Publish at least seven days prior to April 1
Post Annual Action Plan to city website.	By April 1
30-day public comment period.	April
Second public hearing (with City Council) for final approval of project funding and resolution authorizing submission to HUD.	April
Enter all plan information into IDIS.	By May 15
Complete certifications, SF-424, and SF-424D forms.	By May 15
Submit plan to HUD in IDIS.	By May 15
Provide hard copy certifications, SF-424 and SF-424D forms to local HUD field office, unless directed by HUD to retain in files.	Must be received by HUD by May 15
HUD Review Period. Begins when certifications and SF-424 forms are received by HUD or upon IDIS submission, whichever is later.	45 days

10.4 CONSOLIDATED ANNUAL PERFORMANCE EVALUATION REPORT (CAPER) PROCEDURES

The CAPER is due to HUD no later than September 30th of each year and covers activity in the program year ending June 30th. If data is entered into IDIS throughout the program year, and activities and projects are associated with an Annual Action Plan project, the CAPER will be accurate and much easier to complete, with minimal additional effort.

10.4.1 CAPER CALENDAR

CAPER Task	Date
Remind subrecipients that annual reports are due by July 15.	June
Set-up CAPER in IDIS. Download as word document.	July
Run IDIS accomplishment reports for comparison to data in city files.	July
Open 15-day public comment period and schedule September council meeting to approve submission of CAPER.	By September 1
Submit CAPER to HUD in IDIS.	By September 30

11 FINANCIAL MANAGEMENT

The City of Goodyear and CDBG subrecipients adhere to federal, state and local laws and ordinances regarding financial management. Additionally, the city and subrecipients must maintain adequate control and accountability over all funds, property, and other assets. The city and any subrecipients must safeguard all such property and ensure that it is used solely for authorized purposes.

11.1 REGULATORY REQUIREMENTS AND CITATIONS

Federal financial management requirements and guidelines are established and explained in:

1. OMB Uniform Guidance at 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
2. CDBG Laws and Regulations at 24 CFR Part 570 – Community Development Block Grants.
3. HUD’s Basically CDBG for Entitlements Chapter 11: Financial Management.
4. HUD CPD Monitoring Handbook (6509.2) Chapter 3: Community Development Block Grant and Exhibit 34.1 Audit Monitoring.

Recipients of federal awards (the city and subrecipients) must comply with 2 CFR Part 200 by ensuring that:

1. Financial records can be audited based on Generally Accepted Accounting Principles (GAAP);
2. Internal controls are effective and protect CDBG funds;
3. Procedures exist for determining costs are allowable, reasonable and allocable; and
4. Systems are in place to review financial management and cost procedures.

11.2 CITY FINANCIAL MANAGEMENT SYSTEMS

The city finance department maintains financial management system policies and procedures. Each annual HUD-City CDBG Funding Agreement will be identified by fund type, CFDA number, HUD award identification number and program year. City records will also reflect the account name, number, and financial institution where CDBG funds are deposited.

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At a minimum, the city will maintain:

1. A general CDBG ledger that encompasses all financial activity related to each program year grant.
2. A separate ledger for each activity that reflects expenditures, obligations and current balance.
3. An asset inventory.
4. A chart of accounts that lists account names and the numbers assigned to each of the account names, including assets, liabilities, net assets/fund balance, revenues and expenses.
5. A cash receipts journal that documents, in chronological order, when funds were received, in what amounts and from what sources.
6. A cash disbursements journal that documents, in chronological order, when an expense was incurred, for what purpose, how much was paid and to whom it was paid.
7. A payroll journal that documents payroll and payroll related benefit expenses on salaries and benefits, including distinguishing between categories for regulatory purposes.
8. Source documentation supporting those costs charged to the CDBG program were:
 - a. Incurred during the effective period of the agreement with HUD;
 - b. Actually paid out (or properly accrued);
 - c. Expended on eligible items; and
 - d. Approved by the appropriate official(s) within the organization.

Expenditures will be compared to budgeted amounts not less than twice annually. Deviations from budgeted amounts will be summarized in a brief report.

11.2.1 CASH MANAGEMENT

The city will minimize the amount of time that elapses between receipt of CDBG funds and the actual disbursement of those funds. The city processes accounts payable weekly. There are three general methods available to transfer CDBG funds from the U.S. Treasury to the city:

1. The reimbursement method entails a transfer of grant funds to the city based on actual expenditures. The city will use this method unless otherwise approved by the Finance Director.
2. The cash advance method involves the transfer of CDBG funds to the city to meet obligations before actual cash disbursements have been made. This method is generally

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used by HUD to fund the city. Cash advances will be disbursed by the city within three days.

3. The lump sum drawdown method involves drawing down a lump sum for property rehabilitation activities.

11.2.2 LUMP SUM DRAWDOWNS

The city may draw funds from the letter of credit in a lump sum to establish a rehabilitation fund in one or more private financial institutions for the purpose of financing the rehabilitation of privately owned properties. The fund may be used in conjunction with various rehabilitation financing techniques, including loans, interest subsidies, loan guarantees, loan reserves, or such other uses as may be approved by HUD. The fund may also be used for making grants, but only for the purpose of leveraging non-CDBG funds for the rehabilitation of the same property.

Prior to making a lump sum drawdown, the city will first execute a written agreement with a financial institution that includes the following. A copy of the agreement, and any subsequent modifications, will be provided to the HUD field office for use in monitoring.

1. The purpose of the fund, which is to finance the rehabilitation of privately-owned eligible properties or the acquisition of properties for rehabilitation;
2. The obligations and responsibilities of the parties;
3. The terms and conditions on which CDBG funds are deposited, used, or returned;
4. The anticipated level of rehabilitation activities by the financial institution;
5. The interest rate and other benefits to be provided by the financial institution in return for the lump sum deposit;
6. The term of the agreement, which must not exceed two years;
7. The interest rate paid by the financial institution on the deposited funds, which shall be no more than three points below the rate on one year Treasury obligations at constant maturity;
8. Benefits that will be provided by the financial institution, which must be:
 - a. The commitment of private funds for loans in the rehabilitation program in an amount substantially in excess of the amount of the lump sum deposit; or
 - b. The commitment of private funds by the financial institution for rehabilitation loans at below market interest rates, at higher-than-normal risk, or with longer than normal repayment periods; or
 - c. Provision of administrative services in support of the rehabilitation program by the participating financial institution at no cost or at lower than actual cost.

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Lump sum drawdowns have the following limitations:

1. The drawn down funds may not exceed the amount the city reasonably expects will be required, together with program income from interest and loan repayments for rehabilitation activities during a defined time period based on either the prior level of rehabilitation activity, or city capacity to undertake activities.
2. Administrative costs of the city and financial institution may not be funded through lump sum drawdown and must be drawn down periodically from the line of credit or program income generated by another activity.
3. The first loan, subsidy, or guarantee must occur within 45 days of the deposit.
4. Substantial disbursements from the fund must occur within 180 days of the receipt of the deposit. HUD defines substantial as not less than 25% of the funds if the agreement is for a two-year period.
5. Unobligated funds must be returned to the line of credit:
 - a. When an annual review reveals that activity is substantially below that anticipated;
 - b. In the case of substantial failure by a private financial institution to comply with the terms of a lump sum drawdown agreement; or
 - c. When the agreement with the financial institution is terminated.

11.2.3 PROPERTY MANAGEMENT

The city will maintain an inventory of property, equipment, and other fixed assets (collectively referred to as property) purchased, improved or leased by the city or a subrecipient with CDBG funds in excess of \$25,000. Leased property must have a minimum twenty-five-year lease to be considered acquired property. The inventory shall include:

1. Property type (real property, equipment, other fixed asset);
2. Description of the property and a serial number or other identification number;
3. Address or location of property;
4. Title or lease holder of the property;
5. Planned use and beneficiaries;
6. Purchase or improvement cost – the net price of the purchased equipment including the cost of modifications, attachments, accessories or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges, such as the cost of installation, transportation, taxes or in-transit insurance, shall be

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included or excluded from the unit acquisition cost in accordance with the city's regular accounting practices;

7. Amount of CDBG funding and percentage of acquisition attributed to CDBG funds, if applicable;
8. Date of first CDBG expenditure;
9. Date of the final close-out of the program year grant from which CDBG assistance was provided;
10. Expiration of use period (five years from the date of the final close-out of the program year grant from which CDBG assistance was provided); and
11. Disposition of the property, including the date of disposal and sale price.

To prevent loss, damage or theft, all physical property will be marked as funded with CDBG.

11.2.3.1.1 Sale or Disposition

All proceeds from the sale or disposition of property purchased or improved in whole or in part with CDBG funds within five years of the program year closeout is considered program income.

11.2.4 REASONABLE, ALLOWABLE AND ALLOCABLE COSTS

The city will review all costs charged to the CDBG program to ensure they are reasonable, allowable, and allocable. This means the cost must be:

1. Eligible as defined in the CDBG entitlement regulations;
2. Included in an inter-departmental or subrecipient agreement, as applicable;
3. Necessary and intrinsic to the implementation of the eligible activity;
4. Documented by a procurement process, appraisals, or other procedures to ensure reasonable prices;
5. Not a general expense of the city;
6. Not prohibited by state or local laws or regulations;
7. Be accorded consistent treatment through the application of generally accepted accounting principles;
8. Not be allocable to or included as a cost of any other federally funded program in either the current period or a prior period;
9. Be net of all applicable credits; and
10. Traced to a specific direct or indirect cost.

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11.2.4.1 Reasonable Costs

Costs are considered reasonable if they do not exceed what a prudent person would incur under similar circumstances. In determining the reasonableness of a cost, the city will consider:

1. Whether the cost is of the type generally recognized as ordinary and necessary for the operation of the city or subrecipient for the performance of the award.
2. The restraints or requirements imposed by such factors as: generally accepted sound business practices; arms-length bargaining; federal and state laws and regulations; and terms and conditions of the award.
3. Market prices for comparable goods or services.
4. Whether the individuals concerned acted with prudence in the circumstances, considering their responsibilities to the organization, its members, employees and clients, the public at large and the government.
5. Significant deviations from the established practices of the organization that may unjustifiably increase costs.

The city must document that their procurement costs are reasonable. Procurement records must include, at a minimum, the basis for contractor selection and the award cost/price.

11.2.4.2 Allowable Costs

In order to be allowable, the cost must:

1. Be reasonable for the performance of the award and allocable to it.
2. Conform to any limitations or exclusions of the OMB circular or the award itself.
3. Be treated consistently with policies and procedures that apply to both federally financed activities and other activities of the organization.
4. Be determined in accordance with GAAP.
5. Not be included as a cost of any other federally financed program in the current or prior periods.
6. Not supplant other budgeted funding or be used for the general conduct of government.
7. Be adequately documented.
8. Be either directly or indirectly attributable to the CDBG activity.

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11.2.4.3 Allocable Costs

Allocable costs fall into one of three categories:

1. Costs that are incurred specifically to implement activities allowable in the award (direct costs).
2. Costs that benefit both the award and other work and can be distributed in reasonable proportion to the benefits received (shared indirect costs).
3. Costs that are necessary to the overall operation of the organization that have no direct relationship to any particular program or group of programs (overhead indirect costs).

11.2.5 CDBG ELIGIBLE ADMINISTRATION AND PLANNING COSTS

Administrative and planning costs, including indirect costs, will not exceed 20% of the annual CDBG award or the amount allocated in the Consolidated Plan Annual Action Plan, whichever is less. Examples of eligible administration activities include:

1. General management, oversight and coordination;
2. Providing local officials and citizens with information about the CDBG program;
3. Preparing budgets and schedules;
4. Preparing reports and other HUD-required documents;
5. Monitoring program activities;
6. Fair Housing activities;
7. Indirect costs; and
8. Submission of applications for Federal programs.

Staff administrative costs may be charged to program administration in two ways:

1. The entire salary, wages and related costs of each person whose primary responsibility involves CDBG program administration assignments; or
2. Based on the pro rata share of each person's salary, wages and related costs whose job includes any program administration responsibilities as documented through time and attendance records.

Examples of eligible planning activities include:

1. Comprehensive plans;
2. Community development plans (including the Consolidated Plan);

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3. Functional plans (for housing; land use and urban environmental design; economic development; open space and recreation; energy use and conservation; floodplain and wetlands management; transportation; utilities; historic preservation; etc.);
4. Other plans and studies (e.g., small area and neighborhood plans; capital improvements program plans; individual project plans; general environmental; urban environmental design; historic preservation studies; etc.); and
5. Policy planning, management and capacity building activities.

11.2.6 PRE-AWARD COSTS

Under certain conditions, the city may incur costs prior to the effective date of the CDBG grant agreement with HUD. The city may then pay those costs (including reimbursing itself if it used its own funds to pay the costs) after the effective date of the grant agreement. The effective date of the grant agreement is the program year start date, or the date that the consolidated plan is approved by HUD, whichever is later. Pre-award costs must comply with the following:

1. The activity for which the costs are being incurred is included in a Consolidated Plan Action Plan, an amended Consolidated Plan Action Plan, or a Section 108 loan guarantee application prior to the costs being incurred;
2. Citizens are advised of the extent to which these pre-award costs will affect future grants;
3. The costs and activities funded are in compliance with the CDBG regulations and the environmental review requirements;
4. The activity for which payment is being made complies with the statutory and regulatory provisions in effect at the time the costs are paid for with CDBG funds;
5. CDBG payment will be made during a time no longer than the next two program years following the effective date of the grant agreement or amendment in which the activity is first included; and
6. The total amount of pre-award costs to be paid during any program year is no more than 25% of the grant amount for that year or \$300,000, whichever is greater.

The city may request the HUD field office authorize payment of pre-award costs for activities that do not meet the above requirement for a two-year payback or where the total amount exceeds 25% of the grant amount. The factors HUD will consider in granting exceptions to the period of repayment or the dollar threshold include:

1. Whether granting the authority would result in a significant contribution to the goals and purposes of the CDBG program;

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2. Whether failure to grant the authority would result in undue hardship to the grantee or beneficiaries of the activity;
3. Whether granting the authority would not result in a violation of a statutory provision or any other regulatory provisions;
4. Whether circumstances are clearly beyond the city's control; and
5. Any other relevant considerations.

11.2.7 FLOAT FUNDED ACTIVITIES

The city's Consolidated Plan and Annual Action Plan establish how CDBG funds will be used. When activities take longer to get started than initially anticipated and funds for undertaking planned activities remain in the city's line of credit, the city may use a financing technique called float funding. Float funding will be reserved for extreme circumstances that are beyond the city's control and upon approval of the Finance Director.

Under the float funding provision, the city uses the amount of funds available in the line of credit to fund an alternate eligible activity with the assumption that these funds will be repaid by the alternate activity and then used to fund the originally planned activity. In addition to meeting all CDBG requirements, float-funded activities:

1. Should generate sufficient program income within 2.5 years to permit the originally planned activity to be carried out.
2. Must be included in the Action Plan for the current year or the Action Plan must be amended.
3. Must include the full amount of projected program income in the Action Plan covering the activity, regardless of whether the income is expected in a future program year.
4. The Action Plan must also clearly describe:
 - a. How it will eliminate/amend activities should the float-funded project fail to produce the needed program income; or
 - b. The city's commitment to obtain an irrevocable line of credit from a commercial lender for the full amount of the float-funded activity; or
 - c. How the city will transfer general local funds to the CDBG line of credit within 30 days to cover any default or shortfall; or
 - d. Any other method the city will use to secure timely return of the amount of float funding. HUD must approve these other methods in writing.

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11.2.8 REVOLVING FUNDS

A revolving fund is a separate fund (independent of other CDBG program accounts) set up for the purpose of carrying out specific activities. These activities generate payments to the account for use in carrying out the same types of activities.

Program income that is held in a revolving fund does not have to be used before grant funds are drawn down for a different type of CDBG project. However, program income in a revolving fund must be used before additional grant funds are drawn down for revolving fund activities. Revolving funds must be held in interest bearing accounts, and interest earned on revolving fund balances and interest paid by borrowers of CDBG-funded loans must be remitted to the U.S. Treasury not less than annually.

11.2.9 TIMELY EXPENDITURE OF CDBG FUNDS

Sixty days prior to the end of the program year, or May 1st of each year, HUD will review the city's line of credit to ensure it does not have more than 1.5 times its annual allocation sitting in its line of credit. Over time, this requirement means that the city must expend at least 85% of its annual allocation to avoid HUD withholding future CDBG grants.

11.2.10 IDIS CASH ON HAND QUARTERLY REPORT

The city will follow the instructions for IDIS Cash on Hand Quarterly Report found at <https://files.hudexchange.info/resources/documents/Instructions-for-IDIS-Cash-on-Hand-Quarterly-Report.pdf> or any amendments to the instructions. The report will be generated and submitted by the finance department as follows:

Reporting Period	Submittal Date
October 1 – December 31	January 30
January 1 – March 31	April 30
April 1 – June 30	July 30
July 1 – September 30	October 30

11.2.11 INTERNAL CONTROLS

The city organization chart reflects the lines of responsibility related to the CDBG program and CDBG program financial management. The duties of key employees funded with or working with CDBG funds are defined in job descriptions. Personally-identifiable information is electronically safeguarded or maintained in locked files in a locked room. Fidelity bond coverage is in place for responsible officials and has been obtained from a company holding an acceptable certificate of authority. Evidence of fidelity bond coverage is maintained by the city's risk management division.

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To ensure separation of duty, CDBG expenditures will be managed as follows:

1. The subrecipient or city department will forward a request for payment itemizing expenditures and providing supporting documentation, such as invoices, contracts or purchase orders. City departments will electronically certify that charges are accurate. Subrecipients will certify by signature that the charges are accurate.
2. The Neighborhood Services Division Supervisor or their designee will review all requests for payment to ensure the expenditures are reasonable, allowable and allocable. A record of approved expenditures will be maintained in the project file. Approved expenditures will be reviewed and signed by the Assistant to the City Manager or their designee.
3. Approved expenditures will be drawn from IDIS by the Neighborhood Services Division Supervisor or their designee.
4. The city finance department policy is to process accounts payable weekly.

At least annually, the city will assess the adequacy of internal control measures.

11.2.12 ACCURACY OF REPORT INFORMATION

Implementation of the city's financial management system and internal controls will ensure that accurate information is collected and reported to HUD. The Neighborhood Services Division Supervisor or their designee will verify that account records match the financial information in IDIS and the information reported in the Consolidated Performance and Evaluation Report (CAPER).

11.2.13 PROGRAM INCOME

Program income is the gross income received by the city and its subrecipients directly generated from the use of CDBG funds. Program income includes:

1. Proceeds from the sale or lease of property purchased or improved with CDBG funds;
2. Proceeds from the sale or lease of equipment purchased with CDBG funds;
3. Gross income from the use or rental of real or personal property acquired, constructed or improved by the city (or a subrecipient), less costs incidental to the generation of income;
4. Payments of principal and interest on loans made using CDBG funds;
5. Proceeds from the sale of loans or obligations secured by loans made with CDBG funds;
6. Interest earned on program income pending its disposition; and

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7. Funds collected through special assessments on properties not owned and occupied by LMI households in order to recover the CDBG portion of a public improvement.

Interest earned on funds held in a revolving loan fund is not treated as program income and must be remitted to the U.S. Treasury at least annually.

When an activity is partially assisted with CDBG funds, program income will be prorated to the CDBG program.

Program income does not include:

1. Income earned from the investment of initial proceeds of a grant advance from the U.S. Treasury;
2. Interest earned on loans or other forms of assistance with CDBG funds that are used for activities that are determined by HUD to be ineligible;
3. Interest earned on the investment of amounts reimbursed to the program account prior to the use of the reimbursed funds for eligible activities;
4. Any income received in a single program year by the city *and* its subrecipients, that does not exceed \$25,000;
5. Income generated by certain Section 108 activities (refer to 570.500(a)(4)(ii));
6. Proceeds from subrecipient fundraising activities;
7. Funds collected through special assessments to recover non-CDBG outlays of public improvements; and
8. Proceeds from the disposition of real property by the city or a subrecipient that was acquired or improved with CDBG funds, when the disposition occurs five years after the program year is closed out, or for subrecipients five years after the expiration of the subrecipient agreement.

The calculation of the amount of program income for the city's CDBG program as a whole (comprising activities carried out by the city and its subrecipients) shall exclude payments made by subrecipients of principal and/or interest on CDBG-funded loans received from the city if such payments are made using program income received by the subrecipient.

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11.2.13.1 **Remittance of Excess Program Income**

The CDBG regulations require that, at the end of each program year, the city must determine whether it has excess program income on hand and return any excess to its line of credit.

Excess program income is calculated by:

1. Determining the aggregate amount of program income held by the city *and* its subrecipients.
2. Subtracting the following from the aggregate amount:
 - a. Any funds needed to pay outstanding CDBG invoices within the next thirty days;
 - b. Revolving loan fund balances;
 - c. Lump sum draw down balances; and
 - d. Cash or investments held as security for Section 108 loan guarantees.

Program income that exceeds one-twelfth of the city's most recent program year entitlement grant will be returned to the city's line of credit within thirty days of the determination of excess program income.

11.2.13.2 **Expenditure of Program Income**

Program income must be expended prior to drawing down additional funds from the line of credit. If no additional funding is needed for an open activity or project, the city will retain the program income, subject to the calculation and remittance of excess program income, and add the funding to its next annual allocation. Alternatively, the city may utilize program income for the purpose of establishing and capitalizing a revolving loan fund for CDBG eligible activities. Program income is subject to the citizen participation process and all CDBG cross-cutting regulations.

11.2.13.3 **Program Income Recordkeeping**

The city will retain the following records of program income received. The receipt and expenditure of program income will be recorded in IDIS.

1. Source of the program Income;
2. Activity name and number;
3. Identifying information, such as a loan number or land parcel code;
4. Amount and date of receipt;
5. Date of deposit and location of depository; and
6. Date, amount and purpose of each disbursement.

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If program income is from interest earned, records will include the date and amount of interest earned, interest rate, and the depository of interest.

11.2.14 **CDBG LOANS**

If CDBG loans are provided by the city:

1. Written loan agreements will detail repayment terms, default and opportunity to cure, actions that will be taken if default is not cured, and security pledged.
2. Collection procedures will be developed that recognize: current amounts due, payments received, overdue payment notification, actions taken on defaulted loans, and bad debt write-off criteria.
3. Refinancing of primary loans will require the approval of the city and re-subordination of the CDBG loan, if approved by the city.

11.2.15 **SALARIES AND WAGES**

Payroll records, such as timesheets, will be maintained for all city staff, volunteer and offender labor funded in any part with CDBG funds. Timesheets must be signed by the employee/volunteer/offender and his/her supervisor.

Salaries and wages will be documented on an hourly basis to determine percentage of time to be charged to CDBG. For employees working solely on the CDBG program, at least semi-annually the employee and a supervisory official having first-hand knowledge of the work performed by the employee will certify that the employee worked solely on the CDBG program.

CDBG-funded employees must be paid consistent with the city personnel policies and cannot receive an increase in pay based solely on the additional funding source (CDBG). There must be documentation in the personnel records regarding job descriptions and classifications, pay scales, and fringe benefits to support payroll records.

11.2.16 **INDIRECT COSTS**

The city does not currently have a Cost Allocation Plan or Indirect Cost Rate proposal and does not apply the de minimis rate.

11.2.17 **AUDIT**

In any year the city expends \$750,000 or more in Federal awards, a single or program-specific audit will be conducted in accordance with 2 CFR 200.

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An auditor will be procured following city procurement procedures. The audit procurement will clearly state the objectives and scope of the audit and require a copy of the audit organization's peer review report. The audit procurement proposal evaluation criteria will, at a minimum, include responsiveness, relevant experience, professional qualification and technical abilities of staff, peer and external quality control reviews, and price. Efforts will be made to utilize small businesses, minority-owned firms, and women's business enterprises.

Not more than a proportionate share of the audit cost will be charged to the CDBG program.

The city will promptly follow-up and take corrective action on any audit finding and/or corrective action plan.

Within 30 calendar days after receipt of the auditor's report or nine months after the end of the audit period, whichever is earlier, the city will submit the data collection form and reporting package to the Federal Audit Clearinghouse.

11.3 SUBRECIPIENT REQUIREMENTS

Subrecipients of City of Goodyear CDBG funds must have written policies and procedures governing the financial management of CDBG funds. These written policies and procedures generally mirror the policies and procedures required of the city as the city is passing through both CDBG funding and CDBG regulations to the subrecipient.

Each City-Subrecipient Funding Agreement must be identified by fund type, CFDA number, and program year. Subrecipient records must reflect the account name, number, and financial institution where CDBG funds are deposited.

At a minimum, the subrecipient must maintain financial management systems as required for the city.

11.3.1.1 Cash Management

Subrecipients must minimize the amount of time that elapses between receipt of CDBG funds from the city and disbursement of those funds. In general, subrecipients must disburse CDBG funds within three (3) working days of receipt from the city.

11.3.1.2 Property Management

Subrecipients must maintain an inventory of property, equipment, and other fixed assets (collectively referred to as property) purchased, improved or leased by the subrecipient with CDBG funds in excess of \$25,000. Leased property must have a minimum twenty-five-year

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lease to be considered acquired property. The inventory must include the same items required of the city and be provided to the city not less than annually. To prevent loss, damage or theft, all physical property must be marked as funded with CDBG.

11.3.1.2.1 Sale or Disposition

All proceeds from the sale or disposition of property purchased or improved in whole or in part with CDBG funds within five years of the City-Subrecipient Funding Agreement closeout is considered program income and must be returned by the subrecipient to the city.

11.3.2 REASONABLE, ALLOWABLE AND ALLOCABLE COSTS

The city will review all costs charged to the CDBG program by subrecipients to ensure they are reasonable, allowable, and allocable as defined above.

11.3.2.1 CDBG Eligible Administration and Planning Costs

The city may pass through a portion of CDBG administration and planning costs to subrecipients. Examples of eligible subrecipient administration activities include:

1. General management, oversight and coordination;
2. Preparing budgets and schedules;
3. Preparing reports and other city-required documents; and
4. Indirect costs, if the subrecipient has an approved indirect cost allocation plan or elects to utilize the de minimis rate.

11.3.2.2 Pre-award Costs

Under certain conditions, the city may authorize a subrecipient to incur costs prior to the effective date of the city CDBG grant agreement with HUD. The subrecipient may then pay those costs (including reimbursing itself if it used its own funds to pay the costs) after the effective date of the grant agreement. The effective date of the grant agreement is the program year start date, or the date that the Consolidated Plan is approved by HUD, whichever is later.

11.3.3 INTERNAL CONTROLS

The subrecipient must have an organization chart that reflects the lines of responsibility related to the CDBG program and CDBG program financial management. The duties of key employees funded with or working with CDBG funds must be defined in job descriptions. The subrecipient's internal controls must safeguard personally-identifiable information.

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The subrecipient must evidence adequate separation of duties to reduce the risk of erroneous or inappropriate actions. The subrecipient must separate duties related to transaction initiation, approval, recording and reconciliation. A minimum of two people must be involved in handling CDBG transactions.

11.3.4 PROGRAM INCOME

Program income is the gross income received by subrecipients directly generated from the use of CDBG funds. The City of Goodyear does not allow subrecipients to retain program income. All subrecipient program income must be remitted to the city within thirty calendar days of receipt.

11.3.4.1 Program Income Recordkeeping

Subrecipients must retain the following records of program income received.

1. Source of the program Income;
2. Activity name and number;
3. Identifying information, such as a loan number or land parcel code;
4. Amount and date of receipt;
5. Date of deposit and location of depository; and
6. Date and amount remitted to the city.

If program income is from interest earned, records must include the date and amount of interest earned, interest rate, and the depository of interest.

11.3.5 SALARIES AND WAGES

Payroll records, such as timesheets, must be maintained for all subrecipient staff, volunteer and offender labor funded in any part with CDBG funds. Timesheets must be signed by the employee/volunteer/offender and his/her supervisor.

Salaries and wages must be documented on an hourly basis to determine percentage of time to be charged to CDBG. CDBG-funded employees must be paid consistent with subrecipient personnel policies. There must be documentation in the personnel records regarding job descriptions and classifications, pay scales, and fringe benefits to support payroll records.

11.3.6 AUDIT REQUIREMENTS

If a subrecipient expends more than \$750,000 a year in Federal awards, it must submit to the city a copy of the Single Audit Reporting Package.

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If a subrecipient expends less than \$750,000 a year in Federal awards, records must be available for review or audit by appropriate officials of the city, HUD, and General Accounting Office (GAO). Subrecipients expending less than \$750,000 a year in Federal awards must annually submit a certification stating that it expended less than \$750,000 in Federal awards and is not subject to an annual audit.

11.3.7 SUBRECIPIENT PAYMENT REQUESTS

Subrecipients are provided CDBG funding on a reimbursement basis. All subrecipient payment requests must be accompanied by supporting documentation, including at a minimum, copies of timesheets, invoices, and checks for payment of contractors.

Subrecipients must submit payment requests to the city at least every ninety days. Expenditures that have aged over ninety days will not be eligible for reimbursement with CDBG funds. The city will compare subrecipient expenditures to budgeted amounts with each subrecipient payment request. The city may require subrecipients to explain any deviations from budgeted amounts and may withhold payment until adequate documentation is provided.

In unique circumstances, the city may approve cash advances to a subrecipient when the subrecipient submits supporting documentation and a dated invoice from a third-party contractor. The timing and amount of any cash advances will be as close as is administratively feasible to the actual disbursements by the subrecipient. All cash advances must be paid by the subrecipient within three days of receipt of funds from the city.

A subrecipient's right to incur expenses under an agreement with the City of Goodyear ceases upon expiration of the agreement. Subrecipients must request payment for expenditures made prior to expiration of an agreement within sixty days of agreement expiration. Unless authorized by the city in writing, expenditures not requested within the sixty-day period after expiration will not be reimbursed and any cash advances will be recaptured by the city.

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12 PROCUREMENT

The city and subrecipients will follow federal procurement rules when purchasing services, supplies, materials, or equipment in compliance with 2 CFR 200 Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards. In addition to 2 CFR 200, the city and subrecipients will comply with Arizona statutes governing procurement.

The City of Goodyear Procurement Code provides for oversight, accountability and good stewardship in the use of city resources. If a procurement involves the expenditure of federal assistance or monies, the city and subrecipients must comply with federal law and regulations. Where the city code is more stringent than the federal regulations, the city code may be followed.

12.1 CITY PROCUREMENT PROCEDURES

The amount of the individual expenditures for a specific commodity or service determines the level of competition required and who within the city is authorized to purchase at that level. The Procurement Process Table below summarizes this process:

DOLLAR LIMITS	COMPETITION
\$0 - \$2,499.99	Due diligence conducted by Department
\$2,500 - \$14,999	Minimum 3 quotes submitted in writing by vendor to Department
\$15,000 - \$49,999	Minimum 3 quotes submitted in writing by vendor to Procurement Office
Over \$50,000	Formal Solicitations (Procurement Office only)

12.1.1 FORMAL PURCHASING PROCEDURES

Formal purchases are those over \$50,000. City Procurement staff will issue Invitations for Bid (IFB), Requests for Proposals (RFP), Requests for Qualifications (RFQ), or any alternative delivery method deemed appropriate by the procurement office.

Solicitations are generally advertised in the Southwest section of the Arizona Republic newspaper and on the City of Goodyear website, www.goodyearaz.gov, under Business/Vendor Services link. The advertisement will state the date and time offers are due, the location where the solicitation will be opened, the general nature of the goods and services needed and instructions on how to download the solicitation from the city website.

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In some solicitations, pre-bid/pre-offer conferences are held whereby bidders/offerors may attend to ask questions, get clarifications, or receive additional information regarding the solicitation. City of Goodyear pre-bid/pre-offer conferences may or may not be mandatory. The formal solicitation process from the issuance of a solicitation to the award of a contract generally takes approximately ninety (90) days, although some complex solicitations may take longer.

All solicitations are publicly opened by the Procurement Office and read aloud. Bidder/offerors are welcomed to attend openings in person or through a virtual meeting on the date and time listed in the solicitation documents. For bids, certain dollar amounts are read aloud and for Requests for Proposals (RFPs) and Requests for Qualifications (RFQs), only the names of the firms are read aloud.

Invitations for Bids are awarded to the bidder submitting the lowest, responsive and responsible bidder(s). RFPs and RFQs are evaluated by an evaluation committee and scored based on evaluation criteria such as experience and expertise of the firm and staff, methodology, references, capabilities of the firm, cost, and compliance to the solicitation. Evaluation teams are convened to evaluate submitted offer(s). Awards are made to the highest scored offer or determined to have submitted the most advantageous offer to the city.

12.2 SUBRECIPIENT ROLES AND RESPONSIBILITIES

Subrecipients must have in place written procurement policies and procedures. The written procurement policies and procedures must, at a minimum, include:

1. Ensuring that for procurements of \$100,000 or less, an adequate number of price or rate quotations are received from qualified sources, when using a small purchase process.
2. For sealed bids:
 - a. A formal sealed bid process is in place.
 - b. At least two responsible bids will be received for each procurement transaction.
 - c. Procurement transactions lend themselves to firm, fixed price contracts with selection made principally on the basis of price, when all other aspects are considered equal.
 - d. Invitations for Bids are publicly advertised, solicited from an adequate number of suppliers, provide suppliers sufficient time before bid opening, and included specifications and pertinent attachments that clearly define the items or services procured.

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- e. All bids are opened publicly at the time and place stated in the Invitation for Bids.
 - f. Bids are awarded to the lowest responsive and responsible bidders.
3. For competitive proposals:
- a. A competitive proposal process is used primarily when conditions were not appropriate for sealed bids.
 - b. Requests for Proposals clearly and accurately state the technical requirements for the goods or services, are publicized, honor reasonable requests from vendors to compete, and identify significant evaluation factors, including price or cost, and their relative importance.
 - c. Proposals are solicited from an adequate number of qualified sources.
 - d. Technical evaluations are conducted, responsible offerors are determined based on technical evaluations, negotiations, if necessary, are conducted for final contract award; and awards are made to the most responsive and responsible offerors.
4. For noncompetitive proposals, the reasons for selecting this method of procurement are clearly identified.
5. Contract awards are not made to any party excluded, disqualified or otherwise ineligible for federal grant programs.
6. Contract pricing is not made on a cost-plus-a-percentage-of-cost method.
7. Purchase orders and contracts are signed by an authorized program official.
8. Items delivered and paid for are consistent with the purchase order or contract.
9. Vendors are timely paid after acceptance of products or services.
10. A cost or price analysis is performed for each procurement action, including contract modifications.
11. Federal contract provisions are included in grant-assisted contracts.
12. There is a written code of conduct governing employees, officers or agents engaged in the award and administration of grant-funded contracts.
13. There is a documented system of contract administration to determine the adequacy of contractor performance.
14. Prequalified lists, if used, are current, developed through an open solicitation process, and include an adequate number of qualified sources.

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15. Requirements are in place for bid guarantees, performance bonds and payment bonds for construction contracts or subcontracts valued at or below \$100,000.
16. For Small and Minority Firms, Women’s Business Enterprises, and Labor Surplus Area Firms:
 - a. Affirmative steps are taken to include such businesses on solicitation lists whenever they are potential sources.
 - b. Such businesses are solicited whenever they are potential sources.
 - c. When economically feasible, procurement requirements are divided into smaller tasks or quantities to permit maximum participation.
 - d. Prime contractors are required to take affirmative steps to select such businesses when letting subcontracts.
 - e. Other affirmative steps that may be taken to include such businesses.

12.3 SECTION 3 COMPLIANCE AND THE PROCUREMENT PROCESS

The Section 3 clause must be included in all Section 3 covered RFPs, RFQs, bids, and contracts. The city and subrecipients must document Section 3 requirements were discussed at the pre-construction conference and, if held, at the pre-bid conference. Additionally, all RFPs, RFQs, and bids must contain a requirement that the bidder:

1. Indicate if it wishes to receive preference as a Section 3 business, and if it does submit a self-certification and any requested supporting documentation.
2. Certify that Section 3 information will be included in all subcontracts.
3. Agrees to utilize in its procurement and employment process the list of Section 3 businesses and residents provided by the city or subrecipient.
4. Agrees to submit a final report with its last Request for Payment, unless notified that more frequent reports are required.

12.3.1 SECTION 3 PROCUREMENT PREFERENCES

To meet Section 3 benchmarks, the city, subrecipients and contractors may preferentially award Section 3 covered contracts to Section 3 businesses. A business seeking to qualify for a Section 3 contracting preference may be requested to provide evidence of Section 3 qualifications and bears the responsibility of providing evidence of compliance. The business must demonstrate to the awarding party its ability to perform successfully under the terms of the proposed contract. The business' past record in complying with public policy requirements (including Section 3) may be considered as part of the award determination.

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12.3.2 SECTION 3 BUSINESS CONCERNS

Section 3 businesses must self-certify that they meet the definition of a Section 3 business and submit this information at the time of bid. If the business is a subrecipient or subcontractor, the form may be submitted at the time of application or bid or within five days of notification of funding or bid award.

12.3.3 SECTION 3 CLAUSE

This clause **must** be included in all Section 3 covered contracts.

The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that the employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low - and very low-income persons in the project area.

The parties to this contract agree to comply with HUD's regulations in 24 CFR part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.

The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference; job titles subject to hire; availability of apprenticeship and training positions; the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

The contractor agrees to include this Section 3 clause in every sub-contract subject to compliance with regulations in 24 CFR part 75 and agrees to take appropriate action, as provided in an applicable provision of the subcontractor in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75.

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The contractor will certify that any vacant employment positions, including training positions, that are filled: 1) after the contractor is selected but before the contract is executed; and 2) with persons other than those to whom the regulations of 24 CFR part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 75.

Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default and debarment or suspension from future HUD assisted contracts.

13 FILE AND RECORDKEEPING REQUIREMENTS

Accurate recordkeeping is crucial to the successful management of CDBG-funded activities. Insufficient documentation is likely to lead to monitoring findings, and these findings will be more difficult to resolve if records are missing, inadequate or inaccurate.

City departments and subrecipients are encouraged to review and utilize the monitoring checklists for cross-cutting regulations and for each eligible activity found in the monitoring chapter of this handbook. The monitoring checklists serve as a guide to the information that must be maintained by the city and/or subrecipient.

13.1 CITY GENERAL ADMINISTRATION

In addition to cross-cutting regulation and project/activity files, the city will maintain files and records regarding overall administration of the CDBG program, including:

1. Consolidated Plan and Annual Action Plan submissions to HUD;
2. Citizen Participation Plan and compliance documentation;
3. Executed HUD-City CDBG grant agreement;
4. Executed City-Subrecipient or Interdepartmental agreement;
5. Personnel files;
6. Property management files; and
7. HUD monitoring correspondence.

13.2 SUBRECIPIENT GENERAL ADMINISTRATION

In addition to cross-cutting regulation and project/activity files, subrecipients must maintain files and records regarding overall administration of the CDBG program, including:

1. Executed City-subrecipient CDBG grant agreement;
2. Personnel files; and
3. Monitoring correspondence

13.3 PROJECTS OR ACTIVITIES

At a minimum project or activity files of the city and subrecipient will include the following documentation:

1. Eligibility of the activity;
2. Evidence of having met a national objective;

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3. Any bids or contracts;
4. Characteristics and location of the beneficiaries;
5. Compliance with cross-cutting regulations;
6. Budget and expenditure information; and
7. The status of the project/activity.

13.4 NATIONAL OBJECTIVES

The city's compliance with national objectives files will include the following, including any information that may be required of or collected from subrecipients:

1. For LMI Area Benefit activities:
 - a. Boundaries of the service area (including maps);
 - b. Percentage of residential buildings in the area;
 - c. Income characteristics of persons in the service area; and
 - d. Data showing that the area qualifies under the exception rule if the percent of LMI persons in the service area is less than 51 percent.
2. For LMI Limited Clientele activities:
 - a. Documentation showing that the activity is designed for and used by a segment of the population presumed by HUD to be LMI persons; or
 - b. Documentation describing how the nature and, if applicable, the location of the activity establishes that it benefits predominantly LMI persons; or
 - c. Data showing the size and annual income of the family of each person receiving the benefit and that at least 51% of those served are LMI; or
 - d. Data showing that the activity is a special project removing accessibility barriers.
3. For LMI Housing Activities:
 - a. A copy of the written agreement with each landlord or developer receiving CDBG assistance indicating the total number of dwelling units in each multi-unit structure assisted and the number of those units that will be occupied by LMI households after assistance;
 - b. The total cost of the activity, including both CDBG and non-CDBG funds; and
 - c. For each unit occupied by a LMI household, the size, ethnicity and income of the household.
 - d. For rental housing only:

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- i. Rent charged (or to be charged) after assistance for each dwelling unit in each structure assisted; and
 - ii. Information as necessary to show the affordability of units occupied (or to be occupied) by LMI households.
 - iii. For each property acquired on which there are no structures, evidence of commitments ensuring that the project will serve LMI households.
 - iv. Where applicable, records documenting that the activity qualified under the exception criteria for new construction of non-elderly, multi-unit housing.
4. For LMI Job Creation/Retention activities:
- a. Where at least 51 percent of the jobs will be *available to* LMI persons, documentation for each assisted business, including a copy of a written agreement, containing:
 - i. A commitment by the business that it will make at least 51 percent of the full-time equivalent (FTE) jobs available to LMI persons and will provide training for any of those jobs requiring special skills or education;
 - ii. A listing by job title of the permanent jobs to be created, indicating which jobs will be available to LMI persons, which jobs require special skills or education, and which jobs are part-time;
 - iii. A description of the actions to be taken by the city and business to ensure that LMI persons receive first consideration for these jobs; and
 - iv. A listing by job title of the permanent jobs filled, which jobs were available to LMI persons, as well as a description of how first consideration was given to such persons for these jobs. The description must include what type of hiring process was used; names of LMI persons interviewed for a particular job; and which LMI interviewees were hired.
 - b. Where at least 51 percent of the jobs will be *held by* LMI persons, documentation for each assisted business, including a copy of a written agreement, containing:
 - i. A commitment by the business that at least 51 percent of the permanent jobs on a full-time equivalent (FTE) basis will be held by LMI persons;
 - ii. A listing by job title of the permanent jobs to be created (identifying which are part-time, if any);

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- iii. A listing by job title of the permanent jobs filled and which jobs were initially held by LMI persons; and
 - iv. For each LMI person hired, information on the size and annual income of the person's family prior to the time the person was hired for the job, or evidence the person qualifies as presumed to be LMI based upon location of the business or the person's residence.
- c. For benefit based on job retention:
- i. Evidence that, in the absence of CDBG assistance, the jobs would be lost;
 - ii. For each business assisted, a listing by job title of permanent jobs retained, indicating which of those jobs are part-time and (where it is known) which are held by LMI persons at the time the assistance is provided;
 - iii. Where applicable, identification of any of the retained jobs (other than those known to be held by LMI persons) that are projected to become available to LMI persons through job turnover within two years of the time CDBG assistance is provided, and information on how the turnover projections were calculated;
 - iv. For each retained job claimed to be held by a LMI person, information on the size and annual income of the person's family or evidence that the person may be presumed LMI based on the location of the business or the person's residence; and
 - v. For jobs claimed to be available to LMI persons based on job turnover: a description covering the items required for "available to" jobs identified above; a listing of each job that has turned over to date, indicating which of those jobs were either taken by, or made available to LMI persons; and a description of how "first consideration" was given to LMI persons for those jobs.
5. For Slum/Blight Area Basis activities:
- a. Boundaries of the area.
 - b. Description of the conditions that qualified the area at the time of its designation in sufficient detail to demonstrate the area meets a definition of a slum, blighted, deteriorated or deteriorating area under state or local law.
 - c. How the assisted activity addressed one or more of the conditions that contributed to the deterioration of the area.
6. For each residential rehabilitation activity:

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- a. Pre-rehabilitation inspection report describing the deficiencies in each structure to be rehabilitated; and
 - b. Details and scope of CDBG-assisted rehabilitation, by structure.
7. Slum/Blight Spot Basis activities:
- a. A description of the specific condition of blight or physical decay treated; and
 - b. For rehabilitation carried out under this category, a description of the structure, including:
 - i. The specific conditions detrimental to public health and safety that were identified; and
 - ii. Details and scope of the CDBG-assisted rehabilitation, by structure.
8. Urgent Need activities:
- a. Documentation concerning the nature and degree of seriousness of the condition requiring assistance;
 - b. Evidence that the city certified that the CDBG activity was designed to address the urgent need;
 - c. Information on the timing of the development of the serious condition; and
 - d. Evidence confirming that other financial resources to alleviate the need were not available.

13.5 SUBRECIPIENTS

At a minimum the city will maintain the following subrecipient records for each funded subrecipient activity:

1. Subrecipient application;
2. Written agreement;
3. Financial statements and records;
4. Audits;
5. Progress reports;
6. Draw down requests, and source documentation, including invoices, purchaser orders, etc.; and
7. Monitoring reports and correspondence.

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While the city will maintain certain records pertaining to subrecipient activities, subrecipients must also maintain detailed records on its organization, financial and administrative systems, and the specific CDBG-funded project or activity files. These files will be monitored by the city following the city's monitoring risk matrix.

13.6 BENEFICIARIES AND INCOME

Annual income is the gross amount of income anticipated by all adults in a family during the 12 months following the effective date of the determination. The city requires that income be certified using annual income as defined in accordance with 24 CFR Part 5.609) (formerly called "Section 8" (this requires third-party verification);

Annual income for a person, family or a household must be determined for direct benefit activities. Whether the activity requires determination of income for a person, family or household will depend on the specified outcome indicator for the activity. LMI housing activities must always document household income. Income determination is not required for area benefit, presumed limited clientele, slum/blight, or urgent need activities.

To determine if program applicants/beneficiaries are income-eligible, the city or subrecipient must:

1. Determine income using the Part 5 (Section 8) income determination method; or
2. Obtain evidence that the household/person assisted qualified under another program having income qualification criteria at least as restrictive as that used in the definitions of LMI household/person, such as Job Training Partnership Act (JTPA) and welfare programs; or
3. Obtain evidence that the assisted person is homeless; or
4. Obtain a verifiable certification from the assisted person that his/her family income does not exceed the applicable income limit; or
5. Obtain a referral from a state, county or local employment agency or other entity that agrees to refer individuals it determines to be LMI persons based on HUD's criteria and agrees to maintain documentation supporting these determinations.

13.7 INTEGRATED DISBURSEMENT AND INFORMATION SYSTEM (IDIS)

The Integrated Disbursement and Information System (IDIS) system is the management information system used for CDBG. The system is accessed through the HUD website and is secured by HUD-issued user IDs and passwords. The information entered into IDIS is instantly available to HUD. HUD aggregates the data at the national level to demonstrate program results and benefits. IDIS enables the city to:

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1. Draw down CDBG funds.
2. Describe the projects and activities that used CDBG funds.
3. Collect accomplishment and performance measurement data.
4. Generate reports.

HUD has published guidance for the use of IDIS at <https://www.hudexchange.info/resource/2685/idis-online-for-cdbg-entitlement-communities-training-manual/>.

13.8 RECORD RETENTION

City records must be retained for no less than five years after the program year is closed out. Subrecipient records must be retained for no less than five years after the later of the 1) expiration of the contract and any amendments, 2) completion and resolution of the audit, and/or 3) completion of any litigation. Records for property acquired with CDBG funds must be retained for five years after final disposition. Records for any displaced persons must be retained for five years after persons have received final relocation benefits.

13.9 ACCESS TO RECORDS

HUD and the Comptroller General of the United States, or their authorized representatives, have the right to access city and subrecipient records. This right is not limited to the retention period. Requirements regarding public access to records are part of the city's Citizen Participation Plan.

14 ENVIRONMENTAL REVIEW

All CDBG-funded projects and activities, including those funded with program income must have a completed environmental review prior to obligating CDBG funds. The purposes of the Environmental Review are to:

1. Comply with legal requirements;
2. Assist in project planning;
3. Determine if the proposed activity will have an impact on the environment; and
4. Determine whether the environment will have an impact on the proposed activity.

The ERR process will identify areas where project design and planning can be improved to mitigate such things as high noise levels, inadequate public safety, flooding problems, or the time constraints of archaeological finds. The ERR process may also help identify alternatives to the project, if needed. Successful completion of the ERR will result in the approval of an exemption or a written Authority to Use Grant Funds by HUD.

Applicable regulations and requirements for HUD Environmental Review are:

1. 24 CFR Part 58, §570.604 - Environmental Standards.
2. 40 CFR Chapter V Subchapter A – National Environmental Policy Act (NEPA) Implementing Regulations.
3. HUD's Office of Environment and Energy:
<http://www.hud.gov/offices/cpd/environment/>
4. Other federal and state laws and regulations, depending on the type of project and level of required review.

14.1 HUD ENVIRONMENTAL REVIEW ONLINE SYSTEM (HEROS)

HUD's Office of Environment and Energy has created an online system for developing, documenting, and managing environmental reviews. It covers all levels of environmental review and includes on-screen guidance for completing the review.

HUD maintains up-to-date information regarding environmental review on the HUD website and provides guidance on the use of the HEROS system. HUD is responsible for reviewing the city's environmental review and authorizing the city to use CDBG funds. HUD guidance on the HEROS system is found at <https://www.hudexchange.info/resource/3150/heros-user-guide/>.

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14.2 ROLES AND RESPONSIBILITIES OF THE CITY AND HUD

The city is considered a responsible entity and must complete the environmental review process. The city is responsible for ensuring compliance with NEPA and the Federal laws and authorities, for issuing the public notification, for submitting the request for release of funds and certification, when required, and for ensuring the Environmental Review Record (ERR) is complete.

As the responsible entity, the city must designate a Certifying Officer who assumes legal responsibility for certifying that all environmental requirements have been followed. The Certifying Officer may be the Mayor or an official designated by formal resolution of the city council. This function may not be assumed by administering agencies or consultants.

14.3 ROLES AND RESPONSIBILITIES OF SUBRECIPIENTS

Subrecipients may be responsible for preparing worksheets that support the city's environmental review. The HEROS webpage contains all of the worksheets that may be needed by subrecipients to assist the city to prepare and complete the environmental review. The city will enter information from the worksheets into HEROS. The worksheets may be found at <https://www.hudexchange.info/resource/5119/environmental-review-record-related-federal-laws-and-authorities-partner-worksheets/>

14.4 ENVIRONMENTAL REVIEW RECORD

The city will prepare and maintain a written record of the environmental review undertaken for each project. This written record or file is called the Environmental Review Record (ERR). The ERR will be made available for public review upon request, and will include all the environmental review documents, public notices, proof of public notice publication, and written determinations or environmental findings. The ERR will:

1. Describe the project and each of the activities comprising the project, including both CDBG-funded and non-CDBG-funded activities;
2. Evaluate the effects of the project or the activities on the human environment;
3. Document compliance with applicable statutes and authorities;
4. Record the written determinations and other review findings; and
5. Include record of public comments, concerns and the resolution of each by the city.

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14.4.1 SOURCE DOCUMENTATION

Each ERR must contain source documentation that establishes a factual basis for the determination. Acceptable source documentation generally includes:

1. On-Site or Field Observation. An on-site visit may involve testing or measurements. Persons making observations of field conditions must have expertise in the area in which they are commenting. The date of the visit and the name and qualifications of the person making the visit must be documented.
2. Personal Contact. Contact can be made with a person considered an acceptable authority on a subject by email, letter, telephone, or personal visit. Documentation must include: the date of the contact; the person making the contact; the name, title and telephone number of the person contacted; an explanation as to why the person is an authority (city engineer, professor of archeology); and a summary of the questions and responses.
3. Resource Materials. Detailed information can be found in comprehensive land use plans, maps, statistical surveys, and studies. The materials must be current and have followed acceptable methodologies. If the actual materials are not included in the ERR, the citation should include enough information so that anyone reviewing the ERR can determine the relationship of the material to the project. The actual materials must be available for review upon request.
4. A special study may be conducted for an individual factor (such as an archeological survey) and must be performed by a qualified person using acceptable methodologies. If a copy of the study is not included in the ERR, its location reference must be stated in the ERR and it must be made available upon request.
5. Agency Review. Replies to letters sent to agencies are excellent source documentation. Public agencies are charged with specific responsibility to provide information necessary to assess impact. If the source is cited, the sources' qualifications must be included along with the name, position, and date the review was made.

14.5 PROJECT DESCRIPTION

The first step in the process is to carefully define the project or undertaking. A project can be a single activity or several aggregated activities. Time should be spent developing a comprehensive project description, including, maps, photos, prior studies, and other items related to the proposed project. A project is an activity or group of activities that are geographically, functionally, or integrally related, regardless of funding source, and will be undertaken by the city or a subrecipient using CDBG funds (in whole or in part), to accomplish a specific objective.

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If project activities have different classifications or require different levels of review, the city and subrecipients must follow the review steps required for the most stringent classification or level of review.

14.6 PROJECT AGGREGATION

Regardless of the number of activities associated with a project, a single environmental review is required. Activities must be aggregated to ensure the separate and combined impacts of a proposed project are adequately addressed and analyzed. All individual activities that are related either geographically or functionally must be grouped together and evaluated as a single project to consider the combined and cumulative environmental effect. Cumulative impacts can result from individually minor but collectively significant actions that may take place over a period of time. Both direct and indirect effects of a CDBG-funded project must be reviewed, including changes in land-use patterns and population density or growth.

When several activities are undertaken in one area or proposed as a multi-year, phased project, all activities, and all phases of the project must be aggregated and evaluated for their cumulative effect. All prospective federal funding years must be indicated. For example, if the city proposes to pave certain streets in an LMI neighborhood in year one, and additional streets in the same LMI neighborhood in years two and three, the initial ERR will evaluate the full extent of the paving project rather than just the first phase. If some of the components or activities are to be carried out by another entity or funded with other resources, they must be included in the project. The final HUD authorization to proceed will then cover all the activities/phases and planned funding years. If the scope of the project changes after authorization is provided, the ERR may have to be updated with new consultations and publications. The authorization will be valid only for the funding years and amounts that are authorized.

14.7 TIMING OF THE ENVIRONMENTAL REVIEW

The city and subrecipients are prohibited from committing or expending CDBG *or any other funds* until the environmental review process is completed, including receiving a release of funds from HUD. This includes:

1. Executing a legally binding agreement for property acquisition, rehabilitation, conversion, or construction;
2. Expenditure of CDBG funds, except for planning and administration;
3. Demolition, dredging, filling, and excavating; and
4. Any other action that is choice limiting, such as executing a lease agreement, relocating buildings or structures, or converting land, buildings, or structures.

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14.8 ENVIRONMENTAL REVIEW CLASSIFICATIONS

The four environmental classifications are:

1. Exempt.
2. Categorically Excluded.
3. Environmental Assessment.
4. Environmental Impact Statement.

14.8.1 EXEMPT ACTIVITIES

Some CDBG activities are unlikely to have any direct impact on the environment and are not subject to most procedural requirements of the environmental review. Exempt activities include:

1. Environmental and other studies;
2. Information and financial services;
3. Administrative and management activities;
4. Engineering and design costs;
5. Interim assistance (emergency) activities if the assisted activities do not alter environmental conditions and are for temporary or permanent improvements limited to protection, repair or restoration actions necessary only to control or arrest the effects of disasters or imminent threats to public safety or those resulting from physical deterioration;
6. Public service activities that will not have a physical impact or result in any physical changes;
7. Inspections and testing of properties for hazards or defects;
8. Purchase of tools or insurance;
9. Technical assistance or training;
10. Payment of principal and interest on loans made or guaranteed by HUD; and
11. Any of the categorically excluded activities that do not require compliance with any other federal laws.

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To complete environmental requirements for exempt projects, the city will:

1. Make a written finding of the exemption and document it in the ERR.
2. Include in the ERR project description information about the estimated amount of CDBG and other funds that will be used, including the CDBG program year(s).
3. Carry out any applicable requirements of the Flood Disaster Protection Act, Coastal Barriers Resource Act, and HUD's requirement for disclosure of properties located in airport runway clear zones, if applicable. If any of these provisions apply to the project, the impacts must be examined and addressed.

14.8.1.1 Publications/Notices

Exempt activities do not require the city issue a public notice or submit a request for release of funds (RROF) to HUD.

14.8.1.2 Approximate Timeline

When a project is exempt, the only time involved is the time to make a written finding of the exemption and carry out any applicable requirements of the Flood Disaster Protection Act, Coastal Barriers Resource Act, and HUD's requirement for disclosure of properties located in airport runway clear zones.

14.8.2 CATEGORICALLY EXCLUDED ACTIVITIES

Like exempt activities, categorically excluded activities generally have little or minimal impact on the environment. Categorically excluded activities may be 1) downgraded to exempt, or 2) subject to § 58.5. All categorically excluded activities, whether downgraded to exempt or subject to § 58.5 must be examined for the requirements of the Flood Disaster Protection Act; the Coastal Barriers Resources Act; and HUD's requirement for disclosure of properties located in airport runway clear zones. If any of these provisions apply to the project, the impacts must be examined and addressed.

14.8.2.1 Downgraded to Exempt

Categorically excluded activities that can generally be downgraded to exempt include:

1. Tenant based rental assistance;
2. Supportive services including but not limited to health care, housing services, permanent housing placement, short term payments for rent/mortgage/utility costs, and assistance in gaining access to local State and Federal government services;

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3. Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training, recruitment, and other incidental costs;
4. Economic development activities such as equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations;
5. Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction such as closing costs, down payment assistance, interest buy downs and similar activities that result in the transfer of title to a property; and
6. Affordable housing predevelopment costs with NO physical impact such as legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities that do not have a physical impact.

To complete environmental requirements for categorically excluded projects downgraded to exempt, the city will:

1. Complete HUD's statutory checklist, or an equivalent format in HEROS to document the environmental findings.
2. Make a written finding of Categorical Exclusion not Subject to § 58.5 and document it in the ERR.
3. Include in the ERR project description information about the estimated amount of CDBG and other funds that will be used, including the CDBG program year(s).
4. Carry out any applicable requirements of the Flood Disaster Protection Act, Coastal Barriers Resource Act, and HUD's requirement for disclosure of properties located in airport runway clear zones, if applicable. If any of these provisions apply to the project, the impacts must be examined and addressed.

14.8.2.1.1 Publications/Notices

Categorically excluded activities that are downgraded to exempt do not require the city issue a public notice or submit a request for release of funds (RROF) to HUD.

14.8.2.1.2 Approximate Timeline

The timeline for a project that is categorically excluded and downgraded to exempt is approximately 40 days from the date letters are mailed to agencies for comments, including:

1. Publishing notice of project located in a floodplain or wetland, if applicable. There is a 15-day public comment period.

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2. Mailing letters to agencies for comments, allowing for 35 days to respond, following up with agencies that did not respond and documenting the follow up.
3. Completing HUD's Statutory Checklist or equivalent.
4. Documenting the exemption.

14.8.3 CATEGORICALLY EXCLUDED ACTIVITIES SUBJECT TO § 58.5

Categorically excluded activities subject to § 58.5 include:

1. Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size, or capacity of more than 20 percent.
2. Special projects directed toward the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and disabled persons.
3. Rehabilitation of buildings and improvements when the following conditions are met:
 - a. For residential properties with one to four units:
 - i. The density is not increased beyond four units;
 - ii. The land use is not changed; and
 - iii. If the building is located in a floodplain or in a wetland, the footprint of the building is not increased.
 - b. For multi-family residential buildings (with more than four units):
 - i. Unit density is not changed more than 20 percent;
 - ii. The project does not involve changes in land use; and
 - iii. The estimated cost of rehabilitation is less than 75 percent of the total estimated replacement cost after rehabilitation.
4. For non-residential structures including commercial, industrial and public buildings:
 - a. The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
 - b. The activity does not involve a change in land use.
5. An individual action on up to four-family dwelling where there is a maximum of four units on any one site, including new construction, development, demolition, acquisition, disposition or refinancing. The units can be four one-unit buildings or one four-unit building or any combination in between;

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6. An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site;
7. Acquisition (including leasing) or disposition of or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use; and
8. Combinations of the above activities.

To complete environmental requirements for categorically excluded projects subject to § 58.5, the city will:

1. Complete HUD's statutory checklist, or an equivalent format in HEROS to document the environmental findings. This includes review of, and if necessary, correspondence with agencies, for:
 - a. Historic properties;
 - b. Floodplain management and wetland protection;
 - c. Coastal zone management;
 - d. Sole source aquifers;
 - e. Endangered species;
 - f. Wild and scenic rivers;
 - g. Air quality;
 - h. Farmlands protection;
 - i. Airport hazards/runway clear zones;
 - j. Other potential hazards:
 - i. Noise control and abatement;
 - ii. Explosive and flammable operations;
 - iii. Contamination and toxic substances; and
 - iv. Environmental justice.
2. Make a written finding of Categorical Exclusion Subject to § 58.5 and document it in the ERR, citing the applicable subsection of § 58.35(a);
3. Include in the ERR project description information about the estimated amount of CDBG and other funds that will be used, including the CDBG program year(s);
4. Carry out any applicable requirements of the Federal laws and authorities cited in §58.5.

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If upon completion of the statutory checklist, the city identifies that the project has unusual circumstances that may result in a significant environmental impact, the city will complete an environmental assessment.

14.8.3.1 Publications/Notices

If the project must comply with one or more of the Federal laws and authorities cited in §58.5, the city will publish a Notice of Intent to Request Release of Funds (NOI/RROF). The NOI/RROF must provide for at least a seven-day public comment period. After the seven-day comment period has elapsed, the city will prepare the Request for Release of Funds (RROF) and Environmental Certification. The Environmental Certification certifies that the city is in compliance with all the environmental review requirements. The RROF and Certification must be signed by the Certifying Officer and submitted to HUD. The city must receive the release of funds from HUD before proceeding with the project.

14.8.3.2 Approximate Timeline

The timeline for a project that is categorically excluded and subject to §58.5 is approximately 80 days from the date letters are mailed to agencies for comments, including:

1. Publishing notice of project located in a floodplain or wetland, if applicable. There is a 15-day public comment period.
2. Mailing letters to agencies for comments, allowing for 35 days to respond, following up with agencies that did not respond and documenting the follow up.
3. Completing HUD's Statutory Checklist or equivalent.
4. Publishing a Notice of Intent to Request a Release of Funds (combined with second floodplain notice if applicable), allowing for a 7-day public comment period.
5. Allowing for a 15-day period for objections to be submitted to HUD.
6. Receiving authority to use grant funds from HUD.

14.8.4 ENVIRONMENTAL ASSESSMENT ACTIVITIES

An environment assessment is required for all activities that cannot be categorized as exempt or categorically excluded. The results of the environmental assessment will determine if a project requires an Environmental Impact Statement (EIS), if the project is not specifically listed under projects requiring an EIS. Examples of activities that require an environmental assessment include:

1. Construction of new housing beyond four units.

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2. Construction of new social service, community, or senior center or health clinic.
3. Construction of a new fire station or library.
4. Construction of a new water or wastewater system including new water wells, storage facilities, treatment plants and transmission lines.
5. Water or sewer line extensions (vs. replacements) and new hook-ups/tie-ins.
6. Construction of new drainage or flood control facilities.
7. Construction of new streets or substantial reconstruction to include widening by 20% or more.
8. Construction of new industrial or commercial facilities or significant expansions of such (even if the actual construction or expansion is privately financed and CDBG funds are used only for equipment purchase or design/engineering costs).
9. Land acquisition if there is a change in land use.
10. Demolition if there is a change in land use.

To complete environmental requirements for projects requiring an environmental assessment, the city will:

1. Determine existing conditions and describe the character, features and resources of the project area and its surroundings, identifying the trends that are likely to continue in the absence of the project.
2. Identify all potential environmental impacts, whether beneficial or adverse, and the conditions that would change as a result of the project.
3. Identify, analyze and evaluate all impacts to determine the significance of their effects on the human environment and whether the project will require further compliance with federal and other regulations.
4. Examine and recommend feasible ways in which the project or external factors relating to the project could be modified in order to eliminate or minimize adverse environmental impacts.
5. Discuss the need for the proposal, appropriate alternatives where the proposal involves unresolved conflicts concerning alternative uses of available resources, the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted.
6. Complete all environmental review requirements necessary for the project's compliance with applicable authorities.

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7. Complete all worksheets/screens in HEROS.
8. Make a determination of:
 - a. A Finding of No Significant Impact (FONSI) because the project is not an action that will result in a significant impact on the quality of the human environment.
 - b. A finding of significant impact because the project is an action that may significantly affect the quality of the human environment.

14.8.4.1 Publications/Notices

When the city makes a Finding of No Significant Impact it will publish and distribute a Combined/Concurrent Notice of Finding of No Significant Impact (FONSI) and Notice of Intent to Request Release of Funds (NOI/RROF).

The RROF and signed Environmental Certification will be submitted to HUD no sooner than 16 days after publishing the combined/concurrent notice. HUD must hold the Release of Funds for a 15-day period to allow for public comment. If no comments are received during this time, HUD will send back a signed Release of Funds and the project may proceed.

14.8.4.2 Approximate Timeline

The timeline for an environmental assessment project is approximately 90 days from the date letters are mailed to agencies for comments, including:

1. Publishing notice of project located in a floodplain or wetland, if applicable. There is a 15-day public comment period.
2. Notifying the Department of Agriculture if land will be cleared, allowing for a 20-to-60-day response time.
3. Mailing letters to agencies for comments, allowing for 35 days to respond, following up with agencies that did not respond and documenting the follow up.
4. Completing HUD's Statutory Checklist or equivalent.
5. Publishing a Notice of Intent to Request a Release of Funds (combined with second floodplain notice if applicable), allowing for a 15-day public comment period.
6. Allowing for a 15-day period for objections to be submitted to HUD.
7. Receiving authority to use grant funds from HUD.

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14.8.4.3 Finding of Significant Impact

When the city makes a Finding of Significant Impact, an Environmental Impact Statement (EIS) will be required.

14.8.5 ENVIRONMENTAL IMPACT STATEMENT

An Environmental Impact Statement (EIS) may be required when:

1. Common sense suggests the project is so large that it may have a substantial environmental impact.
2. A Finding of Significant Impact (FOSI) is made as a result of completing an environmental assessment for the project.
3. The project is a site or sites for a hospital or nursing home with a total of at least 2,500 beds.
4. The project will remove, destroy, convert or substantially rehabilitate at least 2,500 existing housing units.
5. The project will construct, install or provide sites for at least 2,500 housing units.
6. The project will provide water and sewer capacity for at least 2,500 housing units.

When the city or a subrecipient proposes a project requiring an EIS, a third-party will be contracted to complete the EIS.

14.9 OWNER OCCUPIED HOUSING REHABILITATION

Most owner-occupied housing rehabilitation activities are categorically excluded if there is no change in land use, the density does not increase beyond 4 units, or the footprint of the building is not increased in a floodplain. Housing reconstruction requires an environmental assessment. Owner-occupied housing rehabilitation activities require a two-part review.

14.9.1 PART 1 REVIEW

The first part of the review is for the entire area covered by the rehabilitation program, which may include one or more neighborhoods or the entire city. During the first part of the review, the city will:

1. Complete HUD's statutory checklist, or an equivalent format in HEROS to document the environmental findings for the program area.
2. Include in the ERR project description information about the estimated amount of CDBG and other funds that will be used, including the CDBG program year(s).

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3. Carry out any applicable requirements of the Flood Disaster Protection Act, Coastal Barriers Resource Act, and HUD's requirement for disclosure of properties located in airport runway clear zones, if applicable.

If the project will not be required to comply with one or more of the Federal laws and authorities cited in §58.5, the city will make a written finding of Categorical Exclusion not Subject to § 58.5 and document it in the ERR.

If the project must comply with one or more of the Federal laws and authorities cited in §58.5, the city will publish a Notice of Intent to Request Release of Funds (NOI/RROF). The NOI/RROF must provide for at least a seven-day public comment period. After the seven-day comment period has elapsed, the city will prepare the Request for Release of Funds (RROF) and Environmental Certification. The Environmental Certification certifies that the city is in compliance with all the environmental review requirements. The RROF and Certification must be signed by the Certifying Officer and submitted to HUD. The city must receive the release of funds from HUD before proceeding with the project.

14.9.2 PART 2 REVIEW

After completion of the first part of the review and HUD approval to proceed, each property that may receive assistance must be evaluated for:

1. Historic preservation;
2. Airport clear zones;
3. Explosive and flammable operations;
4. Toxic, hazardous and radioactive materials;
5. Flood insurance and the Flood Disaster Protection Act; and
6. Lead-based paint.

If any of the evaluation factors is negative, the city will make a determination regarding denial of CDBG funds to the property, or if mitigation is possible, providing assistance.

14.9.2.1 Approximate Timeline

The timeline for an owner-occupied housing rehabilitation program (part 1) review is approximately 60 days from the date letters are mailed to agencies for comments, including:

1. Publishing notice of project located in a floodplain or wetland, if applicable. There is a 15-day public comment period.

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2. Mailing letters to agencies for comments, allowing for 35 days to respond, following up with agencies that did not respond and documenting the follow up.
3. Completing HUD's Statutory Checklist or equivalent.
4. Publishing a Notice of Intent to Request a Release of Funds (combined with second floodplain notice if applicable), allowing for a 7-day public comment period.
5. Allowing for a 15-day period for objections to be submitted to HUD.
6. Receiving authority to use grant funds from HUD.

14.10 REVISITING THE ENVIRONMENTAL REVIEW

The three major reasons for revisiting a review are to:

1. Record mitigation measures;
2. Reevaluate the project; and
3. Add another source of funding.

14.10.1.1 MITIGATION MEASURES

Mitigation measures or conditions for approval are sometimes necessary for a project to comply. The conditions are often implemented after the environmental review is complete and the project is underway. Documentation demonstrating that the mitigation measures have been implemented must be included in the environmental review record.

14.10.1.2 REEVALUATION

Reevaluation of a project is necessary when:

1. There are proposed substantial changes in the nature, magnitude, or extent of the project, including adding new activities not anticipated in the original scope of the project;
2. There are new circumstances and environmental conditions that may impact the project or have a bearing on its impact, such as concealed or unexpected conditions discovered during the implementation of the project or activity; or
3. An alternative not in the original finding is proposed.

When reevaluation is necessary, the city will update the environmental review record and determine whether the original findings are still valid. If the original findings are no longer valid, a new environmental review must be prepared.

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14.10.1.3 SUPPLEMENTAL ASSISTANCE

When new sources of HUD funding are added and the city prepared the original environmental review, the city will review for and if necessary, carry out any applicable requirements of the Flood Disaster Protection Act, Coastal Barriers Resource Act, and HUD's requirement for disclosure of properties located in airport runway clear zones, if applicable.

When new sources of funding are added and the city did not prepare the original environmental review, then the city will complete a new environmental review.

14.11 PROJECTS LOCATED IN FLOODPLAINS OR WETLANDS

Executive Orders 11988 and 11990 assure that Federal programs avoid adverse impacts on wetlands and floodplains; minimize destruction, loss, or degradation of wetlands; preserve and enhance the natural and beneficial values of wetlands; reduce risk of flood loss; minimize the impact of floods on human safety, health, and welfare; and to the extent possible, restore the natural and beneficial values served by floodplains. The Water Resources Council implementation guidelines provide for:

1. Early information to the public if a project will be located in a floodplain or wetlands and/or will indirectly affect a floodplain or wetlands;
2. A clear decision-making process to include a review of all practicable alternatives; and
3. Notification to the public of the final decision regarding the project. (The guidelines are not intended to prohibit floodplain or wetlands development.)

HUD's rule to implement E.O. 11988 on floodplain management allows for provision of direct or indirect federal assistance only when there is no practicable alternative to floodplain development or any action that would adversely affect a floodplain area. E.O. 11998 does not apply if the Federal Emergency Management Agency (FEMA) has issued either a "Letter of Map Amendment" (LOMA), or a "Letter of Map Revision" (LOMA) for a project site located within a Special Flood Hazard Area.

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14.11.1 TERMS AND DEFINITIONS

Term	Definition
100-year floodplain	The area subject to a 1% or greater chance of flooding in any given year.
500-year floodplain	The minimum floodplain of concern for Critical Actions, which is the area subject to inundation from a flood having a 0.2% chance of occurring in any given year.
Base floodplain	100-year floodplain
Critical action	<p>Any activities for which even a slight chance of flooding would be too great because such flooding might result in loss of life, injury to persons, or damage to property. Critical actions include activities that create, maintain, or extend the useful life of those structures or facilities that:</p> <ol style="list-style-type: none"> 1. Produce, use or store highly volatile, flammable, explosive, toxic or water-reactive materials; 2. Provide essential and irreplaceable records or utility or emergency services that may become lost or inoperative during flood and storm events (e.g., data storage centers, generating plants, principal utility lines, emergency operations centers including fire and police stations, and roadways providing sole egress from flood-prone areas); or 3. Are likely to contain occupants who may not be sufficiently mobile to avoid loss of life or injury during flood or storm events, e.g., persons who reside in hospitals, nursing homes, convalescent homes, intermediate care facilities, board and care facilities, and retirement service centers.
Floodway	That portion of the floodplain, which is effective in carrying flow, where the flood hazard is generally the greatest, and where water depths and velocities are the highest. The term "floodway" as used here is consistent with "regulatory floodways" as identified by FEMA.
High hazard area	A floodway or a coastal high hazard area.
Wetlands	<p>An area that meets the following three characteristics:</p> <ol style="list-style-type: none"> 1. It is flooded permanently or periodically; 2. It has predominately submerged vegetation; and 3. It has water saturated soil.

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14.11.2 **CONSIDERING ALTERNATIVES**

When a project will be located in a designated floodplain, the following eight steps must be completed and documented to demonstrate that there is no practicable alternative to the project.

14.11.2.1 **Step 1 – Determine the Project Location.**

The city must determine whether the proposed project is located in or will have an impact on a 100-year floodplain/wetland or in a 500-year floodplain (if it is a critical action). This can be done by reviewing a detailed Flood Insurance Rate Map (FIRM) or a Flood Hazard Boundary Map (FHBM), both of which are available from the National Flood Insurance Program, or wetlands map available from the U.S. Fish and Wildlife Service. If the project is not located in a floodplain/wetland but could have a direct or indirect an impact (e.g., supporting floodplain development), then the city must proceed with the remaining seven steps in this process.

14.11.2.2 **Step 2 – Notices to the Public.**

A notice must be published in a newspaper of general circulation and copies posted in public places (city hall, post office, and library). Copies must also be sent to federal, state, and local organizations and individuals known to be interested in the project. This notice is one of the first steps in the ERR process as it is required before any other notices are published. The notice must provide for a 15-day public comment period.

14.11.2.3 **Step 3 – Identify and Evaluate Practicable Alternatives.**

During the 15-day comment period, all alternatives to the proposed project must be identified and evaluated. At least three alternatives should be evaluated:

1. Alternative sites (if the floodplain/wetlands site is the only alternative, this must be fully documented).
2. Alternative actions (new solutions or approaches that would serve the same function but have less potential for harm).
3. No action (proceed with the project as planned).

14.11.2.4 **Step 4 – Identify Potential Impacts.**

Potential impacts must be identified and include both direct impacts (the location of the structure in the floodplain/wetlands) and indirect impacts (infrastructure outside the floodplain/wetlands that would encourage development within it). Both positive and negative impacts and short and long-term consequences must be evaluated.

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14.11.2.5 Step 5 – Minimize, Restore and Preserve.

All critical actions in the 500-year floodplain must be designed and built at or above the 100-year floodplain (in the case of new construction) and modified to include:

1. Preparation of and participation in an early warning system;
2. An emergency evacuation and relocation plan;
3. Identification of evacuation route(s) out of the 500-year floodplain; and
4. Identification marks of past or estimated flood levels on all structures.

14.11.2.6 Step 6 – Re-evaluate the Proposed Project.

Once the impact of the proposed project and the methods to minimize, restore and preserve floodplain or wetlands have been identified, the proposed action must be re-evaluated. If the originally proposed location is the only practicable alternative, the importance of the proposed project must outweigh the requirements of the Executive Orders.

14.11.2.7 Step 7 – Public Notice of the Decision.

If the city decides that the only practicable alternative for the proposed project is within the floodplain or wetlands or it will have an impact on such, it will publish a second public notice. The second notice will be combined with the Notice of Intent to Request Release of Funds for Categorically Excluded Projects or Finding of No Significant Impact/Notice of Intent to Request Release of Funds for Environmental Assessments.

14.11.2.8 Step 8 – Implementation.

The project can be implemented after the public comment period and receipt of an Authority to Use Grant Funds from HUD.

14.12 ARS 3-904 NATIVE PLANTS

A notice of intent to clear land form is required by the Arizona Department of Agriculture when desert plants may be destroyed by land clearing. Most protected desert plants fall into one of four groups specifically protected from theft, vandalism, or unnecessary destruction. They include all of the cacti, the unique plants like Ocotillo and trees like Ironwood, Palo Verde, and Mesquite. In most cases the destruction of these protected plants may be avoided if the private landowner gives prior notice to the Arizona Department of Agriculture.

The Notice of Intent to Clear Land form is found at <https://agriculture.az.gov/sites/default/files/Intent%20to%20Clear%20Land%20Form%20-%20AZ%20Dept%20of%20Ag.pdf>. When properly completed, the form is to be sent to the

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Department of Agriculture within the time periods described below. Landowners/developers are encouraged to salvage protected native plants whenever possible.

The information in the notice will be posted in the applicable state office of the Department of Agriculture and mailed to those parties (salvage operators, re-vegetation experts) who have an interest in these plants and may approach the landowner with the possibility of saving the plant(s) from unnecessary destruction.

The owner may not begin destruction of protected native plants until he/she receives written confirmation from the Arizona Department of Agriculture and the time prescribed below has elapsed.

<u>Size of area where the destruction of plants will occur</u>	<u>Length of Notice Period</u>
Less than one acre	20 days, oral or written
One acre or more, but less than 40 acres	30 days, written
40 acres or more	60 days, written

If the land clearing or plant salvage does not occur within one year, a new Notice is required.

14.13 HUD ENVIRONMENTAL REVIEW MONITORING

HUD will monitor the city for compliance with the following environmental review requirements.

- A Request for Release of Funds was not processed after the project began.
- Grant funds were not obligated before receipt of Authority to Use Funds from HUD.
- No physical development activities began before receipt of Authority to Use Funds from HUD.
- Staff has knowledge of or has been trained in environmental review.
- If objections were raised regarding the review, the objections were addressed by the city.
- A separate ERR exists for each project.
- The ERR contains a project description, geographic boundaries (where applicable), and encompasses all activities included in the overall project.
- Activities claimed as exempt or categorically excluded are supported by written documentation.

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- If applicable, the ERR contains a Finding of No Significant Impact (FONSI), and the Notice of Intent to Request Release of Funds (NOI/RROF), or a combined FONSI and NOI/RROF notice.
 - The NOI/RROF was disseminated/published before the certification was signed by the certifying officer.
- The ERR contains documentation to support that the applicable laws and authorities of 24 CFR 58.5 and 24 CFR 58.6 were specifically addressed and recognized authoritative sources validate the conclusions.
 - Mitigating measures, if any, were taken and documented.
- Historic properties were considered and information checks were made with the State Historic Preservation Officer (SHPO).
 - If historic properties were present in the service area or impacted by the activity, SHPO agreed on findings of effect, and if effects were adverse, the city consulted with the Advisory Council, and/or executed Memoranda of Understanding or Program Agreements.
 - The city complied with the Memoranda of Understanding or Program Agreements, if applicable.
- The city determined whether the proposed activities was located in or had the potential to measurably affect a floodplain or wetland.
- For projects located in a floodplain or wetlands, compliance with floodplain management requirements, including public notices and documentation of alternatives.
 - Alternatives examined include natural environment, social concerns, economic aspects, and legal constraints.
 - The activity was designed or modified to minimize harm to or within the floodplain, restore and preserve natural and beneficial floodplain values, and comply with the standards of the National Flood Insurance Program.
- Compliance with the Coastal Barrier Resources Act is documented.
- The city documented whether the project site or activity would likely affect an endangered or threatened species or habitat.
 - If the activity required an environmental assessment, the assessment included a biological assessment and contact and/or formal consultation with the Fish and Wildlife Service to verify endangered or threatened species or habitat.
- If the project is located in the vicinity of major traffic arteries, rail lines, airports or other noise generators, noise levels were assessed in accordance with HUD policy, mitigating

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measures were proposed and an environmental impact statement was repaired or waivers requested.

- The ERR contains information on the project's impact on air quality, and mitigating measures (if applicable) have been applied.
- If the EPA has designated an aquifer as a sole or principal source of drinking water for the area, the city has requirements to accomplish recharge as governed by a HUD-EPA agreement, if applicable.
- The project is assured a supply of potable water that meets state standards, and will not cause or substantially contribute to off-site water pollution by storm water run-off, leaching of chemicals or other pollutants.
- Analysis of natural hazards has been conducted and mitigating measures taken (if necessary).
- The project is separated from hazardous operations that handle conventional fuels or chemicals of an explosive nature.
- The site itself is free from hazardous materials, contamination, toxic chemicals and gases, and radioactive substances.
- The site is not subject to hazards from power generation and distribution facilities, particularly extra-high voltage transmission lines.
- The site is not located in an airport clear zone.
- The project site or sites are not subject to: explosions, conflagration, air pollution of toxic intensity from chemical processing storage or transmissions of chemicals, hazardous industrial operations, slag piles, landfills, dumps, major highways, train tracks, traffic overload, or any other industrial-commercial operations that produce high levels of pollution.
- The project site or sites are not in immediate proximity of power-generating stations, waste transfer stations, distribution facilities, or operations that produce foul odors.
- If the project is located in an area of minority concentration, a disparate impact analysis was conducted to determine if the health or environment will be disproportionately and adversely impacted as a result of the project.

15 LABOR STANDARDS ADMINISTRATION AND ENFORCEMENT

Labor standards are intended to protect worker's rights. The CDBG program requires compliance with federal labor standards regulations including:

1. The Davis-Bacon Act (40 USC, Chapter 3, Section 276a-276a-5; and 29 CFR Parts 1, 3, 5, 6 and 7) is triggered when construction work over \$2,000 is financed in whole or in part with CDBG funds. It requires that workers receive no less than the prevailing wages being paid for similar work in the same area. Davis-Bacon does not apply to the rehabilitation of residential structures containing less than eight units or force account labor. HUD should be contacted if there is any situation where the applicability of Davis-Bacon is in question.
2. The Copeland Anti-Kickback Act (40 USC, Chapter 3, Section 276c and 18 USC, Part 1, Chapter 41, Section 874; and 29 CFR Part 3) requires that workers be paid weekly, that deductions from workers' pay be permissible, and that contractors maintain and submit weekly payrolls.
3. The Contract Work Hours and Safety Standards Act (40 USC, Chapter 5, Sections 326-332; and 29 CFR Part 4, 5, 6 and 8; 29 CFR Part 70 to 240) applies to contracts over \$100,000 and requires that workers receive overtime compensation (time and one-half pay) for hours they have worked in excess of 40 hours in one week. Violations under this Act carry a liquidated damages penalty (\$25 per day per violation) and full wage compensation.
4. Section 3 of the Housing and Urban Development Act of 1968, as amended requires the provision of opportunities for training and employment that arise through HUD-financed projects to lower-income residents. Also required is that contracts be awarded to businesses that provide economic opportunities for low- and very low-income persons residing in the project area whenever possible. Section 3 requirements are explained in further detail in the fair housing and civil rights chapter of this manual.

15.1 CITY ROLES AND RESPONSIBILITIES

The city has the following responsibilities to ensure compliance with labor standards requirements. Compliance with labor standards requirements may be achieved by staff or contractors.

1. Maintain a construction contract management system that meets the standards of 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

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2. Ensure all bid documents, contracts and subcontracts contain the applicable Davis-Bacon wage decision and Federal labor standards provisions.
3. Ensure no contract is awarded to a contractor that is ineligible for federally-assisted work.
4. Conduct on-site inspections including interviews with laborers and mechanics employed on the construction project.
5. Ensure that the applicable Davis-Bacon wage decision and DOL's Davis-Bacon poster (Form WH-1321) are displayed at the job site.
6. Review certified payroll reports and related documentation. Identify any discrepancies and/or violations. Ensure any needed corrections are made promptly, including the payment of wage restitution, as needed, and the assessment and collection of liquidated damages, as appropriate.
7. Maintain full documentation of Federal labor standards administration and enforcement activities.
8. Refer to HUD any potential criminal or complex enforcement actions and Contract Work Hours and Safety Standards Act (CWHSSA) liquidated damages assessments for overtime violations and debarment recommendations.
9. Comply with all HUD requirements concerning statutory, program and/or other requirements.
10. Prepare Federal labor standards enforcement reports as required in U.S. Department of Labor (DOL) regulations (29 CFR Part 5, Section 5.7).
11. Remain current regarding DOL regulations and guidance by periodically visiting https://www.hud.gov/program_offices/davis_bacon_and_labor_standards/OLRLibrary.

15.2 LABOR STANDARDS ADMINISTRATION

There are multiple steps to labor standards administration to ensure compliance. These steps begin before construction and continue throughout the construction phase.

15.2.1 STEP 1: DETERMINE APPLICABILITY OF DAVIS-BACON AND RELATED ACTS

The first step is to determine whether and to what extent Davis-Bacon wage standards apply to a contract or project. With few exceptions, Davis-Bacon and labor standards apply to CDBG activities that involve construction work in excess of \$2,000. These standards apply to the entire project, even when CDBG funds finance only a portion of construction. The standards

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also apply to CDBG funding that finances construction, such as buying down the interest rate on a construction loan or providing permanent financing after construction is completed.

Exceptions to Davis-Bacon requirements include:

1. Real property acquisition.
2. Purchase of equipment.
3. Architectural and engineering fees.
4. Services related to construction, such as legal, accounting and construction management.
5. Other non-construction items.
6. Force account labor.
7. Housing rehabilitation or construction of eight or fewer units, defined as one or more buildings on an undivided lot or on contiguous lots or parcels that are commonly-owned and operated as one rental, cooperative or condominium project.
8. Owner-occupied housing rehabilitation.

15.2.1.1 Davis-Bacon Wage Determinations

The U.S. Department of Labor (DOL) is responsible for determining prevailing wage rates for construction work pursuant to the Davis-Bacon Act and publishes schedules of these wages in Davis-Bacon wage decisions. DOL regulations pertaining to the determination, publication, use and effectiveness of Davis-Bacon wage decisions (also known as wage determinations) are found at 29 CFR Part 1.

Davis-Bacon wage decisions are established for four (4) broad categories of construction work:

1. Residential: Construction, rehabilitation or repair of single-family homes and apartment buildings no more than 4 stories, including incidental items such as site work, parking areas, utilities, streets, and sidewalks, unless there is an established area practice to the contrary.
2. Building: Construction, rehabilitation, or repair of apartment buildings greater than 4 stories, sheltered enclosures with walk-in access for the purpose of housing people, machinery, equipment, or supplies.
3. Highway: Construction, rehabilitation or repair of roads, streets, highways, sidewalks, parking areas and most other paving work not incidental to residential, building, or heavy construction.

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4. Heavy: A “catch-all” category that includes those projects that cannot be classified as “residential”, “building”, or “highway”. Examples include dredging, sanitary and storm sewers, water mains and supply lines, dams, and flood control projects.

General wage decisions are published for specific categories of work and by geographic location, usually a county or group of counties. General wage decisions are available on-line at sam.gov. General wage decisions may be modified to keep them current. Modified wage decisions are listed numerically on the wage decision modification record (found on the first page of the wage decision). A modification may change one or more, or all work classifications and/or wage rates, however each modification replaces the preceding modification in its entirety.

The city will select the current wage decision based on the category of the work and the geographic location.

Wage decisions “lock-in” based on bid opening, contract award or start of construction. Once a wage decision is locked in it is frozen for the duration of the construction work, i.e., the wage decision for the project is no longer subject to modification. Wage decisions will lock-in: On the bid opening date if the contract was competitively bid and awarded within 90 days. On the date of the award if the contract was competitively bid and not awarded within 90 days.

If a wage decision does not contain one or more work classifications and wage rates that will be needed for the construction work, a request for additional classification and wage rate may be made after the contract award. The request must originate with the contractor/employer and be forwarded by the city to the HUD field office.

15.2.2 STEP 2: PREPARE THE BID DOCUMENTS AND CONTRACT

The bid specifications and/or the contract for each project subject to Davis-Bacon wage rates must contain both a Davis-Bacon wage decision and labor standards clauses. If not included in the bid specifications and/or contract, these requirements must be incorporated by specific reference in the bid/contract documents.

1. Davis-Bacon wage decisions are a listing of various construction work job classifications (such as Carpenter, Electrician, Plumber, Laborer, etc.) and the minimum wage rates and fringe benefits for people performing work in each labor classification. The official source of wage determinations is sam.gov. When requesting a wage decision, it is also important to review wage decisions due to be revised to know if any specific wage decisions will soon be revised or modified.

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2. Labor standards clauses obligate the contractor to comply with Davis-Bacon wage and reporting requirements and with the overtime provisions of the Contract Work Hours & Safety Standards Act. The labor standards clauses also provide remedies and sanctions should violations occur. HUD has standard forms containing the labor standards clauses appropriate to the CDBG program. These forms may be found at https://www.hud.gov/program_offices/davis_bacon_and_labor_standards/olrform.

15.2.3 STEP 3: VERIFY CONTRACTOR ELIGIBILITY

Before awarding a contract, verify the contractor is eligible by visiting sam.gov and conducting a records search for existing entities excluded from federal work.

15.2.4 STEP 4: CONTRACTOR COMMUNICATION

Hold a meeting with the prime or principal contractor to ensure they understand responsibilities for Davis-Bacon and related acts compliance. The prime or principal contractor is responsible for full compliance of all employers, including the contractor, named subcontractors, and un-named (lower-tier) contractors. Provide the contractor a link to HUD's "A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects" and encourage the contractor to provide the link to any subcontractors.

15.3 LABOR STANDARDS ENFORCEMENT

Labor standards enforcement is a series of activities that take place during construction to ensure contractor compliance. Davis-Bacon and Labor Standards Forms, many of which are available in both English and Spanish, may be found at https://www.hud.gov/program_offices/davis_bacon_and_labor_standards/olrform.

15.3.1 DISPLAYING INFORMATION

The contractor is required to display on the job site a copy of the applicable Davis-Bacon wage decision and Department of Labor Form WH-1321, *Davis-Bacon Poster* in both English and Spanish. Posting provides information to construction laborers and mechanics working on the project about their entitlement to the prevailing wage for their trade, and information on who to contact at the city if they have questions or want to file a complaint.

The city may also complete and post a HUD-4720. The HUD-4720 is a one-page listing of only the wage rates applicable to the specific project. It is recommended because it clarifies specific wage rates that must be paid and facilitates review of certified payroll reports.

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15.3.2 CONDUCTING ON-SITE INTERVIEWS

To verify compliance with labor standards requirements the city will interview at least one person from every contractor and subcontractor on the job site on at least two different occasions. The first interviews will take place within the first two week after construction begins. If interviews suggest potential non-compliance, the city will conduct interviews not less than bi-weekly. The city will also conduct interviews whenever a new subcontractor begins work on the project.

The purpose of interviews is to capture observations of the work being performed and to get the workers' views on the number of hours they work, the type of work they perform and the wages they receive. Whenever possible, the city will target interviews to groups of workers where violations are suspected or alleged. Information gathered during the interviews is recorded on Form HUD-11, Record of Employee Interview. Completed HUD-11s must be compared to the corresponding contractor and subcontractor certified payrolls to test and verify the accuracy of the payroll information.

15.3.3 REVIEWING CONTRACTOR AND SUBCONTRACTOR CERTIFIED PAYROLL REPORTS

The city will review payroll reports to ensure all laborers and mechanics are being paid no less than the wage rates contained on the applicable Davis-Bacon wage decision for the classification of work they perform. Review of payroll reports will reveal if there are any discrepancies and/or underpayments, or falsification indicators.

If one or more discrepancies or underpayments are identified, the city will contact the employer and/or prime contractor and provide instructions to correct the payroll records and to pay any back wages that may be due to the affected workers. This contact may be made in writing, by email, or by telephone with documentation of the contact in the contract file. The city will require further documentation to demonstrate that corrective measures have been taken to correct discrepancies.

If there is a falsification indicator, the city will investigate the discrepancy through on-site interviews, employee questionnaires, and other methods to assess the facts of the potential falsification. The city will seek guidance from the HUD field office for complex issues and falsification cases. HUD and/or DOL may conduct further investigation.

If any potential discrepancies and/or underpayments, whether intentional or unintentional, are discovered, the city may withhold payments due to the contractor or require the contractor establish an escrow account to guarantee the satisfaction of any labor standards liability. The city may also require restitution or liquidated damages.

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15.3.4 DOCUMENTING INVESTIGATIONS

When the city investigates a complaint or discrepancy it will document:

1. Date the city first became aware of a possible violation.
2. Nature of alleged violation(s)
3. Detailed description of the conduct and extent of the investigation, including individual performing the investigation, persons contacted, records examined, and the dates of each.
4. Facts disclosed by the investigation, including whether allegations were true or false.
5. Investigator's conclusions regarding reason(s) violation were proven, if applicable.
6. How the violation was resolved, if applicable.
7. Investigator's recommendations regarding further actions to be taken by the city, contractor, subcontractor, and/or HUD, if applicable.

15.4 PREPARING AND SUBMITTING ENFORCEMENT REPORTS

The city will prepare and submit to HUD an enforcement report in any case where an employer (contractor or subcontractor) has underpaid its employees by \$1,000 or more, or where there is reason to believe the violations are aggravated or willful. The city will also prepare and submit to HUD semi-annual enforcement reports concerning all HUD Davis-Bacon labor standards administration and enforcement activities.

Employer enforcement reports may follow the format and guidance in Labor Relations Letter 92-02. These reports allow HUD and/or DOL to refer investigative findings when a contractor disputes the finding and a hearing may be necessary, and to make recommendations for debarment or other sanctions.

Semi-annual enforcement reports are due in April and October of each year. The semi-annual enforcement reports cover contracts awarded and enforcement actions taken during the relevant 6-month period. HUD collects the reports and compiles a comprehensive report to DOL covering all HUD-assisted Davis-Bacon construction activity.

15.5 LABOR STANDARDS FILES

Each project file will include labor standards documentation. Files will be maintained for not less than five years after completion of the project and the resolution of any enforcement actions that carry over after completion.

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15.5.1 COMPLIANCE PRINCIPLES, DEFINITIONS, AND INTERPRETATIONS

There are multiple compliance principles, definitions and interpretations that affect every project covered by labor standards regulations.

Term	Definition
Apprentice	A person employed and individually registered in a bona fide apprenticeship program. Bona fide programs are those that have been registered with DOL, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, Bureau of Apprenticeship and Training (BAT) or with a BAT-recognized State apprenticeship agency (SAC).
Certified payroll reports	<p>Weekly certified payroll reports (CPRs) must be submitted for each week any contract work is performed. Each employer must prepare and certify payroll reports to demonstrate compliance with the labor standards requirements.</p> <ol style="list-style-type: none"> 1. CPR format. CPR information may be submitted on DOL Payroll Form WH-347 or in another format that includes all the information on Form WH-347. 2. Submission requirements. CPRs shall be submitted for each employer beginning with the first week the employer performs work on the site of the work. CPRs must be submitted promptly following the close of each such pay week.
CWHSSA overtime	<p>Contract Work Hour and Safety Standards Act (CWHSSA) overtime requirements are applicable to prime contracts valued at \$100,000 or more, including any subcontracts subordinate to the prime. CWHSSA requirements apply only to laborers, mechanics, watchmen and guards employed on the site of work.</p> <ol style="list-style-type: none"> 1. Overtime hours are defined as all hours worked at the site of work in excess of 40 hours in any workweek. 2. CWHSSA requires the payment of time and one-half the basic rate of pay for all hours worked in excess of 40 hours in a week. 3. Amounts paid to fulfill the fringe benefit portion of the prevailing wages listed in the wage determination – both contributions to bona fide benefit plans and cash payments made to meet wage determination fringe benefits

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	<p>requirements – are excluded in computing overtime obligations.</p> <p>4. CWHSSA requires the payment of overtime premium pay only if the laborer or mechanic works in excess of 40 hours in a work week on the CWHSSA covered contract(s). Overtime hours worked, which are not subject to CWHSSA, may be subject to Fair Labor Standards Act overtime pay.</p> <p>5. CWHSSA overtime violations are subject to liquidated damages calculated at the rate of \$25 per day, per violation.</p>
Deductions	<p>The employer may make payroll deductions as permitted by DOL Regulations 29 CFR Part 3. These regulations prohibit the employer from requiring employees to kick-back any of their earnings. Deductions may include employee obligations for income taxes, Social Security payments, insurance premiums, retirement, savings accounts, and any other legally permissible deduction authorized by the employee. Deductions may also be made for payments on judgments and other financial obligations legally imposed against the employee.</p>
Employee	<p>A person who performs the work of a laborer or mechanic, regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such person.</p>
Employer Responsibilities	<p>All employers (contractors, subcontractors, and any lower-tier subcontractors) are required to pay all laborers and mechanics employed or working on the site of the work unconditionally and not less often than once a week, the full amount of wages and bona fide fringe benefits computed at rates not less than those contained in the wage decision. Employers must prepare, certify, and submit weekly payroll reports reflecting all the laborers and mechanics (employees) engaged in construction on the site of the work. Employers may also be required to submit related documentation to demonstrate compliance.</p>
Fringe benefits	<p>1. Sick, vacation or holiday pay; costs to defray expenses of apprenticeship or similar programs; medical or hospital care; supplemental unemployment benefits; life insurance; pensions on retirement or death; compensation for injuries or illness</p>

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	<p>resulting from occupational activity; other bona fide fringe benefits; or insurance to provide any of these.</p> <ol style="list-style-type: none"> 2. The rate of costs to the employer that may be reasonably anticipated in providing bona fide fringe benefits pursuant to an enforceable commitment to carry out a financially responsible program. 3. Do not include employer contributions or payments required by other Federal, State, or local law, such as FICA, workers' compensation, or unemployment compensation.
Laborers and mechanics	<p>Individuals whose duties are manual or physical in nature, including workers who are performing the work of a trade (e.g., Electrician). These terms include apprentices, trainees, and helpers and, for contracts subject to CWHSSA, watchmen and guards. All laborers and mechanics may be paid no less than the applicable prevailing wage rate for the type of work they perform.</p>
Payroll and other reporting requirements	<p>Payrolls and basic records relating to payrolls must be maintained by each employer with respect to his/her own workforce employed on the site of the work. The prime contractor must maintain records relative to all laborers and mechanics working on the site of the work. Payrolls and related records must be maintained during the course of the construction work and preserved by the city, the prime contractor, and all employers for at least three years following the completion of the work. Records must include the name and individual identifying 4-digit number for each laborer and mechanic. Employers must maintain each employee's address and full social security number (SSN) during the construction of the project and for no less than three years following its completion.</p> <p>For each worker:</p> <ol style="list-style-type: none"> 1. His or her correct work classification(s); 2. Hourly rates of pay, including rates of contributions or costs anticipated for fringe benefits; 3. Daily and weekly number of hours worked, including any overtime hours; 4. Gross earnings, deductions made, and actual net wages paid; 5. Evidence pertaining to any fringe benefit programs; and

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	6. Evidence of the approval of any apprenticeship or trainee program, the registration of each apprentice or trainee, and the ratios and wage rates contained in the program.
Prevailing wage obligations	Davis-Bacon prevailing wage rates generally appear as a basic hourly rate plus fringe benefits, if any. Prevailing wage is made up of two interchangeable components: the basic hourly wage and fringe benefits. The total of the basic hourly wage and fringe benefits comprises the prevailing wage obligation. This obligation may be met by any combination of cash wages and creditable bona fide fringe benefits provided by the employer
Prime contractor responsibilities	The prime (principal) contractor is responsible for the full compliance of all employers (itself, subcontractors, and any lower-tier subcontractors) with the labor standards provisions applicable to the project.
Proper classification of work	Each laborer and mechanic must be classified in accordance with the work classifications listed on the wage decision and the actual type of work he/she performs and must be paid the appropriate wage rate and fringe benefits for the classification regardless of their level of skill.
Site of work	The physical place or places where the construction called for in the contract will remain when work has been completed. "Site of work" includes other adjacent or nearby property used by the contractor/subcontractor in the construction of the project (e.g., fabrication sites) provided they are dedicated exclusively or nearly so to the performance of the contract or project and are located in close enough proximity to the actual construction location to be included in the project.
Split classification	Laborers and mechanics that perform work in more than one classification may be compensated at the rate specified for each classification when the employer maintains time records that accurately set forth the time spent in each classification. If accurate time records are not maintained, the employee must be compensated at the highest of all wage rates for the classifications in which work was performed.

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Trainee	A person registered and receiving on-the-job training in a construction occupation pursuant to a training program approved in advance by the BAT.
Use of apprentices and trainees	<p>Apprentices and trainees may be compensated at rates less than those prescribed by the wage decision for their craft only when:</p> <ol style="list-style-type: none"> 1. The apprentice or trainee is individually registered in a bona fide program certified by the BAT or a SAC. 2. The apprentice or trainee is not paid less than the specified rate in the registered program for his/her level of progress. If the rate specified is represented as a percentage of the journey worker rate for that craft, the percentage must be applied to the corresponding wage rate contained in the applicable wage decision. 3. The apprentice and trainee receive fringe benefits as specified in the approved apprenticeship or trainee program. If the program is silent as to fringe benefits for apprentices/trainees, the apprentices/trainees must receive the full fringe benefit specified on the applicable wage decision for their craft. 4. The maximum number of apprentices or trainees employed on the site of work does not exceed the ratio of apprentices or trainees to journey workers permitted to the employer by the BAT/SAC certified program. Apprentices or trainees who are employed at the site in excess of the allowable ratio must be paid the wage rate contained on the applicable wage decision for the classification of work actually performed. Compliance with the allowable ratio shall generally be met on a day-to-day basis. However, back wages need not be assessed for minor, temporary, and inadvertent ratio imbalances that are promptly corrected.
Wages	The basic hourly rate of pay plus any contribution irrevocably made by an employer to a bona fide fringe benefit fund, plan, or program.

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15.6 HUD WILLFUL VIOLATIONS/FALSIFICATION INDICATORS

Spot-checks of certified payroll reports (CPRs) and related documents are conducted to monitor the compliance status of employers engaged on projects covered by prevailing wage requirements. Spot-checks are intended to disclose obvious, face-of-the-record violations and, more importantly, to detect evidence of willful violations and payroll falsification. HUD has identified the following indicators that suggest payroll data may have been falsified to conceal willful violations.

1. Ratio of laborers to mechanics. Except for concrete, landscaping and similar trades, the ratio of laborers to mechanics generally should not exceed 1: 1. A higher ratio of laborers to mechanics normally indicates misclassification. That is, the workers classified and paid as laborers are instead performing the work of a mechanic, which requires a wage higher than that of a laborer.
2. Too few or irregular hours. Most workers are employed on a regular 40 hour per week basis. CPRs that consistently reflect less than 40 hours per week for all or certain groups of employees, or that reflect erratic work schedules (e.g., the crew works only a few hours per day scattered throughout the work week), indicate that the hours may have been reduced to give the appearance of compliance. The falsification in these cases may be limited to the hours worked.
3. Discrepancies in wage computations. CPRs that reflect frequent discrepancies in wage computations, e.g., gross wage payments in round numbers (\$400/week) computed from an uneven hourly wage rate (\$15.67/hour), indicate that employees may be working on a piece rate basis, or at an even (e.g., \$15/hour) wage rate. Here, the falsification may involve the hours worked, the rate of pay, or both.
4. Extraordinary deductions. Unexplained or unusually high deductions may indicate that employees are being required to kick-back a portion of their earnings. While this would indicate willful violations, it does not necessarily indicate falsification. The information on the CPR may otherwise be accurate.
5. Compliance excess. Some violating employers attempt to “boost” their compliance factor by submitting “labor releases” and other documents that are not required or requested. Such documents, offered without request, suggest that the employer may be attempting to distract the compliance officer from actual violations.
6. “Ghost” workers. In some instances, employees are working on the project, but these employees do not appear on the CPRs. In these cases, the employer may carry a core group of employees that is reported on the CPR, but the employer also has a second group of employees, perhaps dayworkers or other temporary employees, and this second group of employees doesn’t appear on CPRs. The core group may be permanent

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employees that are usually paid more than the temporary employees. The second group of employees is underpaid but, because the second group does not appear on the CPRs, they are “invisible”. The compliance officer can’t assess compliance with labor standards with respect to the “ghost” workers.

7. Wages paid in cash. Employers may attempt to conceal underpayments by making wage payments in cash. It does not matter what is reported on the CPR, the cash in the pay envelope is less than what is reported and required.
8. Employer “cashes” paychecks. Employers may issue payroll checks, but the employer will require employees to endorse/turnover the paycheck to the employer in exchange for a lesser amount in cash.
9. Employer facilitates employee “cashing” of paychecks. Employers may issue payroll checks and take action to ensure that the checks are processed (cashed) through the bank. In such cases the employer instructs the employees to cash the paychecks and then requires the employees to kickback a portion of the check proceeds to the employer in cash.

15.7 DAVIS-BACON WAGE RESTITUTION

When underpayment of wages occurs, the employer must pay wage restitution to the affected workers. Wage restitution must be made promptly and in the full amounts due, less permissible and authorized deductions.

If a violation of labor standards requirements results in an underpayment of wages to employees, the city will notify the prime contractor to either make wage restitution or direct its subcontractor to do so. Where restitution amounts are in excess of \$10 per worker, the employer must attest to wage restitution paid on a corrected certified payroll.

Computing wage restitution. Prevailing wages earned are based upon the wage rate for the classification of work actually performed multiplied by the total number of covered hours worked. Wage restitution may be computed as follows:

1. Total hours worked times (x) adjustment rate (DB rate – rate paid) = wage restitution due; or
2. Total wages earned minus total wages paid = wage restitution due.

The employer must report the restitution on a correction CPR. The correction CPR must reflect the previous CPRs or period for which restitution is due (e.g., Payrolls #1 through #6; or a beginning and ending date). The correction CPR must list each employee to whom restitution was paid and their work classification; the total number of work hours involved; the adjustment

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wage rate (the difference between the required wage rate and the wage rate paid); the gross amount of restitution due; deductions; and the net amount paid. A properly executed Statement of Compliance must accompany the correction CPR.

The city will must compute the amounts of restitution due and compare the computations to the correction CPR to ensure that full restitution was made. The employer will be notified of any discrepancies and required to make additional payments within 30 days, if necessary. Another correction CPR must be submitted.

If wage violations are not corrected within 30 days after notification to the prime contractor, the city will withhold payments due to the contractor in the amount needed to ensure the full payment of restitution and, if applicable, liquidated damages computed for CWHSSA overtime violations. Only the amounts necessary to meet the potential back wage and CWHSSA liquidated damages liabilities will be withheld.

The gross amount of wages due to any employee who is entitled to wage restitution and is not paid for any reason must be placed in a labor standards escrow account as a condition for final closing/close-out. The city will hold the funds on behalf of the underpaid worker(s) and attempt to locate and pay the amounts due to them. After reasonable efforts to locate the workers are exhausted, the city will turn over the gross amount due to any unfound or unpaid workers to HUD.

16 CIVIL RIGHTS, AFFIRMATIVELY FURTHERING FAIR HOUSING, AMERICANS WITH DISABILITIES ACT, SECTION 504, AND SECTION 3

This chapter summarizes the key regulations and requirements of fair housing, accessibility, and equal employment and contracting laws applicable to CDBG projects. Fair housing and equal opportunity laws are like an umbrella, intended to protect individuals from discrimination in housing, employment, through business opportunities such as contracting, or through other benefits created by CDBG projects.

16.1 APPLICABLE LAWS AND REQUIREMENTS

1. *Analysis of Impediments to Fair Housing Choice*. The city will administer all programs and activities related to housing and community development in a manner to affirmatively further the policies of the Fair Housing Act. As part of the certification to affirmatively further fair housing submitted with the consolidated plan, the city will complete an analysis of impediments to fair housing choice and take actions to overcome the effects of any impediments identified through that analysis. This requirement may be met in cooperation with Maricopa County.
2. *Title VI of the Civil Rights Act of 1964*: No person shall be excluded from participation, denied program benefits, or subject to discrimination based on race, color, and/or national origin under any program or activity receiving Federal financial assistance.
3. *Title VIII of the Civil Rights Act of 1968 (The Fair Housing Act)*: Discrimination in housing is prohibited on the basis of race, color, religion, sex and/or national origin. This law also requires actions that affirmatively promote fair housing.
4. *Restoration Act of 1987*. Prohibits discrimination on the basis of race, color, national origin, religion, sex, disability, or age in a program or activity.
5. *Section 109 of Title 1 of the Housing and Community Development Act of 1974*: No person shall be excluded from participation (including employment), denied program benefits, or subject to discrimination on the basis of race, color, national origin, or sex under any program or activity funded in whole or in part with CDBG funds.
6. *The Fair Housing Amendment Act of 1988*: This Act amended the original Fair Housing Act to provide for the protection of families with children and people with disabilities, strengthen punishment for acts of housing discrimination, expand of the Justice Department jurisdiction to bring suit on behalf of victims in Federal district courts, and create an exemption to the provisions barring discrimination on the basis of familial status for those housing developments that qualify as housing for persons age 55 or older.

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7. *The Housing for Older Persons Act of 1995 (HOPA)*: Retained the requirement that the housing must have one person who is 55 years of age or older living in at least 80 percent of its occupied units. The Act also retained the requirement that housing facilities publish and follow policies and procedures that demonstrate intent to be housing for persons 55 and older.
8. *The Age Discrimination Act of 1975*: Provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination on the basis of age under any program or activity receiving Federal funding assistance.
9. *Section 504 of the Rehabilitation Act of 1973*: It is unlawful to discriminate based on disability in Federally assisted programs. No otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving Federal funding assistance. Section 504 also contains design and construction accessibility provisions for multi-family dwellings developed or substantially rehabilitated for first occupancy on or after March 13, 1991.
10. *The Americans with Disabilities Act of 1990 (ADA)*: Modifies and expands the Rehabilitation Act of 1973 to prohibit discrimination against “a qualified individual with a disability” in employment and public accommodations. The ADA requires that an individual with a physical or mental impairment who is otherwise qualified to perform the essential functions of a job, with or without reasonable accommodation, be afforded equal employment opportunity in all phases of employment.
11. *Executive Order 11063*: No person shall be discriminated against on the basis of race, color, religion, sex, or national origin in housing and related facilities provided with Federal assistance and lending practices with respect to residential property when such practices are connected with loans insured or guaranteed by the Federal government.
12. *Section 109 of Title I of the Housing and Community Development Act of 1974*: Requires that no person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded with CDBG funds on the basis of race, color, religion, national origin, or sex.
13. *The Equal Employment Opportunity Act*: Empowers the Equal Employment Opportunity Commission (EEOC) to bring civil action in Federal court against private sector employers after the EEOC has investigated the charge, found “probable cause” of discrimination, and failed to obtain a conciliation agreement acceptable to the EEOC. It also brings Federal, State, and local governments under the Civil Rights Act of 1964.
14. *The Immigration Reform and Control Act (IRCA) of 1986*. Employers may hire only persons who may legally work in the U.S., i.e., citizens and nationals of the U.S. and aliens authorized to work in the U.S. The employer must verify the identity and

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employment eligibility of anyone to be hired, which includes completing the Employment Eligibility Verification Form (I-9).

15. *The Uniform Guidelines on Employee Selection Procedures adopted by the Equal Employment Opportunity Commission in 1978*: Applies to employee selection procedures in the areas of hiring, retention, promotion, transfer, demotion, dismissal and referral. It is designed to assist employers, labor organizations, employment agencies, licensing and certification boards in complying with the requirements of Federal laws prohibiting discriminatory employment.
16. *Section 3 of the Housing and Urban Development Act of 1968, as amended*: Requires the provision of opportunities for training and employment that arise through HUD-financed projects to lower-income residents of the project area, to the greatest extent feasible and consistent with Federal, State and local laws and regulations. Also required is that contracts be awarded to businesses that provide economic opportunities for low- and very low-income persons residing in the area whenever possible.
17. *The Vietnam Era Veterans' Readjustment Act of 1974 (revised Jobs for Veterans Act of 2002)*: This Act was passed to ensure equal employment opportunity for qualified disabled veterans and veterans of the Vietnam War. Affirmative action is required in the hiring and promotion of veterans.
18. *Executive Order 11246*: This Executive Order applies to all Federally assisted construction contracts and subcontracts. It provides that no person shall be discriminated against on the basis of race.
19. *2 CFR 200*: Provides that the city shall take affirmative steps to encourage contracting with small minority and female owned business enterprises when possible as sources of supplies, equipment, construction, and services.

16.2 CITY POLICIES AND PROCEDURES

To ensure fair access to CDBG-funded projects and activities, the city will:

1. Prohibit segregated facilities, services, or benefits and different treatment.
2. Ensure applicants are not denied solely on the basis of race, color, religion, sex, disability, familial status, or national origin.
3. Ensure activities are not offered for the enjoyment of a segment of the population in such a way as to intentionally exclude any member of protected groups.
4. Select sites and locations for facilities and improvements that do not have an exclusionary or discriminatory effect.
5. Utilize evaluation criteria and administrative practices to not have a discriminatory effect.

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6. Prominently place, or require prominent placement of a Fair Housing Poster at any office where applications for assistance are being taken.
7. Take other action that may be necessary to provide auxiliary aids or services to ensure effective communication and information dissemination, as long as the action(s) do not result in a fundamental alteration of the program or activity, or do not pose an undue financial or administrative burden.

16.2.1 FAIR HOUSING ACTIVITIES

For housing projects and activities, the city will:

1. Ensure that public use and common areas of multi-family housing are accessible to and usable by persons with disabilities, and that new construction and when practicable rehabilitation includes adaptive design.
2. Ensure that opportunities for purchase or rental, terms and conditions, advertising and marketing information, and the availability of real estate services are not discriminatory.
3. Market housing services and activities through agencies and organizations that routinely provide services to protected groups.
4. Evaluate criteria for selecting beneficiaries of housing services or assistance for any discriminatory effect.
5. Provide information to displaced persons.
6. Include the fair housing / accessibility logo in all program materials.
7. Maintain the following records in a separate file:
 - a. Actions taken to affirmatively further fair housing;
 - b. The number and percentage of the minority population in relation to the total population of the city;
 - c. The number and percentage of the minority population in relation to the total population of any target area;
 - d. The number of disabled, elderly, and female-headed households in any target area; and
 - e. A map showing the locations of assisted housing, minority and LMI concentrations, and any target area.

16.2.1.1 Affirmative Marketing

For CDBG-assisted housing with five or more units, a completed HUD Form 935-2A must be submitted to the city (substituting the city for HUD in the instructions). This form describes:

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1. Demographics of the project and market area;
2. Any residency preferences;
3. Proposed marketing activities and methods of advertising;
4. How marketing activities will be evaluated for success; and
5. Staff training.

An annual report of affirmative marketing activities will be required of subrecipients or project owners.

16.2.2 REPORTING

Statistical information on the persons benefitting from a CDBG-funded project will be maintained and updated throughout the life of a project, including projects and activities targeted to “presumed benefit” populations. This information must be reported to the city not less than twice annually.

16.2.3 SECTION 504 ACCESSIBILITY

CDBG-assisted construction or substantial rehabilitation of housing with five or more units, facilities and infrastructure, and public services must be capable of being approached, entered, and used by individuals with physical disabilities. To improve program access, the city will require subrecipients evaluate whether their activities are fully accessible, and conducted in the most integrated setting possible. To ensure accessibility, the city may directly or require a subrecipient to alter facilities, change operating policies and procedures, add or redesign equipment of furnishings, or conduct home visits.

The city and any subrecipients with fifteen or more full or part-time employees must have a grievance procedure, and designate a Section 504 coordinator who will oversee compliance efforts.

The city will maintain, and require subrecipients to maintain the following records in a separate Section 504 file:

1. A copy of the Section 504 self-evaluation and the Section 504 transition plan, including:
 - a. A list of interested persons who were consulted in preparation of the transition plan;
 - b. A description of areas and buildings examined and any problems identified; and
 - c. A description of modifications made and remedial steps taken.

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2. Evidence that new or substantial rehabilitation of multi-family housing was constructed to meet Section 504 standards.

16.2.4 EMPLOYMENT

The city complies with the requirements of the Americans with Disabilities Act (ADA), and the Equal Employment Opportunity Act through written human resources policies and procedures. Affirmative action and equal employment opportunity policies are fundamental aspects of CDBG-funded activities.

The city requires that all subrecipients also comply with the requirements of the Americans with Disabilities Act (ADA), and the Equal Employment Opportunity Act through written human resources policies and procedures. Nondiscrimination is a requirement of employment and employment practices. Employment opportunities may not be denied on the basis of race, color, national origin, sex, age, religion, familial status, or disability.

The city will maintain, and require subrecipients to maintain, the following employment records:

1. The race, gender, job title, salary and hire date of employees.
2. The percentage of minorities in the city and the percentage of minorities employed by the entity.
3. Employment data for each department funded in whole or in part with CDBG funds that includes the number and percentage of employees by race and gender.
4. Hiring practices and policies.
5. If applicable, the affirmative action plan and documentation supporting plan implementation.

16.2.5 PROCUREMENT

All procurements made in whole or in part with CDBG funds will comply with 2 CFR 200 to achieve maximum open and free competition. The city and subrecipient procurement policies and procedures will include:

1. A code of conduct to govern the performance of the city's officers, employees, or agents in contracting with CDBG funds;
2. Affirmative steps that will be taken to encourage contracting with small, minority and women-owned business enterprises when possible as sources of supplies, equipment, construction, and services, including:

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- a. Placing minority business enterprises (MBEs) and women business enterprises (WBEs) on solicitation lists and sending them an Invitation to Bid.
 - b. Assuring that small businesses and MBE/WBEs are solicited whenever they are potential sources;
 - c. When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum participation by small businesses and MBE/WBEs;
 - d. Establishing delivery schedules, when possible, to encourage participation by small businesses and MBE/WBEs;
 - e. Using the services and assistance of the Small Business Administration;
 - f. If any subcontracts are to be executed, requiring the prime contractor to take the above affirmative steps; and
 - g. When economically feasible, including MBE/WBE criteria with additional points in selection criteria for professional services procurements.
3. Contracting with Section 3 businesses, to the maximum extent feasible.

16.2.6 SECTION 3 –ECONOMIC OPPORTUNITIES FOR LOW-INCOME PERSONS AND ELIGIBLE BUSINESSES

The Section 3 requirements apply to the entirety of a housing rehabilitation, housing construction or other public construction project funded in whole or part with CDBG resources when the assistance exceeds a threshold of \$200,000. HUD will adjust this threshold not less than once every five (5) years based on a national construction cost inflation factor through Federal Register notice not subject to public comment. HUD may also adjust the threshold, regardless of the national construction cost factor, through Federal Register notice subject to public comment.

Prioritization for employment and contracting in housing and community development programs places emphasis on residents of the neighborhood or service area in which the investment is being made. Separate requirements are in place for public housing assistance, which places an emphasis on public housing residents. *The requirements described in this manual apply to housing and community development programs, including CDBG.*

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16.2.6.1 Terms and Definitions

Term	Definition
Contractor	Any entity entering into a contract with a recipient or subrecipient to perform work in connection with a Section 3 project.
Labor Hours	The number of paid hours worked by persons on a Section 3 project
Material supply / material only contracts	Contracts for the purchase of products and materials only (no labor), including, but not limited to, lumber, drywall, wiring, concrete, pipes, toilets, sinks, carpets, and office supplies.
Professional services	Non-construction services that require an advanced degree or professional licensing, such as legal services and civil engineering.
Recipient	Any entity that receives directly from HUD housing and community development assistance that funds Section 3 projects. This includes but is not limited to any local government, instrumentality, PHA, other public agency, or public or private nonprofit organization.
Section 3 Business	<p>A private or nonprofit business that, regardless of prior arrest or conviction of its owner(s) or employees:</p> <ol style="list-style-type: none"> 1. Meets all legal requirements to perform the contract under consideration; and 2. Meets at least one of the following criteria: <ol style="list-style-type: none"> a. Is 51% or more owned and controlled by: <ol style="list-style-type: none"> i. Very-low or low-income persons; or ii. Current public housing residents or residents currently residing in Section-8 assisted housing. b. Over 75% of the labor hours performed over the prior three-month period were performed by Section 3 workers.
Section 3 Project	A housing rehabilitation, housing construction, and other public construction project, including demolition, that is funded in whole or part with HUD funding and the total amount of assistance to the project exceeds \$200,000 (Lead Hazard Control and Healthy Homes (LHCHH) assistance is not included

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	<p>in calculating whether the assistance exceeds the \$200,000 threshold). Material only contracts are not included.</p> <p>The project is the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing. The Section 3 requirements apply to the entire covered project, regardless of whether the project is fully or partially assisted under HUD housing and community development financial assistance programs.</p>
Section 3 Worker	<p>Any worker, regardless of prior arrest or conviction, who:</p> <ol style="list-style-type: none"> 1. Meets the qualifications of the position being filled; and 2. Currently or at the time of hire within the past five (5) years has or had an income for the previous or annualized calendar year that is below the HUD very-low or low-income limit.
Service area or the neighborhood of the project	<p>An area within one mile of the Section 3 project or, if fewer than 5,000 people live within one mile of a Section 3 project, within a circle centered on the Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.</p>
Subcontractor	<p>Any entity that has a contract with a contractor to undertake a portion of the contractor's obligation to perform work in connection with a Section 3 project.</p>
Subrecipient	<p>An entity that receives a subaward from the city to carry out a Section 3 project.</p>
Targeted Section 3 Worker	<p>any worker, regardless of prior arrest or conviction, who:</p> <ol style="list-style-type: none"> 1. Meets the qualifications of the position being filled; and 2. Currently or at the time of hire within the past five (5) years meets one of the following requirements: <ol style="list-style-type: none"> a. Resides within one mile of the work site or the radius of the work site that encompasses not less than 5,000 people according to the most recent US Census; or b. Is employed by a Section 3 business concern; or c. Is a YouthBuild participant.

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16.2.6.2 City and Subrecipient Roles and Responsibilities

To ensure compliance with Section 3 requirements, the city will, and will require its subrecipients to:

1. Facilitate the training and employment of Section 3 workers by connecting them to training and employment opportunities.
2. Facilitate the award of contracts to Section 3 business concerns by linking developers and contractors with capable Section 3 business concerns, and by directing Section 3 business concerns to organizations that provide training and capacity building.
3. Ensure contractor/subcontractor awareness of Section 3 responsibilities and benchmarks by including specific Section 3 language in all solicitations and covered contracts.
4. Ensure compliance and meeting of benchmarks by regularly monitoring contractor compliance, penalizing non-compliance, providing incentives for good performance, and refraining from entering into contracts with any contractor that previously failed to comply with the requirements of Section 3.
5. Document compliance by submitting reports that provide data on the number of labor hours worked on each Section 3 project (including those worked by the city, subrecipient, contractor or subcontractor) and the number of Section 3 businesses contracted.

16.2.6.3 Prime Contractor Requirements

The prime contractor must:

1. Notify all subcontractors of their responsibilities under Section 3.
2. Refrain from contracting with subcontractors that have been found in violation of the regulations in 24 CFR 75.
3. For the prime contractor and all subcontractors:
 - a. Provide a permanent workforce breakdown of all current employees hired within the last five (5) years, indicating those that are Section 3 workers or Targeted Section 3 workers.
 - b. Provide an estimated breakdown of potential hires for the awarded project and timeline of anticipated hiring.
 - c. Maintain records that document a good faith effort to utilize Section 3 workers and Targeted Section 3 workers as trainees and employees.

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- d. Document compliance by submitting to the city or subrecipient reports of:
 - i. Total hours worked by the contractor and by subcontractors;
 - ii. Total hours worked by Section 3 workers;
 - iii. Total hours worked by Targeted Section 3 workers;
 - iv. Subcontracts; and
 - v. Qualitative activities to reach out to Section 3 workers and Section 3 businesses.

16.2.6.4 Section 3 Benchmarks

The benchmarks for Section 3 projects are based on the total labor hours worked. Total labor hours worked includes those worked by the city, subrecipient, prime contractor, and all subcontractors. The city may include professional services hours in the labor hours. To meet the benchmarks, the city, subrecipients and contractors/ subcontractors will likely need to provide hiring preferences to Section 3 residents who meet the position qualifications to be considered for employment and/or training. Of the total labor hours worked by all workers on the Section 3 project:

- 1. Not less than 25% must be by Section 3 workers; and
- 2. Not less than 5% must be by Targeted Section 3 workers. Targeted Section 3 workers are a subset of Section 3 workers and are counted towards the 25% minimum.

16.2.6.5 Documenting Section 3 Compliance

For each Section 3 project, a file will be maintained that includes:

- 1. Total labor hours worked, labor hours worked by Section 3 workers, and labor hours worked by Targeted Section 3 workers;
- 2. Section 3 worker and Targeted Section 3 worker eligibility verification;
- 3. Section 3 business contracts;
- 4. Section 3 business eligibility verification; and
- 5. Qualitative activities to reach out to and support:
 - a. Section 3 workers to access economic opportunities or attain economic self-sufficiency; and
 - b. Section 3 businesses to access economic and contracting opportunities.

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The city will develop and maintain lists of certified Section 3 workers, Targeted Section 3 workers, and Section 3 businesses for use in future Section 3 projects.

16.2.6.5.1 Section 3 Worker Eligibility Certification

Workers must currently or at the time of hire, if hired within the past five years, meet the criteria to be certified as a Section 3 worker through self-certification or employer certification. Section 3 worker certifications will be maintained in the project file, and may also be retained in a separate file for future projects. Acceptable forms of certification are:

1. Self-certification that the worker's income is very-low or low-income or was very-low or low-income at the time of hire if hired within the past five years; or
2. Employer certification that the worker's income is very-low or low-income based on annualization on a full-time basis of the worker's wage rate.

16.2.6.5.2 Targeted Section 3 Worker Eligibility Certification

Workers must currently or at the time of hire, if hired within the past five years, meet the criteria to be certified as a Targeted Section 3 worker through self-certification or employer certification. Section 3 worker certifications must be maintained in the project file, and may also be retained in a separate file for future projects. Acceptable forms of certification are:

1. Self-certification that the worker is a YouthBuild participant;
2. Employer certification that the worker is employed by a Section 3 business concern; or
3. Employer certification that the worker's residence is within one mile of the work site or within a radius of the work site that encompasses not fewer than 5,000 people according to the most recent US Census.

16.2.6.5.3 Section 3 Business Concerns

Section 3 businesses must self-certify that they meet the definition of a Section 3 business and submit this information at the time of bid. If the business is a subrecipient or subcontractor, the form may be submitted at the time of application or bid or within five days of notification of funding or bid award.

16.2.6.5.4 Qualitative Activities

In addition to labor hours reports, the city, subrecipients, contractors and subcontractors must document and report activities intended to facilitate the meeting of benchmarks, including:

1. For Section 3 Workers and Targeted Workers:
 - a. Outreach to generate job applicants.

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- b. Providing training or apprenticeship programs.
 - c. Providing or connecting Section 3 workers with:
 - i. Employment search, readiness, support and placement programs, such as resume assistance, coaching, interview preparation, how to find job opportunities, job placement services, interview clothing, test fees, transportation, childcare, financial literacy training, etc.
 - ii. Assistance applying for or attending community college, four-year educational institution, or vocational/technical training.
 - iii. Financial literacy training and/or coaching.
 - d. Holding one or more job fairs.
 - e. Other activities to reach out to and support Section 3 workers to access economic opportunities or attain economic self-sufficiency.
2. For Section 3 Businesses:
- a. Outreach efforts to identify and secure bids from qualified Section 3 businesses.
 - b. Providing technical assistance to Section 3 business to help them understand and bid on contracts.
 - c. Dividing contracts into smaller jobs to facilitate participation by Section 3 businesses.
 - d. Providing bonding assistance, guarantees, or other efforts to support viable bids.
 - e. Promoting the use of business registries to create opportunities for disadvantaged and small businesses.
 - f. Providing outreach, engagement, or referrals with workforce investment agencies, small business development centers, etc.
 - g. Other activities to reach out to and support Section 3 businesses to access economic and contracting opportunities.

16.2.6.6 Reporting Section 3 Compliance

Each party to a Section 3 project is required to report Section 3 activities, including labor hours, contracts and subcontracts with Section 3 business concerns, and qualitative actions taken. The following table summarizes required reports, to whom they must be submitted, and the frequency of reporting.

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Entity	Labor Hours	Contracts and Subcontracts	Qualitative Actions
City	Annually to HUD.	Annually to HUD.	Annually to HUD.
Subrecipient	Not less than annually and with final Request for Payment to the city.	Not less than annually and with final Request for Payment to the city.	Not less than annually and with final Request for Payment to the city.
Contractor	With each payroll to the city or subrecipient.	Not less than annually and with final Request for Payment to the city or subrecipient.	Not less than annually and with final Request for Payment to the city or subrecipient.
Subcontractor	With each payroll to contractor.	Not applicable.	Not less than annually and with final Request for Payment to contractor. May be waived.

16.2.6.7 Labor Hours Reports

All labor hours reports must include total labor hours worked, labor hours worked by Section 3 workers, and labor hours worked by Targeted Section 3, workers based on:

1. Actual hours as recorded in a time and attendance tracking system; or
2. A “good faith estimate” of labor hours of an employee informed by an existing salary or time and attendance-based payroll system when no system is in place to track actual labor hours.

The city may count as Section 3 labor hours and Targeted Section 3 labor hours any work performed by Section 3 workers and Targeted Section 3 workers in the professional services context while not counting total labor hours performed.

The city, subrecipients and contractors have the option to require only total labor hours worked reports from any subcontractor or other entity that is a party to the Section 3 project when it is determined that the benchmark will be met by one or more other entities. For example, if the city enters into a contract with a contractor that is a Section 3 business concern and the contractor’s employees will perform at least 25% of the total labor hours on the project, then the benchmark will be met and all other entities may report only labor hours. Likewise, if a contractor enters into a subcontract with a Section 3 business concern and the subcontractor

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will perform at least 25% of the total labor hours on the project, the benchmark will be met and all other subcontractors and potentially the contractor may report only labor hours.

16.2.6.8 Section 3 Business Concern Contract Reports

The Section 3 statute requires that *to the greatest extent feasible*, and consistent with existing Federal, state, and local laws and regulations, the city, subrecipients and contractors must ensure contracts for work awarded in connection with Section 3 projects:

1. Are provided to Section 3 businesses concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the project is located; and
2. Where feasible, direct efforts to contract with Section 3 business concerns to:
 - a. Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project; and
 - b. YouthBuild programs.

While there is no benchmark for contracting with Section 3 businesses, labor hours worked by employees of Section 3 business concerns count towards the Targeted Section 3 worker benchmark. By providing preference to and contracting with Section 3 business concerns, the city, subrecipients and contractors demonstrate compliance with the “greatest extent feasible” requirement while taking steps to meet labor hours benchmarks. Section 3 Business Concern reports submitted by subrecipients and contractors must include:

1. Name, address, contact information, and Federal Identification number for each contractor; and
2. Whether the contractor is a Section 3 business concern and the criteria that certifies the business as such.
3. For each subcontractor:
 - a. Name, address, contact information, and Federal Identification number;
 - b. Whether the business is a Section 3 business concern and the criteria that certifies the subcontractor as such;
 - c. The trade, service, or supply provided by each; and
 - d. The award date and dollar amount of each contract.

16.2.6.9 Complaints

Complaints alleging non-compliance with Section 3 regulations may be filed at the HUD program office responsible for the financial assistance to the Section 3 project or to the local

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HUD field office. Complaints must be received no later than 180 days from the date of the action or omission upon which the complaint is based. However, the Assistant Secretary may extend the time for filing a complaint for “good cause shown”.

San Francisco Regional Office
One Sansome Street, Suite 1200
San Francisco, CA 94104
Phone: (415) 489-6400
Fax: (415) 489-6419
TTY: (800) 877-8339

Phoenix Field Office
One North Central Avenue, Suite 600
Phoenix, AZ 85004
Phone: (602) 379-7100
Fax: (602) 379-3985
TTY: (602) 379-7181

16.3 CDBG DIRECT BENEFIT ACTIVITIES

Statistical information on the persons benefitting from a CDBG-funded project will be maintained and updated throughout the life of a project, including projects and activities targeted to “presumed benefit” populations. This information will be maintained in the project file and will include the race, ethnicity and gender of heads of households applying for and benefitting from the activity.

16.4 SUBRECIPIENT ROLES AND RESPONSIBILITIES

Prior to entering into agreement with the city, subrecipients must certify that fair access to CDBG-funded projects and activities is ensured. Compliance with this certification will be monitored by the city. The certification will include assertions that the subrecipient has policies and procedures that:

1. Prohibit segregated facilities, services, or benefits and different treatment.
2. Ensure applicants are not denied solely on the basis of race, color, religion, sex, disability, familial status, or national origin.
3. Ensure activities are not offered for the enjoyment of a segment of the population in such a way as to intentionally exclude any member of protected groups.
4. Utilize evaluation criteria and administrative practices to not have a discriminatory effect.
5. Require prominent placement of a Fair Housing Poster at any office where applications for assistance are being taken.
6. Include other action that may be necessary to provide auxiliary aids or services to ensure effective communication and information dissemination will be taken, as long as the action(s) do not result in a fundamental alteration of the program or activity, or do not pose an undue financial or administrative burden.

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7. All projects and activities are capable of being approached, entered, and used by individuals with physical disabilities. An on-site visit may be conducted to ensure this requirement is met.
8. If the subrecipient has fifteen or more full or part-time employees, a grievance procedure, and has designated a Section 504 coordinator who will oversee compliance efforts.
9. Comply with the requirements of the Americans with Disabilities Act (ADA), and the Equal Employment Opportunity Act for human resources activities.
10. Comply with 2 CFR 200 regarding procurement, and include:
 - a. A code of conduct to govern the performance of officers, employees, or agents in contracting with CDBG funds;
 - b. Affirmative steps that will be taken to encourage contracting with small minority and female owned business enterprises when possible as sources of supplies, equipment, construction, and services.
 - c. Including minority business enterprises (MBEs) and women business enterprises (WBEs) on solicitation lists and sending them an Invitation to Bid.
 - d. Assuring that small businesses and MBE/WBEs are solicited whenever they are potential sources;
 - e. When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum participation by small businesses and MBE/WBEs;
 - f. Establishing delivery schedules, when possible, to encourage participation by small businesses and MBE/WBEs;
 - g. Using the services and assistance of the Small Business Administration;
 - h. If any subcontracts are to be executed, requiring the prime contractor to take the above affirmative steps;
 - i. When economically feasible, including MBE/WBE criteria with additional points in selection criteria for professional services procurements; and
 - j. Contracting with businesses that provide economic opportunities for low-and very low-income residents of the project area.
11. Will comply with Section 3 requirements and submit an annual report regarding Section 3 compliance.
12. For housing projects and activities, will:

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- a. Ensure that opportunities for purchase or rental, terms and conditions, advertising and marketing information, and the availability of real estate services are not discriminatory.
- b. Market housing services and activities through agencies and organizations that routinely provide services to protected groups.
- c. Evaluate criteria for selecting beneficiaries of housing services or assistance for any discriminatory effect;
- d. Provide information to displaced persons.
- e. Include the fair housing / accessibility logo in all program materials.

17 LEAD-BASED PAINT

Childhood lead poisoning is a serious pediatric health problem and children ages six years and younger are particularly susceptible to lead poisoning. Research indicates that even a low level of lead in a child's blood can have harmful effects on physical and developmental health. The most common source of exposure is deteriorating lead-based paint and lead-contaminated dust found in the home.

17.1 APPLICABLE REGULATIONS

- Lead Disclosure Rule (24 CFR Part 35, Subpart A).
- CDBG regulations 570.461, 570.487(c), 570.608.
- Lead Safe Housing Rule (§§ 35.910, 35.1010 and 35.1210).
- The Renovation, Repair and Painting Rule (40 CFR Part 745).

These regulations and rules apply to all pre-1978 housing units assisted with CDBG funds, including single and multi-family units, whether publicly or privately owned. The Renovation, Repair and Painting Rule applies to pre-1978 child-occupied facilities located in both residential, and public and commercial buildings. These regulations and rules do not apply when:

1. Emergency repairs are being performed solely to safeguard against imminent danger to human life, health or safety, or to protect the property from further structural damage due to natural disaster, fire or structural collapse and repairs are limited to those necessary to address the emergency.
2. The housing is exclusively for people who are elderly or have disabilities and children under the age of six will not reside in any dwelling unit.
3. Evidence demonstrates that a property was previously cleared.
4. The rehabilitation will not disturb any painted surface.
5. The property has no bedrooms.
6. The property will be demolished, is currently vacant, and will remain vacant until demolition.

17.1.1 DE MINIMIS AMOUNTS

For de minimis amounts, notice to residents, lead safe work practices, and a clearance examination after the hazard reduction work are not required. The de minimis amounts are for painted surfaces that total up to:

- 20 square feet on exterior surfaces;

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- 2 square feet in any one interior room or space; or
- 10 percent of the total surface area on an interior or exterior type of component with a small surface area, such as windowsills, baseboards, and trim. This amount does not apply to a percentage of the total exterior surface area of the dwelling unit.

While the above activities are generally exempt from the rules, the city requires that occupants and potential occupants be provided the Federal lead information pamphlet.

17.2 NOTICES TO OCCUPANTS AND POTENTIAL OCCUPANTS

Notices to occupants and potential occupants are required before occupancy, after evaluation or presumption of lead-based paint, and after clearance work is completed. The city requires that occupants and potential occupants acknowledge in writing that notices were received. The acknowledgements and copies of the notices and supporting documentation (evaluation reports, clearance reports) will be maintained in the project file.

17.2.1 BEFORE OCCUPANCY

When CDBG funds will be used for an activity that buys, sells, leases or offers for lease, or rehabilitates pre-1978 property:

1. All available records, reports, and information known to the lessor or seller about lead-based paint and lead-based paint hazards at the property must be disclosed;
2. The Federal lead information pamphlet and the lead warning statement must be provided to the buyer or lessor 10 days before obligation;
3. Prospective buyers must be provided an opportunity (10 days or as otherwise negotiated) to obtain a lead-based paint evaluation (inspection or risk assessment) of the property; and
4. Current occupants (both owners and renters) and prospective tenants must be provided the Federal lead information pamphlet.

17.2.2 AFTER ASSESSMENT/EVALUATION

Occupants, owners, and purchasers must be notified of the results of any lead hazard evaluation work or the presumption of lead-based paint or lead hazards within 15 days of the evaluation.

17.2.3 AFTER CLEARANCE

Occupants, owners, and purchasers must be notified of the results of any lead hazard reduction work within 15 days of the project achieving clearance.

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17.3 CONTRACTOR REQUIREMENTS

Contractors performing renovation, repair and painting projects that disturb lead-based paint in homes, child care facilities, and schools built before 1978 must be certified and must follow specific work practices to prevent lead contamination. The EPA requires anyone performing renovation, repair, and painting projects that disturbs lead-based paint in pre-1978 homes, child care facilities and schools must be an EPA-certified renovator and follow lead-safe work practices.

Certified contractors and certified workers using lead safe work practices must perform all construction work (above minimal amounts of paint disturbance) where lead-based paint is known or presumed present. The certifications must be valid for the jurisdiction under the EPA lead abatement or lead renovation, repair and painting (RRP) rule (as applicable to the work):

1. Individuals performing visual assessments must be trained as a HUD-certified lead-based paint inspector or risk assessor.
2. Lead risk assessments must be performed by EPA-certified risk assessors. Risk assessment reports must meet EPA's requirements under 40 CFR Part 745.227(d).
3. Except when abatement is being conducted, or the work is de minimis or does not disturb lead-based paint, the firm conducting the work must be a certified lead renovation firm under EPA's Renovation, Repair and Painting (RRP) Rule (40 CFR 745, subpart E), and supervisors and workers must be certified lead renovators. The firm, supervisors and/or workers may be lead-abatement-certified.
4. A certified abatement supervisor must supervise abatement workers unless the workers are themselves certified supervisors.
5. Clearance examinations after rehabilitation or interim control work above de minimis amounts must be conducted by a certified lead-based paint inspector or certified risk assessor. HUD allows clearance of a non-abatement project by a State-licensed sampling technician or a sampling technician trained in the EPA sampling technician course or a similar course, who is supervised by a certified inspector or risk assessor.

The city will document requirements that workers use lead safe work practices in contracts, work write-ups, site visit reports and/or a contractor certification that safe work practices were used. The city, in accordance with regulations, prohibits certain work practices on known or presumed LBP, such as dry sanding or dry scraping unless required for electrical safety, or machine sanding, grinding, abrasive blasting or sandblasting without a high-efficiency particulate air (HEPA) local exhaust control. The city will require and retain in project files documentation of the required firm, supervisor and worker certifications.

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If the amount of work is de minimis, or if the housing unit or common area has been determined by a lead-based paint inspector not to have lead-based paint, the work does not have to be conducted by a certified renovation or abatement firm, and lead-safe work practices do not have to be used, although HUD encourages their use for de minimis work.

When volunteers are used, HUD's Office of Lead Hazard Control and Healthy Homes has posted a two-page flyer on Federal Requirements for Volunteer Paint and Rehabilitation Programs (http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_25482.pdf) that provides an overview of the lead safety requirements for target housing receiving up to \$5,000 in federal rehabilitation assistance.

All contractors must follow these procedures:

1. Post signs to warn workers of lead hazards in accordance with the OSHA lead in construction standard;
2. Contain the work area;
3. Minimize dust; and
4. Clean up thoroughly.

17.4 ACQUISITION, HOMEBUYER ASSISTANCE, LEASING AND SUPPORTIVE SERVICES ACTIVITIES

These activities require a visual assessment for paint condition to identify deteriorated paint by a person who is trained to detect deteriorated paint. The visual assessment must include the interior, exterior and common areas of the property. If areas of deteriorated paint are identified, they are considered violations of the housing quality standards and must be addressed and cleared prior to occupancy. If the unit is occupied, clearance must be conducted as soon as possible after providing financial assistance. Addressing and clearing the hazards is considered a rehabilitation activity and city policies and procedures for residential rehabilitation activities must be followed.

When child-occupied facilities will be renovated, repaired or painting activities that disturb lead-based paint will take place, owners and occupants of child care facilities and parents and guardians of children under age six that attend child care facilities built prior to 1978 will be provided the *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers, and Schools* pamphlet. Child-occupied facilities are defined as residential, public or commercial buildings where children under age six are present on a regular basis.

If the project consists of acquisition, homeownership assistance, leasing of residential property, the city requires clearance be completed before occupancy.

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17.5 RESIDENTIAL REHABILITATION ACTIVITIES

All painted surfaces that will be disturbed during rehabilitation must be tested for lead content, regardless of the amount of funding provided. The city may skip testing and presume lead-based paint hazards are present throughout the property.

A lead risk assessment is required for rehabilitation projects exceeding \$5,000 average federal rehabilitation assistance per unit. The assessment includes the residential buildings, soil, garages, fences and other structures to which a child may have access. Restricting resident access does not substitute for performing risk assessments of portions of the property.

17.5.1 DETERMINING THE AVERAGE PER UNIT REHABILITATION ASSISTANCE

The lead hazard evaluation and reduction activities required for rehabilitation projects depend on the level of rehabilitation assistance received by the project. This level of assistance is determined by taking the lower of:

1. Per unit rehabilitation hard costs (regardless of source of funds). This calculation does not include soft costs such as or the costs of lead hazard evaluation and reduction such as with site preparation, occupant protection, relocation, interim controls, abatement, clearance, and waste handling attributable to lead-based paint hazard reduction; or
2. Per unit Federal assistance, regardless of whether the funds are used for acquisition, construction, soft costs or other purposes. Federal assistance includes funds from program income, but excludes low-income housing tax credit funds (LIHTC), Department of Energy Weatherization Program funds, or non-Federal HOME Program match funds.

The stringency of the lead requirements increases with the average amount of federal rehabilitation assistance per unit. There are three tiers based on the amount of federal rehabilitation assistance invested in pre-1978 units.

17.5.1.1 Tier 1: Up to \$5,000 per unit

Rehabilitation assistance up to \$5,000 per unit requires:

1. Paint testing (Lead Hazard Evaluation) be conducted to identify lead-based paint on painted surfaces that will be disturbed or replaced.
2. Repair of the paint that has been disturbed unless the paint is found to not be lead-based (Lead Hazard Reduction).
3. All work be conducted using lead safe work practices if lead paint is detected or presumed. Workers must be trained in lead safe work practices.

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4. Clearance by a certified clearance examiner after completion of rehabilitation if lead paint is detected or presumed. All clearance reports must meet the requirements of §35.1340(2)(c).
5. Notices to occupants.

17.5.1.2 Tier 2: \$5,001 to \$24,999 per unit

Rehabilitation assistance greater than \$5,000 and not more than \$25,000 per unit requires:

1. All lead hazards be addressed by interim controls using lead safe work practices.
2. Paint testing (Lead Hazard Evaluation) be conducted to identify lead-based paint on painted surfaces that will be disturbed or replaced.
3. Repair of the paint that has been disturbed using interim controls unless the paint is found to not be lead-based (Lead Hazard Reduction).
4. All work be conducted using lead safe work practices if lead paint is detected or presumed. Workers must be trained in lead safe work practices.
5. Clearance by a certified clearance examiner after completion of rehabilitation if lead paint is detected or presumed. All clearance reports must meet the requirements of §35.1340(2)(c).
6. Notices to occupants.

17.5.1.3 Tier 3: \$25,000 or more per unit

Rehabilitation assistance of \$25,000 or more requires:

1. Paint testing (Lead Hazard Evaluation) be conducted to identify lead-based paint on painted surfaces that will be disturbed or replaced.
2. Abatement (permanent elimination) of all lead hazards identified by the risk assessment (Lead Hazard Reduction). Lead hazard reduction must be performed in a manner consistent with the findings in the risk assessment report and by a certified abatement professional.
3. Review of the risk assessment report by the city. The city will conduct a cost-benefit analysis after receiving the risk assessment report that provides the list of LBP hazards on the property. If the cost of rehabilitation including lead abatement exceeds 75% of the replacement cost of the unit, the city may elect to deny assistance to the unit and refer the property owner to sources of replacement housing assistance.
4. Clearance by a certified clearance examiner after completion of rehabilitation if lead paint is detected or presumed. All clearance reports must meet the requirements of §35.1340(2)(c).

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5. Notices to occupants.

17.6 PROTECTING OCCUPANTS

The city will ensure that occupants of housing participating in the program are adequately protected from the hazards of lead-based paint during lead hazard reduction activities. Occupant protection requires restricting occupants' access to the worksite and the city will provide temporary relocation to a unit free of lead hazards except when:

1. Treatment will not disturb LBP;
2. Only the exterior of the dwelling is treated, and windows, doors, ventilation intakes and other openings are sealed during work;
3. Treatment of the interior will be completed within one 8-hour work period;
4. Treatment of the interior will be completed within 5 calendar days, the worksite is adequately contained, and occupants have safe access to kitchen, bathroom and sleeping areas; or
5. The unit is secured, occupants' belongings are protected from contamination outside of the rehabilitation area, and warning signs are posted.

Affected occupants are encouraged, but not required, to temporarily reside with relatives or friends until lead paint clearance is obtained. Elderly residents need not be relocated if they sign an elderly relocation waiver form.

When occupants are relocated, the relocation will be documented including:

1. An occupant agreement;
2. Identification of the relocation unit;
3. Dates relocated and returned to unit;
4. How occupants' belongings were protected or stored; and
5. The amount of temporary relocation assistance provided and supporting documentation for each payment made.

18 REAL PROPERTY ACQUISITION, DISPLACEMENT, AND RELOCATION

When CDBG funds are used in a project involving the acquisition, rehabilitation or demolition of real property, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) applies. Section 104(d) of the Housing and Community Development Act of 1974 also applies when a project includes the demolition or conversion of existing low-income dwellings. These requirements apply regardless of whether CDBG funds represent all or part of a project budget, and regardless of whether these activities are conducted by the city or a public or private entity.

This chapter provides an overview of URA and Section 104(d) requirements. Additional information may be obtained in CPD Handbook 1378, which describes requirements in detail. HUD also provides guidance through regional relocation staff. This chapter is intended to create awareness among applicants, subrecipients and city departments conducting acquisition, rehabilitation, conversion from lower income housing and/or demolition activities regarding:

1. The existence of these requirements;
2. The city's policies relative to these requirements; and
3. The importance of following the procedures to ensure compliance.

The City of Goodyear has adopted a Residential Anti-displacement and Relocation Assistance Plan that provides certain relocation benefits to those displaced by activities utilizing Federal financial assistance. In the event that these activities cause the involuntary placement of any individual, assistance is required to be provided.

18.1 CONDUCTING REAL PROPERTY ACQUISITION, REHABILITATION AND DEMOLITION

Tenant-occupant(s) who relocate as a direct result of a CDBG-funded activity that involves real property acquisition, rehabilitation, conversion from lower income housing or demolition, are entitled to:

1. Timely information;
2. Advisory services;
3. Replacement housing assistance;
4. Moving expenses; and
5. Advance notice in order to secure suitable replacement dwelling.

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18.1.1 ACQUISITION POLICIES UNDER THE URA

When acquisition of real property is the result of a voluntary proposal submitted by an owner in response to a public invitation or solicitation for offers, or a property is voluntarily offered for sale, it is referred to as voluntary acquisition.

Acquisition of real property that is not voluntarily offered for sale by an agency having the power of eminent domain is referred to as involuntarily acquisition. This document does not address the use of Federal financial assistance to assist with involuntary acquisition of real property.

18.1.1.1 Buyer Responsibilities to Seller

To avoid triggering the acquisition requirements of CFR 24, Subpart B, the acquisition must be a voluntary transaction. Any agency with the power of eminent domain must meet each of the following requirements when attempting to acquire real property:

1. Determine and inform the owner in writing that it will not use its power of eminent domain to acquire the property if negotiations fail to result in an amicable agreement. The property to be acquired cannot be part of an intended, planned or designated project area where all or substantially all of property within the area is to be acquired within specific time limits; and
2. Determine and inform the owner in writing of the agency's estimate of the fair market value of the property before entering into a contract for sale with the owner.

An agency that does not have authority to acquire property by eminent domain must inform the seller, before the seller enters into a contract for sale:

1. That the agency does not have the power of eminent domain and therefore will not acquire the property if negotiations fail to result in an amicable agreement; and
2. Of the estimate fair market value of the property, based on an appraisal.

Whenever feasible, this information is to be provided before making the purchase offer. In those instances where this is not feasible, the seller must be provided an opportunity to withdraw from the agreement, without penalty or further obligation, upon receipt of the results of the real property appraisal.

The failure or inability of any agency or city department to fully comply with the provisions outlined above will trigger applicability of the full scope of real property acquisition requirements set forth at 49 CFR Part 24, Subpart B and further described in Chapter 5 of HUD Handbook 1378.

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18.1.1.2 Buyer Responsibility to Obtain an Appraisal

Real property may only be acquired after an independent fee appraisal has been performed and an original copy of the appraisal is submitted to and reviewed by the city. The purpose of the appraisal is to establish the fair market value of the property. The appraisal must be conducted by an appraiser appropriately licensed by the State of Arizona Department of Insurance and Financial Institutions.

If the cost of the independent fee appraisal is determined to be an allowed use of Federal financial assistance and is intended to be paid in whole or in part with Federal funds, the procurement of these professional services must comply with the requirements at 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. In addition, the procurement of any professional service must comply with the city's procurement policy (if conducted by the city) or the agency's procurement policy for an independent agency.

18.1.1.3 Buyer Responsibility to Request an Environmental Review

An environmental review is required for any property that is intended to be acquired or rehabilitated with Federal financial assistance. The review is to be completed by city staff, with the support of subrecipients, if applicable. No real property will be acquired or rehabilitated until the environmental review is completed.

Agencies and city departments contemplating activities involving acquisition or rehabilitation must coordinate these activities with the Neighborhood Services staff prior to entering into an earnest money or option agreement with the seller. This is necessary to avoid the selection of site(s) that will not meet the environmental review requirements. Option agreements may be made contingent upon environmental clearance.

18.1.1.4 Buyer Responsibilities to Tenant Occupants

All tenant-occupants of any property to be acquired with Federal financial assistance must be provided with timely notice of the planned activity. The format of the notice will vary depending upon whether or not the tenant occupant will be displaced as a result of the acquisition. Specific examples of the notices to be provided are included within the Appendices of HUD Handbook 1378.

Agencies conducting acquisitions involving tenant-occupants must fully comply with the requirements at 49 CFR 24.203 and Chapter 2 of HUD Handbook 1378. The displacement and/or relocation must also comply with the city's Residential Anti-displacement and Relocation Assistance Plan.

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Displacement is defined as a permanent movement of tenant-occupants as a result of an activity assisted with Federal financial assistance. Federal regulations require that if any individual, family, business or farm is displaced as a result of property acquisition, the acquiring agency must:

1. Provide assistance, including at least two referrals, in finding alternate housing that is decent, safe and sanitary and affordable.
2. Assure that persons relocated receive their full replacement housing payments and moving and related expenses.
3. Provide a copy of the appropriate HUD Brochure (available on HUD's website):
 - a. When a Public Agency Acquires Your Property (HUD Brochure HUD -1041-CPD);
 - b. Relocation Assistance to Displaced Homeowners (HUD Brochure HUD-1044-CPD);
 - c. Relocation Assistance to Tenants Displaced from Their Homes (HUD Brochure HUD-1041-CPD); or
 - d. Relocation Assistance to Displaced Businesses and Farms (HUD Brochure HUD-1043-CPD).

18.1.1.5 Rehabilitation and Acquisition with Rehabilitation

Any entity applying for Federal financial assistance for rehabilitation of real property must provide the city with information on all individuals living on the property. General information notices must be provided to all tenant occupants of the property informing them of the application, the assistance available and their rights under the URA.

Site occupant records must be completed and submitted to the city on each tenant/occupant residing at the property at the time of application. Through assessment of this record and a personal interview with the tenant/owner, the type of assistance needed and the relocation preferences should displacement or relocation become necessary will be determined.

At the time the commitment for assistance is made to the entity, a notice will be mailed to all tenant-occupants detailing the nondisplacement policy, an explanation of any assistance provided, and an explanation of temporary relocation policies. During the course of rehabilitation, inspections will be made to ensure that residences remain decent, safe and sanitary and that the rehabilitation has not resulted in an increase in out-of-pocket expenses for tenant occupants.

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If displacement is necessary, notice will be given explaining the relocation assistance available including cost and location of comparable replacement dwellings and an explanation of relocation payments, services, eligibility conditions, filing procedures and the basis for determining maximum replacement housing payments.

A minimum of ninety (90) days' notice will be given in the event of displacement. Referrals will be given to the tenant-occupant for inspection of replacement units. All referrals must be inspected to ensure decent, safe and sanitary conditions. Assistance will be given in preparation of claims and all payments will be issued promptly.

When relocation assistance will be required, estimates will be made of the probable costs and the entity may be required to place that amount in an escrow account for payment to the tenant-occupant before proceeding with the activity.

18.2 DEMOLITION OR CONVERSION OF LMI DWELLING UNITS (SECTION 104(D))

All LMI dwelling units demolished or converted to a use other than LMI housing must be replaced with comparable unit(s) on a one-to-one basis within three years unless the housing is determined to be in substandard condition not suitable for rehabilitation. LMI dwelling units are housing units with rents that do not exceed the current Fair Market Rent including utilities.

Not suitable for rehabilitation is defined as a housing unit that does not meet applicable local or state building code and/or HUD'S Section 8 Housing Quality Standards (HQS) and could not be brought up to code and/or HQS for more than 75% of the unit's replacement cost.

To determine if a vacant or owner-occupied housing unit meets the criteria for a LMI dwelling unit, calculate the principal and interest payment based on the market value established by the appraisal (apply the current Federal Housing Administration (FHA) 30-year mortgage rate). Then, add property taxes, homeowner's insurance, and the appropriate Section 8 utility allowance.

In addition to complying with the acquisition and relocation assistance requirements of the URA, demolition and/or conversion activities require the provision of public notice of the intent to assist the demolition/conversion activity and specific authorization from HUD.

Prior to obligating or expending Federal financial assistance for any activity that will directly result in the demolition of any LMI dwelling unit(s) or the conversion of LMI dwelling units to another use, the entity or city department conducting the activity must submit the following information to Neighborhood Services:

1. A description of the proposed activity;

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2. The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than for low/moderate income dwelling units as a direct result of the assisted activity;
3. A time schedule for the commencement and completion of the demolition or conversion;
4. The general location on a map and approximate number of dwelling units by size, number of bedrooms that will be provided as replacement dwelling units;
5. The source of funding and a time schedule for the provision of replacement dwelling units; and
6. The basis for concluding that each replacement dwelling unit will remain a low/moderate income dwelling unit for at least ten (10) years from the date of initial occupancy.

Upon receipt of this information, Neighborhood Services will make the proposed activity public and submit this information to appropriate staff of the HUD Field office for review and authorization to proceed.

18.3 REQUIRED DOCUMENTATION

Agencies or city departments conducting activities subject to the requirements of the URA or Section 104(d) must keep records in sufficient detail to demonstrate compliance with these requirements. These records must be retained until at least five (5) years after the latest of:

1. The date persons displaced from the property and all persons whose property is acquired for the project have received the final payment to which they are entitled;
2. The date the project has been completed; or
3. The date required by the application program regulations.

Records will be submitted to Neighborhood Services for retention. The records maintained by the city and/or the entity to demonstrate compliance with the requirements of the URA and/or Section 104 (d) are confidential.

At a minimum, the following records must be maintained:

1. Real Property Acquisition records
 - a. Evidence of official decision to pursue acquisition:
 - b. Preliminary acquisition notice, date of transmittal to owner, and evidence that owner has received it;

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- c. Written invitation to owner to accompany appraiser;
 - d. Original copy of each appraisal report;
 - e. Copy of resolution or other document showing the determination of just compensation;
 - f. Written purchase offer of just compensation, including all basis terms and conditions, and date of delivery to owner;
 - g. Statement showing the basis for just compensation and an indication that it was delivered to the owner with the written purchase offer;
 - h. Purchase agreement, deed and other documents used in conveying the property;
 - i. Copy of the settlement cost reporting statement;
 - j. Evidence that owner received the purchase payment; and,
 - k. Copy of the notice giving 90 days to surrender possession of the premises.
2. Displacement/Relocation Records
- a. Name, address and relocation needs of each person or business to be displaced;
 - b. Required notices and correspondence and evidence documenting delivery by hand or certified/registered mail return receipt requested.
 - c. Description of the services and assistance provided, including referrals to alternate housing or business locations, a description of that property and its price or rent;
 - d. Copy of the payment voucher or statement of relocation payments;
 - e. Address, inspection sheet and date for each housing referral, including amount of rent and utilities;
 - f. Claim forms and supporting documentation signed by person displaced;
 - g. Documents used to determine eligibility for relocation payments and amount of payments; and,
 - h. Copy of any grievance filed and description of actions taken to resolve it.

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18.4 PROCEDURES FOR THE ACQUISITION OF REAL PROPERTY

There are six general processes that must be followed when acquiring real property for CDBG-funded projects or activities.

18.4.1 PROJECT PLANNING

1. Determine if acquisition is an allowable use of funds under the intended funding source.
2. Determine if the acquisition is necessary for the activity or if there are other alternatives such as leasing.
3. Estimate the total cost of the acquisition.
4. Determine if there is adequate funding available.
5. Examine if project/activity staff is knowledgeable about the requirements of the URA and Section 104(d), and if not, if training can be obtained within a reasonable period of time, or if a third party can be contracted to oversee the acquisition.
6. Ensure record keeping systems are in place that meet the requirements of the URA and Section 104(d).
7. Submit a request for preliminary approval from Neighborhood Services.

18.4.2 IDENTIFY AND ANALYZE POTENTIAL SITES

1. Determine if the planned use of the property is permitted by local zoning ordinances and if a conditional use permit or a variance will be required.
2. Ensure the site lends itself to the intended use.
3. Determine if the property is subject to any obvious environmental problems (flooding, wetland, historic property, contamination from storage of hazardous chemicals, etc.).
4. Identify current and prior uses of the intended site.
5. Determine if Section 104(d) will be triggered and, if applicable identify how the one-for-one replacement requirements will be met.
6. Submit a request to Neighborhood Services to implement the environmental review.

18.4.3 IDENTIFY TENANT-OCCUPANTS

1. Determine if the property is tenant occupied. If the property is tenant occupied:
 - a. Determine the cost of relocation and whether it makes the project cost prohibitive.

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- b. Develop a relocation plan, including a timeline, funding sources, and procedures that identify specific staff and/or third parties responsible for each step of the process.
 - c. Submit the relocation plan to Neighborhood Services.
2. Upon approval of the relocation plan by Neighborhood Services:
 - a. Obtain a current tenant list and list of tenants that occupied the building(s) 90 days prior to notifying the owner of interest in acquiring.
 - b. Provide general information notices and, if applicable, notices of non-displacement upon initiation of negotiations with the owner.
 - c. Conduct tenant interviews.

18.4.4 INFORM THE OWNER OF THE AGENCY'S INTEREST IN ACQUIRING THE PROPERTY

1. Provide owner with written notification that the agency is only interested in acquiring property as a voluntary transaction and will not use (or does not have) the power of eminent domain.
2. Determine the legal instrument to be used for the purchase offer, which may be an earnest money agreement, purchase option, lease option, or other instrument approved by the city.
3. Secure an independent fee appraisal.
 - a. Invite owner to be present during appraiser's inspection of property.
 - b. Submit original copy of appraisal report to Neighborhood Services for review.
4. Provide owner with agency's estimate of the fair market value of property prior to executing a contract for purchase. If this is not feasible, the owner must be provided with an opportunity to withdraw from the contract after the results of the appraisal have been obtained. The notice must also specify that the purchase is subject to environmental clearance.
5. Request that owner(s) provide a preliminary commitment for title insurance.
6. Submit the preliminary commitment for title insurance to Neighborhood Services for review.

18.4.5 PREPARE TO TAKE POSSESSION OF THE PROPERTY

1. Schedule closing date.
2. Obtain insurance binder.

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3. Request funds for closing. If funds are being requested from the city, submit the preliminary estimate of closing costs prepared by the closing agent.

18.4.6 [SUBMIT DOCUMENTATION TO THE CITY](#)

1. Real property acquisition records.
2. Displacement/Relocation records
3. Other information requested by Neighborhood Services.

19 REQUIRED SUBRECIPIENT POLICIES AND PROCEDURES

Subrecipients must have a policies and procedures manual that governs the use of CDBG and/or other federal funding received by the organization. At a minimum, subrecipient policies and procedures manuals must include:

1. Financial management;
2. Procurement and contracting;
3. Property management and disposition;
4. Recordkeeping and reporting;
5. Other administrative and program requirements;
6. Audits; and
7. Closeout.

19.1 FINANCIAL MANAGEMENT

Financial management policies and procedures must include:

1. Internal controls that define staff qualifications and duties, lines of authority, separation of functions, and access to assets and sensitive documents.
2. Written accounting procedures for approving and recording transactions.
3. Procedures for periodically comparing financial records to actual assets and liabilities to check for completeness and accuracy.
4. Maintenance of a financial accounting system that at a minimum includes: (a) a chart of accounts, (b) a general ledger, (c) a cash receipts journal, (d) a cash disbursements journal, (e) a payroll journal, (f) payable and receivable ledgers, and (g) job cost journals (if involved in construction).
5. Procedures for performing trial balances and periodically checking for reliable, complete, and up-to-date information about sources and uses of all funds.
6. Standards and procedures for determining the reasonableness, allowability, and allocability of costs incurred consistent with the basic Federal rules (2 CFR 200).
7. An indirect cost allocation plan, if applicable.
8. Filing and maintenance of original source documentation (receipts, invoices, canceled checks, etc.) for all of financial transactions, including those involving obligations incurred and CDBG program income.

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9. Budget policies and procedures including the budget schedule, role of the Board of Directors, comparison of the budget with actual expenditures for each budget category, and comparison of progress toward the achievement of goals with the rate of expenditure of program funds.
10. Procedures for accurately projecting the cash needs of the organization that will serve to minimize the time between the receipt of funds from the city and their actual disbursement.
11. Process for providing accurate, current, and complete disclosure of the financial results of each Federally-sponsored project or program in accordance with the reporting requirements of the city and HUD.
12. Audit requirements.

19.2 PROCUREMENT AND CONTRACTING

Procurement policies and procedures must, at a minimum, include:

1. How records will be maintained, including files on the rationale for selecting the methods of procurement used, selection of contract type, the contractor selection/rejection process, the basis for the cost or price of a contract, and for small purchases the basis for contractor selection, justification for lack of competition when competitive bids or offers are not obtained, and the basis for the award cost or price.
2. How pre-qualified lists of vendors/contractors, if used, will be kept current, developed through open solicitation, include adequate numbers of qualified sources, allow entry of other firms to qualify at any time during the solicitation period.
3. Policies to ensure that no unfair competitive advantage is provided to contractors that develop or draft specifications, requirements, statements of work, invitations for bids, and/or requests for proposals.
4. Procedures for ensuring awards are not made to any party that is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs.
5. Written selection procedures for procurement transactions that ensure:
 - a. The purchase of unnecessary or duplicate items is avoided;
 - b. Where appropriate, an analysis is made of lease versus purchase alternatives.
 - c. Whenever possible, use of Federal excess and surplus property or intergovernmental agreements for procurement or use of common goods and services are considered as a way to foster greater economy and efficiency;

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- d. All purchase orders (and contracts) are signed by the authorized official(s) of the subrecipient;
 - e. Items delivered and paid for are consistent with the purchase order and/or contract for the goods or services;
 - f. Timely payment to vendors occurs once the order is delivered, inspected, accepted, and payment authorized;
 - g. A cost or price analysis is performed for every procurement action, including contract modifications, and supporting documentation, including independent estimates before receiving bids or proposals; and
 - h. Profit or fee is negotiated separately from price where competition is lacking or whenever a cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of past performance, and industry rates for the area.
6. Policies that prohibit "cost plus a percentage of cost" contracts.
 7. Policies that provide for "time and material" type contracts only after a determination is made that no other contract is suitable and the contract includes a ceiling price that the contractor exceeds at its own risk.
 8. Protest procedures to handle and resolve disputes relating to their procurement and for reporting disputes to the city.
 9. A documented system of contract administration for determining the adequacy of contractor performance.
 10. A written code of conduct governing employees, officers, or agents engaged in the award or administration of contracts.

19.3 PROPERTY MANAGEMENT AND DISPOSITION

Real and personal property management and disposition policies and procedures must, at a minimum, include:

1. Policies and procedures to ensure the use of any real property under the subrecipient's control that was acquired or improved in whole or in part with CDBG funds will be used by the subrecipient to meet one of the CDBG program's National Objectives for at least 5 years after the expiration of the subrecipient Agreement (or a longer time as specified by the subrecipient Agreement).
2. Policies and procedures to ensure that personal property acquired with CDBG funds, including equipment and supplies:

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- a. Is inventoried not less than annually; and
- b. If no longer needed for CDBG activities, is either returned to the city or reimbursed to the city. The city will treat any reimbursement as program income.

19.4 RECORDKEEPING AND REPORTING

Subrecipients must keep accurate, complete and orderly records. Records may be kept electronically, unless wet signatures are required by the regulations. Recordkeeping and reporting policies and procedures must, at a minimum, address:

1. Administrative records, including:
 - a. Personnel files; and
 - b. Property management files.
2. General program files, including:
 - a. Files relating to the subrecipient's application to the city;
 - b. The subrecipient agreement;
 - c. Program policies and guidelines; and
 - d. Correspondence with and reports to the city.
3. Legal files, including:
 - a. Articles of incorporation;
 - b. Bylaws of the organization;
 - c. Tax status;
 - d. Board minutes; and
 - e. Contracts and other agreements.
4. Financial records as described under financial management.
5. Project/case files, including:
 - a. Location of activities;
 - b. Characteristics of beneficiaries, including income, race and ethnicity;
 - c. Amount of funds budgeted, obligated, and expended;
 - d. Documentation demonstrating activity eligibility;
 - e. Documentation demonstrating compliance with activity requirements; and

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- f. Documentation demonstrating compliance with cross-cutting regulations.
6. How cumulative data will be generated for inclusion in periodic reports required by the city, including logs for recording and totaling programmatic data based on the activity type (e.g., unit of service, number of housing units, etc.);
7. How representatives of the city, HUD, or Federal Government may access pertinent records.
8. How confidentiality will be maintained.
9. Archiving and destruction.

19.5 OTHER ADMINISTRATIVE AND PROGRAM REQUIREMENTS

Subrecipients must also keep records of compliance with cross-cutting regulations. Recordkeeping policies and procedures must be in place to address each of the regulations as discussed in this manual. Sample monitoring / recordkeeping checklists are included in this manual.

19.6 AUDITS

Subrecipients share responsibility with the city to ensure federal resources are used efficiently, economically, and effectively. Audit policies and procedures must, at a minimum, address:

1. The level of audit required by 2 CFR 200; and
2. If an audit is not required by 2 CFR 200, how the subrecipient will ensure its financial management and compliance systems comply with federal regulations, including b

19.7 FILING SYSTEMS

Subrecipients must be able to fully document their CDBG projects so that compliance with all applicable regulations can be demonstrated. The filing system must provide a historic account of each project. Files may be maintained electronically unless noted by the city or HUD for original ink signature.

The following is a suggested outline for file categories and contents of files for each project.

1. General Project File:
 - a. Entity Documents (Application, Cross Cutting Federal Regulations, Budget, etc.).
 - b. Annual Report.
 - c. Communication.
 - d. Contract.

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- e. Eligibility Analysis.
 - f. Environmental Review.
 - g. Miscellaneous.
 - h. Monitoring.
 - i. Monthly Report (Beneficiary Data).
 - j. Reimbursement Requests.
2. Financial Records:
- a. Notice of Grant Award.
 - b. Authorizations, Motions, or Resolutions.
 - c. Project Agreement with the city.
 - d. Contracts (Note: All third-party contracts must be approved by Neighborhood Services).
 - e. Budget Revisions.
 - f. Bills for payment.
 - g. Copies of Reimbursement Requests.
 - h. Copies of approved vouchers and warrants.
 - i. Payroll Time Sheets.
 - j. Records of technical assistance monitoring visits.
 - k. Latest subrecipient audit and audit records.
 - l. Approved indirect cost allocation plan, if applicable.
 - m. Project income records.
 - n. Records documenting source and amount of supplemental (matching) resources.
3. Procurement:
- a. Bid Advertisements.
 - b. Affidavit of Publications.
 - c. RFP's.
 - d. Bids/Proposals.
 - e. Price or Cost Analysis.
 - f. All Contracts.

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- g. Change Orders.
- h. Pay Estimates.
- i. Site Inspection Reports.
- j. Section 3 Documentation.
- k. Preconstruction Conference Notes.
- l. Correspondence.

19.8 RECORD RETENTION

Records pertaining to CDBG awards must be retained for no less than five years after expiration of the contract and any amendments, completion and resolution of the audit and/or any litigation, whichever is later. Records for property acquired with CDBG funds must be retained for five years after final disposition. Records for any displaced persons must be retained for five years after persons have received final relocation benefits.

20 MONITORING

The City of Goodyear Neighborhood Services Division is responsible for ensuring that CDBG-funded activities are carried out in accordance with administrative, financial and programmatic requirements. This includes assuring that performance goals are achieved within schedule and budget, and taking appropriate actions when performance problems arise.

As a part of the city's ongoing monitoring standards, staff will conduct a risk assessment, review contract performance and takes appropriate action when problems arise. The city's monitoring goal is to ensure successful delivery of services and programs to Goodyear's LMI residents and neighborhoods, and most vulnerable residents.

Monitoring is an ongoing process that begins with pre-application and pre-contract workshops or discussions and ends at the earliest of contract closeout or use term, depending on the type of activity. Monitoring includes desk monitoring throughout the year and on-site monitoring based on a risk assessment.

20.1 PRE-APPLICATION WORKSHOPS AND CITY DEPARTMENT DISCUSSIONS

In any year the city is accepting applications from subrecipients, a pre-application workshop will be held during the second quarter of the program year. The workshop will cover the application process, program requirements (including the applicability of cross-cutting regulations), and monitoring standards and procedures.

In any year the city is not accepting applications from subrecipients, it will conduct formal discussions with city departments that have potential CDBG-funded activities during the second quarter of the program year. Discussions will cover program requirements (including the applicability of cross-cutting regulations), and monitoring standards and procedures.

20.2 CONTRACTS/WRITTEN AGREEMENTS AND INTERDEPARTMENTAL AGREEMENTS

The city enters into contracts/written agreements with subrecipients and interdepartmental agreements with other city departments for programs and projects approved by city council and included in the Annual Action Plan. When entering into a contract/written agreement or interdepartmental agreement, Neighborhood Services will conduct an initial meeting or workshop to explain the agreement, provide a refresher on CDBG and cross-cutting regulations, and explain the funding, drawdown, reporting, and monitoring processes.

All agreements and contracts require written measurable objectives and monthly reporting on spending and progress in meeting the objectives. Payment to non-city subrecipients is made on a reimbursement basis contingent upon the agency's submittal of supporting source

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documents. These expenses are checked by city staff for accuracy, allowability and reasonableness before processing for reimbursement.

20.3 RISK ASSESSMENT

An annual risk assessment is conducted to establish a monitoring plan. The city determines the level of risk using a risk matrix and makes formal site visits as needed according to the risk assessment and status of the applicant/subrecipient and program or project type.

- New applicants/potential subrecipients are automatically considered high risk. The city will review the organization’s audit and audit reports, and will visit the organization and program or project site prior to making an award recommendation. If awarded, the city will establish a monthly phone or email contact schedule and conduct on-site monitoring in the first quarter of program/project implementation to identify any concerns and provide technical assistance.
- Existing/prior subrecipients will be assessed according to the matrix as part of the application process and prior to making an award recommendation.
- Any program or project type that is new to the subrecipient and/or the city will be assessed according to the matrix as part of the application process and prior to making an award recommendation. New program and project types will be monitored during the first quarter of program/project implementation to identify any concerns and provide technical assistance.

20.3.1 RISK ASSESSMENT MATRIX

The city risk assessment matrix examines 10 factors with 31 subfactors. Subfactors in factors 1 through 8 are assigned one point for each “no” answer. Subfactors in nine and ten are assigned two points for each “no” answer.

1. Performance history (for departments and subrecipients with prior CDBG agreements):
 - a. Achieved contract goals; and
 - b. Responded timely to city requests for information.
2. Organization strength:
 - a. Key program, administrative, and financial staff have been in place for not less than three (3) years;
 - b. Demonstrates experience with and knowledge of program and cross-cutting regulations;
 - c. The current board of directors list does not reflect any apparent conflicts of interest; and

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- d. Has written policies and procedures governing CDBG-funded activities.
- 3. Organization expenditures:
 - a. Submitted timely reimbursement requests;
 - b. Timely expended funds; and
 - c. Provided accurate and consistent supporting documentation for payment requests.
- 4. Organization facility:
 - a. Clean and safe building(s) in good structural condition;
 - b. Adequate and secure storage for records and confidential files; and
 - c. ADA accessible.
- 5. Recent program monitoring:
 - a. Successful program monitoring within past two (2) years;
 - b. No negative observations or findings; and
 - c. All negative observations or findings fully addressed and satisfied.
- 6. Program coordination and project management:
 - a. Staff dedicated to program/project are appropriate to the activity being undertaken;
 - b. All other funding for the program/project is firmly committed;
 - c. Established outreach plan appropriate to the target population; and
 - d. Adequate and safe space for program delivery.
- 7. Program reporting:
 - a. Outcome measurements are appropriate;
 - b. Submitted timely reports with minimal corrections necessary; and
 - c. Provided all required documentation.
- 8. Program evaluation:
 - a. Has established client feedback process, including a formal grievance process;
 - b. Submitted client satisfaction survey and program evaluation documentation; and
 - c. Regularly conducted evaluation of program/project.
- 9. Organization audit reports:

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- a. Current audit report is complete and conducted in accordance with 2 CFR 200; and
- b. Current audit includes no significant weaknesses or findings.

10. Accounting system:

- a. Financial management system complies with 2 CFR 200;
- b. Program/project cost reimbursement schedule supports ability to maintain program/complete project;
- c. Separation of funds and internal controls in place; and
- d. Response to audit report or monitoring reflects timely resolution of any finance issues.

A subrecipient may receive 0 to 37 points based on the risk assessment matrix. The level and type of monitoring is determined based on the subrecipient risk score.

1. Low risk = 0 – 10 points. Desk monitoring only if on-site monitoring has been conducted within the past three years.
2. Medium risk = 11 – 20 points. Desk monitoring only if on-site monitoring has been conducted within the past two years. An on-site monitoring is scheduled as staff time permits.
3. High risk = 21 or more points. An on-site monitoring will be conducted.

20.4 DESK MONITORING

Desk monitoring of subrecipients includes:

1. Eligibility review, prior to committing funds to an organization or activity;
2. Annual review of the subrecipient audit and audit report;
3. Subrecipient performance reports and supporting documentation, submitted not less than quarterly;
4. Subrecipient reimbursement requests, submitted not less than quarterly;
5. Semi-annual labor standards enforcement report; and
6. Annual Consolidated Annual Performance Evaluation (CAPER) report.

Desk monitoring of city departments includes:

1. Eligibility review, prior to committing funds to an activity;
2. Performance monitoring, conducted not less than quarterly;

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3. Financial monitoring, conducted not less than quarterly; and
4. Annual Consolidated Annual Performance Evaluation (CAPER) report.

When desk monitoring reveals a concern, the city will contact the subrecipient or city department by phone or email to discuss the concern, provide technical assistance, and determine any necessary corrective action and a timeline for taking action. If the concern is not timely addressed, an on-site monitoring may be scheduled or reimbursements may be held.

20.4.1 ELIGIBILITY REVIEW

Prior to recommending a program or project for CDBG funding, Neighborhood Services will review the application and proposed program or project to ensure it meets a CDBG National Objective, is a CDBG-eligible activity that can be assigned a matrix code in HUD's monitoring system, and addresses a priority identified in the current 5-year Consolidated Plan. The city's 5-year Consolidated Plan is available online at the city's CDBG website.

20.4.2 AUDIT AND AUDIT REPORT

Each subrecipient must submit a copy of their annual audit, audit report, and management's response to the audit report within thirty (30) calendar days of receipt from the auditor.

20.4.3 PERFORMANCE REPORTS

Subrecipients must submit performance reports not less than quarterly to allow the city to identify any existing or anticipated concerns. The performance reports include actual program/project accomplishments and funds obligated. Documentation of an open solicitation and outreach/utilization of minority and women owned business enterprises is required for procurement of goods, services and labor during the reporting period.

20.4.4 REIMBURSEMENT REQUESTS

Reimbursement requests may be submitted not more than monthly. Reimbursement requests must include funds budgeted, funds drawn down to date, funds obligated during the current period and cumulatively, CDBG funds on hand, and reimbursement requests pending. The city will process reimbursement requests only when the subrecipient is current with performance reports.

20.4.5 SEMI-ANNUAL LABOR STANDARDS ENFORCEMENT REPORT

Labor standards enforcement is typically managed by the city and may be managed by subrecipients, if part of the scope of work. The Semi-Annual Labor Standards Enforcement Report, covers the periods of October 1-March 31 and April 1-September 30 and is submitted to

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the Field Office Labor Relations representative within seven (7) calendar days subsequent to the end of the period covered, or upon request.

The Semi-Annual Labor Standards Enforcement Report provides information on contracts awarded that must comply with the Davis-Bacon Act and/or the Contract Work Hours and Safety Standards Act. Specifically, the report lists each project/contract awarded during the reporting period for which DBRA or CWHSSA is applicable. The report also includes information on enforcement activities undertaken by the city during the reporting period.

20.4.6 SECTION 3 SUMMARY REPORT

Pending updated guidance from HUD based on September 29, 2020 federal register notice.

20.4.7 CAPER REPORTS

By August 1st of each year, subrecipients and city departments must submit information necessary for Neighborhood Services to complete and timely submit the CAPER to HUD. Information required for the CAPER includes:

1. Activity name, description, location;
2. The HUD National Objective being met;
3. Dollars expended in program year;
4. Amount of unliquidated obligations for each activity;
5. Activity status and accomplishments;
6. Delivery cost for rehabilitation activities;
7. Number of units proposed, number completed;
8. For multi-family rehabilitation, the number of units occupied by LMI households following completion of rehabilitation;
9. For multi-family projects, the dollars expended from CDBG and non-federal sources;
10. Characteristics of beneficiaries;
11. Sources and amounts of program income;
12. Dollar amount and number of outstanding loans;
13. CDBG acquired parcels to be sold; and
14. Households displaced as a result of CDBG activity.

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20.5 ON-SITE MONITORING

A formal on-site monitoring visit will review program operations, recordkeeping, and overall accountability for the federal funds. A program performance monitoring checklist is used to conduct the review. The city may utilize HUD checklists (CPD Monitoring Handbook 6509.2) or a comparable monitoring tool. The city will take the following steps when performing formal monitoring:

1. A desk audit will be conducted to answer as many performance questions on the monitoring checklist as possible. Each question that can be answered will be assigned a value to prioritize factors for review. The following areas will be reviewed prior to the visit:
 - a. Progress in meeting outcomes defined in the Scope of Work, including review of information provided in monthly reports.
 - b. Disability accessibility in subrecipient facilities and programs.
 - c. Fiscal audit reports, any findings or weaknesses, and Audit Management Letters regarding adequacy of agency's internal controls.
 - d. Agency procurement procedures and documentation of procurement actions taken.
 - e. Reported data on the target population served, and compliance with National Objectives.
 - f. Board members and backgrounds, operations, policies and procedures, and other information pertaining to Board.
2. The site visit date will be coordinated with the subrecipient Executive Director. A formal site visit letter will be mailed at least two weeks before the date of the visit confirming the date and identifying the priority areas to be reviewed.
3. The on-site visit will include:
 - a. Entrance discussion with Executive Director, Program Manager and Grant Accountant to review the nature and purpose of the formal monitoring, and obtain information on general program issues.
 - b. Review of:
 - i. Disability accessibility, including inspection of bathrooms, parking, ramps, and barriers; and the agency's self-evaluation, transition plan and progress towards addressing identified conditions.

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- ii. Fiscal records, transactions, procedures, internal controls, agency wide financial statements showing budget variances, and board actions related to review and approval of financial statements.
 - iii. Procurement policies, confirmation of MBE/WBE outreach and bids to verify open procurement, testing of cost reasonableness and allowability.
 - iv. Board minutes to ascertain if the board is actively involved in governance and knowledgeable about CDBG regulations.
 - c. Exit Conference to discuss preliminary findings and concerns and give a date for a formal letter to be sent to the agency.
4. A site visit report to the subrecipient that includes a timeline for response to areas of concern and corrective action, if applicable. The city will generally send a formal letter to the subrecipient within 45 days.
5. Review of agency response.
6. Follow up to ensure necessary corrective actions have been taken.

20.6 CORRECTIVE ACTION AND TECHNICAL ASSISTANCE

When performance problems arise, Neighborhood Services will address the problem in three phases based on the seriousness of the problem identified through desk or on-site monitoring. If necessary, the city may proceed to a higher phase:

- Phase 1 - Low-level intervention: The city will develop a strategy with the subrecipient that includes any training or technical assistance that may help to address identified problems. The city may require more frequent or more thorough reporting by the subrecipient or other organization carrying out the activity, or conduct more frequent monitoring reviews.
- Phase 2 – Moderate-level intervention: The city may restrict or hold reimbursement requests, disallow certain expenses, require repayment of funding provided for certain expenses, or place the subrecipient on probationary status.
- Phase 3 – High-level intervention: The city may temporarily suspend the organization from participation in the CDBG Program, not renew the organization or the activity for the next program year, terminate the organization or activity for the current program year, or initiate legal action.

20.7 HUD MONITORING

HUD and other representatives of the federal government may monitor the city and subrecipients. HUD performs continuous monitoring of CDBG funds through the Integrated

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Disbursement Information System (IDIS) and conducts on-site monitoring. On-site monitoring is generally conducted annually. Monitoring may also be periodically performed by the Office of the Inspector General.

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20.8 FINANCIAL MANAGEMENT MONITORING CHECKLIST

20.8.1 FINANCIAL MANAGEMENT SYSTEMS

- Accounting records identify CDBG funds by CFDA title and number and HUD award identification number and year.
- Information on grant awards, obligations, unobligated balances, assets, liabilities, expenditures, program income and interest are accounted for in a separate fund.
- Budgeting of funds for eligible activities.
- Encumbrances/obligations are recorded when contracts are executed or purchase orders are issued.
- Source documentation (invoices, contracts, purchase orders, etc.) is maintained.
- Expenditures are identified to a specified eligible activity.
- Expenditures are compared with budget amounts.

20.8.2 ADVANCES

- Advanced funds are disbursed within three days.
- Funds advanced to a subrecipient are disbursed by the subrecipient within three days.

20.8.3 IDIS CASH ON HAND QUARTERLY REPORT

- Timely and complete IDIS Cash on Hand Quarterly Reports are submitted.

20.8.4 INTERNAL CONTROLS

- The organization chart sets forth actual lines of responsibility. It is clear that all personnel must report operating problems and noncompliance with laws and regulations upward.
- Duties of key employees are defined.
- Fidelity bond coverage is in place for responsible officials and has been obtained from a company holding an acceptable certificate of authority.
- The chart of accounts includes a complete listing of account numbers used to support controls necessary to ensure resources used do not exceed authorized resources.
- Approval controls ensure that appropriate individuals record transactions in accordance with specified criteria.
- Transactions and events are properly documented, recorded, and auditable.

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- Segregation of duties reduce the opportunity for concealment of errors or irregularities in the normal course of duties.
- Internal control procedures support the preparation of financial statements that conform with generally accepted accounting principles and regulatory requirements.
- A self-assessment of the internal control system has been conducted.
- Personally-identifiable information is safeguarded.

20.8.5 ACCURACY OF REPORT INFORMATION

- Systems and procedures ensure that accurate information is collected and reported to HUD.
- The official accounting records of the city (or subrecipient) match the financial information in IDIS.
- City (or subrecipient) accounting records reconcile with the Consolidated Performance and Evaluation Report (CAPER).

20.8.6 PROGRAM INCOME

- Revenue accounts have been established to record program income.
- Program income is properly prorated when an activity generating program income is partially assisted with CDBG funds.
- Program income not deposited in revolving funds is disbursed prior to making further withdrawals from the US Treasury.
- Systems are in place to track program income generated by subrecipients or other pass-through entities.
- Program income receipts and expenditures are recorded in IDIS.
- The Annual Action Plan was amended, if necessary, to account for unexpected amounts of program income.
- Program income exceeding one-twelfth of the most recent CDBG grant is remitted to HUD at the end of the program year, except amounts needed for immediate cash needs, cash balances in a revolving fund, and cash held in Section 108 accounts.
- Interest paid on cash balances held in revolving funds is remitted to HUD annually.
- If loans are provided:
 - Written loan agreements detail repayment terms, default and opportunity to cure, actions that will be taken if default is not cured, and security pledged.

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- Collection procedures that recognize: current amounts due, payments received, overdue payment notification, actions taken on defaulted loans, and bad debt write-off criteria.

20.8.7 SALARIES AND WAGES

- Direct and indirect payroll charges are documented in accordance with approved city policy.
- Semi-annual certification of dedicated time is made for any employee who is solely working on the CDBG program.

20.8.8 INDIRECT COSTS

- A Cost Allocation Plan or Indirect Cost Rate proposal has been developed and costs are billed accordingly.

20.8.9 MINORITY-OWNED FINANCIAL INSTITUTIONS

- Minority-owned financial institutions are used to the extent practicable in lending programs.

20.8.10 LUMP SUM DRAWDOWNS

- Funds are drawn in a lump sum.
- Lump sum drawdown agreements contain the required elements at 24 CFR 570.513.
- Lump sum funds drawn are used for eligible activities.
- Use of deposited funds commenced with forty-five days.
- Funds are disbursed within one hundred eighty days.

20.8.11 RECORD RETENTION AND ACCESS

- Records are accessible to the public and retained for not less than five years after program year closeout.

20.8.12 EQUIPMENT MANAGEMENT AND DISPOSITION

- Property records contain at a minimum a description of the property, serial/other identification number, funding source and grant number, title holder, acquisition date and cost, percent of federal funds used for original acquisition costs, location, use and condition of property, and if applicable disposition date and sales price.

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- A physical inventory has been taken and the results reconciled with property records within the last two years.
- A control system is in place to adequately safeguard property against loss, damage, or theft.
- Adequate maintenance procedures are in place to keep property in good condition.
- Written procedures are in place for the disposition of property to ensure the highest possible return.

20.8.13 CITY AUDIT

- The city meets the annual expenditure threshold of \$750,000, requiring a single or program-specific audit.
- An auditor was procured following city procurement procedures that comply with 24 CFR 570.502.
- The audit procurement clearly stated the objectives and scope of the audit and required a copy of the audit organization's peer review report.
- The audit procurement proposal evaluation criteria included responsiveness, relevant experience, professional qualification and technical abilities of staff, peer and external quality control reviews, and price.
- The procurement reflects efforts to utilize small businesses, minority-owned firms, and women's business enterprises.
- The CDBG program was charged not more than a proportionate share of the audit cost.
- Financial statements were prepared, including a schedule of expenditures of federal awards.
- Prompt follow-up and corrective action were taken on any audit finding and/or corrective action plan.
- The data collection form and reporting package were submitted to the Federal Audit Clearinghouse within 30 calendar days after receipt of the auditor's report, or nine months after the end of the audit period, whichever is earlier.
- With respect to subrecipient audits:
 - Requires each subrecipient subject to a single or program specific audit submit the audit report within 30 calendar days after receipt of the auditor's report, but not later than nine months after the end of the audit period.

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- Has in place procedures for determining necessary subrecipient corrective actions and monitoring that such actions have taken place.
- Adjusts city records if necessitated by a subrecipient audit.
- Refers subrecipient-contested findings and recommendations to senior level officials, outside of the normal chain of command, for resolution.
- Promptly informs HUD and federal law enforcement authorities of illegal acts or irregularities.
- Has established an account receivable from the subrecipient when a monetary sanction is involved.
- Issues a management decision regarding subrecipient audit findings related to CDBG funding within six months of receipt of the audit.

20.8.14 **SUBRECIPIENT AUDIT**

- Subrecipients were informed of audit requirements at the time of subaward.
- The subrecipient meets the annual expenditure threshold of \$750,000, requiring a single or program-specific audit.
- An auditor was procured following subrecipient procurement procedures that comply with 24 CFR 570.502.
- The audit procurement clearly stated the objectives and scope of the audit and required a copy of the audit organization's peer review report.
- The audit procurement proposal evaluation criteria included responsiveness, relevant experience, professional qualification and technical abilities of staff, peer and external quality control reviews, and price.
- The procurement reflects efforts to utilize small businesses, minority-owned firms, and women's business enterprises.
- The CDBG program was charged not more than a proportionate share of the audit cost.
- The audit was submitted to the city within 30 days of receipt of the auditor's report and not more than nine months after the end of the audit period.
- Financial statements were prepared, including a schedule of expenditures of federal awards.
- Prompt follow-up and corrective action were taken on any audit finding and/or corrective action plan.

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20.9 PROCUREMENT MONITORING CHECKLIST

When monitoring, HUD or the city will select a sample of procurement transactions, including small purchases, sealed bids, competitive proposals, noncompetitive proposals, general provisions and procedures, and contracting with small and minority firms, women's business enterprises, and labor surplus firms.

20.9.1 SMALL PURCHASES

For procurements of \$100,000 or less, the city and/or subrecipient received an adequate number of price or rate quotations from qualified sources.

20.9.2 SEALED BIDS

- A formal sealed bid process is in place.
- At least two responsible bids were received for each procurement transaction, and if not whether there is a systemic failure or was there an isolated failure.
- Procurement transactions lend themselves to firm, fixed price contracts with selection made principally on the basis of price.
- Invitations for Bids were publicly advertised, solicited from an adequate number of suppliers, provided suppliers sufficient time before bid opening, and included specifications and pertinent attachments that clearly defined the items or services procured.
- All bids were opened publicly at the time and place stated in the Invitation for Bids.
- Bids were awarded to the lowest responsive and responsible bidders.

20.9.3 COMPETITIVE PROPOSALS

- The competitive proposal process was used primarily when conditions were not appropriate for sealed bids.
- Requests for Proposals clearly and accurately stated the technical requirements for the goods or services, were publicized, honored reasonable requests from vendors to compete, identified significant evaluation factors, including price or cost, and their relative importance.
- Proposals were solicited from an adequate number of qualified sources.
- The city and/or subrecipient:
 - Conducted technical evaluations of submitted proposals;
 - Determined responsible offerors based on technical evaluations;

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- Conducted negotiations, if necessary, for final contract award; and
 - Made awards to the most responsive and responsible offerors.
- For proposals involving architectural or engineering professional services, the city maintains a list of qualified offers who can respond to RFPs, and:
 - Proposals were evaluated with respect to factors other than price; and
 - The basis for negotiation of fair and reasonable compensation is documented.

20.9.4 NONCOMPETITIVE PROPOSALS

The city and/or subrecipient document that other methods of procurement were infeasible for one of the following reasons:

- The item was only available from a single source;
- A public exigency or emergency is of such urgency to not permit a delay resulting from competitive solicitation;
- After solicitation of a number of sources, competition is determined inadequate; or
- HUD granted approval.

20.9.5 GENERAL PROVISIONS AND PROCEDURES

- Contract awards are not made to any party excluded, disqualified or otherwise ineligible for federal grant programs.
- Contract pricing is not made on a cost-plus-a-percentage-of-cost method.
- Purchase orders and contracts are signed by an authorized program official.
- Items delivered and paid for are consistent with the purchase order or contract.
- Vendors are timely paid after acceptance of products or services.
- A cost or price analysis is performed for each procurement action, including contract modifications.
- Profit is negotiated as a separate element of price when price competition is lacking or a cost analysis is not performed.
- Federal contract provisions are included in grant-assisted contracts.
- There is a written code of conduct governing employees, officers or agents engaged in the award and administration of grant-funded contracts.
- There is a documented system of contract administration to determine the adequacy of contractor performance.

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- Prequalified lists, if used, are current, developed through an open solicitation process, and include an adequate number of qualified sources.
- Requirements are in place for bid guarantees, performance bonds and payment bonds for construction contracts or subcontracts valued at or below \$100,000.

20.9.6 SMALL AND MINORITY FIRMS, WOMEN’S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS

- Affirmative steps are taken to include such businesses on solicitation lists whenever they are potential sources.
- Such businesses are solicited whenever they are potential sources.
- When economically feasible, procurement requirements are divided into smaller tasks or quantities to permit maximum participation.
- Prime contractors are required to take affirmative steps to select such businesses when letting subcontracts.
- Other affirmative steps that may be taken to include such businesses.

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20.10 LABOR STANDARDS MONITORING CHECKLIST

20.10.1 STAFFING

- A key person is assigned to labor standards compliance.
- The key staff person approves advertisement of contracts.
- The key staff person approves all payments to contractors.

20.10.2 PROCEDURES

- Procedures are in place to verify inclusion of the correct wage decision and labor standards provisions, verify and document contractor eligibility, conduct employee interviews, and track complaint resolution.
- Payrolls and other documents are examined regularly to assess compliance.
- Violations and corrective actions are timely communicated.
- Deficiencies are tracked and timely resolved.
- Subrecipient monitoring of compliance is conducted according to a risk model and regular schedule.
- Makes employer reports and recommendations regarding liquidated damages if necessary.
- Submits timely quarterly reports.

20.10.3 PROJECTS

- Labor standards provisions and correct wage decisions are incorporated into contracts.
- Certified payrolls are received for all contractors and trades.
- Payroll data, inspection, and on-site reports are consistent.
- Payroll certifications are signed by the employer.
- If apprentices or trainees are reported on payrolls, certification was obtained, and contractors are in compliance with apprentice/trainee ratio requirements.
- Payroll reports do not include any generic classifications that are not on the wage decision.
- If additional classifications were needed, the city obtained approval to add wage decisions.
- Correct wages were paid according to the wage decision.
- Payroll deductions were permissible.
- Fringe benefits were acceptable.

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- If any laborer or mechanic worked over 40 hours in a week on the project and the project is subject to the Contract Work Hours and Safety Standards Act, the employees were paid overtime for hours worked over 40 hours per week.
- If employees were not paid overtime, the employer was notified of the amount of restitution and liquidated damages.
- Employee interviews were conducted.
- Interviews recorded work performed by the worker and observed by the interviewer.
- Interviews were compared to payrolls.
- Contract violations were corrected.
- Violations were reported to HUD.
- If any complaints were received, an investigation was conducted.

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20.11 CIVIL RIGHTS MONITORING CHECKLIST

20.11.1 ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE (AI)

- An AI has been completed.
- Records document the city has taken actions to remedy or ameliorate impediments to fair housing choice.

20.11.2 AREA AND DIRECT BENEFIT ACTIVITIES

- Records are maintained on each racial and ethnic group and single-headed household, including the householder gender of householder that applies for, participates in, or benefits from CDBG-funded activities.
- Race and ethnicity data is reported.

20.11.3 EMPLOYMENT

- City and subrecipient employment data document compliance with EEO-4 form, which requires data is maintained for race and ethnicity.
- City and subrecipient data document that actions have been undertaken to assure equal employment opportunity to all persons regardless of race, color, national origin, sex, familial status, and disability.

20.11.4 DISPLACEMENT AND RELOCATION

- Data regarding the race and ethnicity, familial status, gender of single heads of households, and addresses and census tracts of housing units to which each displaced household relocated are maintained.
- The city and subrecipients documented efforts to advise relocated persons of their rights under the Fair Housing Act, and their right to relocate to residences in areas of non-minority concentration at their option.
- The city and subrecipients made referrals for minority persons to comparable and suitable decent, safe, and sanitary replacement dwellings not located in areas of minority concentration

20.11.5 MINORITY BUSINESS ENTERPRISES/WOMEN'S BUSINESS ENTERPRISES

- The city documented:
 - The race and ethnicity of each business entity receiving a contract or subcontract of \$25,000 or more paid, or to be paid, with CDBG funds;

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- Data indicating which of these entities are women’s business enterprises as defined in Executive Order 12138;
- The amount of the contracts or subcontracts; and
- Affirmative steps taken to assure that minority business and women’s business enterprises had an equal opportunity to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services.

20.11.6 AFFIRMATIVE ACTION TO OVERCOME PRIOR DISCRIMINATION

- If the courts or HUD found that the city or any subrecipient previously discriminated against persons on the grounds of race, color, national origin, or sex in administering the CDBG program, the city documented the affirmative action measures taken to overcome prior discrimination.

20.11.7 SECTION 504

- The city and any subrecipients with 15 or more employees have a formal, written grievance procedure for resolution of complaints alleging discrimination based on disability.
- The city and any subrecipients document (e.g., blueprints, construction specifications) that all new non-housing facilities are being designed and constructed to be readily accessible to, and usable by, persons with disabilities.
- The city and any subrecipients document that alterations made to existing non-housing facilities are readily accessible to, and usable by, persons with disabilities.
- The city and any subrecipients document that programs and activities are readily accessible to, and usable by, persons with disabilities.
- The city and any subrecipients have policies and records to ensure effective communication with applicants, beneficiaries, and members of the public with disabilities, including vision, speech or hearing impairments. This may include the use of qualified sign language and oral interpreters, readers, tapes, braille materials, and/or TTD.
- The city and any subrecipient document steps taken to attract persons with disabilities, such as: making buildings more accessible to persons with physical disabilities; home visits to assist applicants for program benefits in filling out applications; and supplying sign language interpreters for public meetings.
- Records are maintained on persons with disabilities that apply for, participate in, or benefit from CDBG-funded activities.
- The city has conducted a Section 504 Self-Evaluation and a Transition Plan.
- The city and subrecipients have a reasonable accommodation policy.

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- Subrecipients are monitored by the city for compliance with Section 504, ADA, and Fair Housing Act requirements.

20.11.8 SECTION 3

- Procedures are in place for filling job openings, including:
 - Notifying Section 3 residents about employment and training opportunities;
 - Notifying potential contractors and subrecipients of covered projects of Section 3 requirements; and
 - Facilitating meeting benchmarks for Section 3 workers and Targeted Section 3 workers.
- Documentation is maintained regarding:
 - Total labor hours worked on the project and the number of hours worked by Section 3 and Targeted Section 3 workers.
 - Section 3 worker and Targeted Section 3 worker eligibility.
 - If the Section 3 benchmarks were not met, qualitative actions taken to engage Section 3 workers and businesses.
- Records are maintained regarding contract awards to Section 3 business contractors, including:
 - Section 3 business eligibility certification.
 - If the Section 3 benchmarks were not met, qualitative actions taken to engage Section 3 businesses in contracting opportunities.
- The city and subrecipients notified contractors of their responsibilities to comply with Section 3 requirements, and:
 - Monitored covered contractors for compliance;
 - Did not enter into contract with contractors that have violated Section 3 requirements;
 - Included the Section 3 clause or comparable language in covered solicitations; and
 - Included the Section 3 clause in all covered contracts.
- The city submitted an annual Section 3 Summary Report to HUD.

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20.12 ACQUISITION AND RELOCATION MONITORING CHECKLIST

20.12.1 RELOCATION AND REAL PROPERTY ACQUISITION POLICIES AND PROCEDURES

- The city has a Residential Anti-displacement and Relocation Assistance Plan.
- The city informs applicants for funding of acquisition and relocation-related actions that must take place prior to award.
- Relocation plans are required for occupied projects.
- Lawful presence in the United States is verified for each person seeking URA relocation payments or advisory assistance.
- Relocation claims are reviewed for cost allowability.
- Processes are in place to ensure that each replacement dwelling unit is in decent, safe, and sanitary condition.
- Compliance with URA and Section 104(d) requirements are required in subrecipient or loan/grant contracts.
- A process is in place to review relocation payments to ensure there are no lump sum payments made, except for moving expenses, down payment on the purchase of a replacement dwelling, or incidental expenses related to such moving expenses or down payment.
- The appeals process complies with URA requirements
- Acquisition and relocation actions are tracked.
- Subrecipients are monitored for compliance; technical assistance is provided to subrecipients if needed.

20.12.2 REAL PROPERTY ACQUISITION

Each acquisition activity was evaluated to determine whether it was voluntary or involuntary. For voluntary acquisition, project records provide sufficient detail to demonstrate compliance with URA acquisition requirements, including:

- An accurate identification of the project area;
- A list of all parcels to be acquired for the project (including those acquired with other funding sources);
- The final settlement statement (Closing Disclosure);
- Title documents (preliminary opinion and final opinion);

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- A copy of the recorded deed indicating book and page; and
- If the property was condemned, files include eminent domain filing and related court decision(s).

For involuntary acquisition, project records provide sufficient detail to demonstrate compliance with URA acquisition requirements, including:

- A reasonable basis for the determination of market value is documented under one of the following criteria:
 - The property was appraised; or
 - The property qualified for a waiver valuation (uncomplicated valuation and valued \leq \$10,000 (up to \$25,000 with HUD approval) and the valuation was prepared by someone familiar with real estate values; or
 - The owner donated the property and released the Agency from its obligation to appraise the property.
- The owner was provided written notice of the agency's interest in acquiring the property and information explaining basic URA protections.
- The owner was provided a written summary statement of the basis for the offer of just compensation that includes:
- The amount offered as just compensation;
 - A description and location of the real property and interest to be acquired; and
 - An identification of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) included in the offer of just compensation.
- For partial acquisitions, the acquiring agency offered to acquire any uneconomic remnant.
- The owner was given reasonable opportunity to consider the offer, present material believed to be relevant to determining the value of the property, and suggest modification to the proposed terms and conditions of the purchase.
- If the purchase price exceeded the offered just compensation amount:
 - Reasonable efforts to negotiate an agreement at the just compensation amount fail; and
 - An authorized agency official approved the amount paid as reasonable, prudent and in the public interest.

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- The owner was reimbursed for all reasonable expenses incidental to the title transfer and reasonable expenses incurred because of litigation.
- Payment was made for the property before taking possession.
- If the owner was permitted to retain improvements for removal from the project site, the offer price was offset by no more than the salvage value of the retained improvements
- If there are any appeals on file, the city took required actions to address the appeals in accordance with URA requirements, and the appeal does not indicate that the agency took coercive action or attempted inverse condemnation.
- The owner was offered eligible relocation assistance as a displaced person, if eligible. If not eligible, the basis for the determination of ineligibility is documented.

20.12.3 **PROJECT OCCUPANCY**

For projects that include acquisition, relocation and/or demolition, even if those activities are not CDBG-funded, project records include:

- Whether the project is occurring on unoccupied land and not used for storage of personal property.
- Occupancy records identify all potentially displaced persons on the following dates:
- At the time the project application is made or the date of site control, whichever is later;
 - At the time of the Initiation of Negotiation;
 - At the time of project completion.
 - If more than 20% of the units or complex were vacant at the time of application, 90 days before the date of application.
- Each occupant was issued a General Information Notice (GIN) before or at the time of application for federal funds.
- Move-in notices were provided to tenants moving into the project between the time of project application and project completion prior to occupancy; the notice described the possible impacts of the project on the person and that the person was not entitled to relocation assistance.
- If tenants moved between the time of application and the time of ION and did not receive a GIN, the city took steps to locate all persons who may have been eligible for relocation assistance.
- For persons determined not displaced and eligible for relocation assistance:

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- The person was lawfully evicted;
- The person moved in after acquisition and received a move-in notice; or
- The person was offered a reasonable opportunity to lease and occupy a suitable and affordable decent, safe, and sanitary dwelling in the same building/complex upon completion of the project.
- An individual case file is maintained for each displaced person.
- All appropriate claims were paid.
- For temporary relocation in rental properties:
 - The move was for less than twelve months;
 - The temporarily occupied unit was decent, safe, and sanitary; and
 - If the tenant did not return to the property, reasonable out-of-pocket expenses were reimbursed.
- Notices were hand-delivered and signed for or mailed by registered or certified mail with return receipt requested.
- No potentially displaced person was asked to waive relocation assistance.
- The city set a reasonable timeframe for aggrieved persons to appeal.
- Aggrieved persons were given an opportunity to inspect and copy relevant files.
- If full relief was not granted under an appeal, the city notified the appellant of their right to seek judicial action.

20.12.4 **RELOCATION OF RESIDENTIAL DISPLACED PERSON – INDIVIDUAL FILE(S)**

- Full name.
- Tenure (owner/renter).
- Address of displacement.
- Date of final move.
- Address of replacement property.
- Household composition.
- Householder race and ethnicity.
- Household income and whether the household is low-income as defined for HUD public housing and Section 8 programs. If the household is low-income, the replacement housing payment is the lesser of 30% of average monthly gross household income or average

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monthly cost for rent and utilities at the displacement dwelling during the six months prior to displacement.

- Written General Information Notice (GIN), evidence of delivery, and individual's response.
- Evidence that the GIN informed the person:
 - Of possible displacement, the types of relocation payments the person may be eligible for, and procedures for obtaining payment;
 - That no one will be required to move without at least 90 days advance written notice;
 - That they cannot be required to move permanently unless referred to at least two comparable dwelling units;
 - That the person and anyone who is an alien not lawfully present in the United States is ineligible for relocation advisory services and relocation payments unless the ineligibility would result in an extremely unusual hardship to a qualifying spouse, parent, or child as defined in 49 CFR 24.208(h); and
 - Of the right to appeal the city or agency determination of eligibility for assistance.
 - Evidence that the displaced person was issued the appropriate HUD information booklet(s).
 - Evidence that each displaced person was interviewed and provided advisory services, including the date of the interview(s), and a checklist of topics discussed that is signed and dated by the displaced person and the interviewer.
- A Notice of Eligibility for Relocation Assistance was issued, and if applicable the Notice of Eligibility:
 - Informed the person of his/her eligibility for relocation assistance effective on the date of a notice of intent to acquire, the initiation of negotiations, or actual acquisition, whichever occurred first;
 - Adequately described the assistance, the estimated amount of assistance and the procedures for obtaining the assistance; and
 - Correctly explained to the person the moving expense choices that were available.

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- The displaced person was notified in writing as soon as feasible of the specific comparable replacement dwelling and the price or rent/utility costs used for establishing the upper limit of the replacement housing payment.
- At least one and, where possible, three or more, comparable replacement dwelling(s) were made available to the displaced person.
- The notice was hand delivered and signed for by the person, or delivered by certified/registered mail return receipt requested.
- A proper 90-day Notice was issued, and if applicable the 90-day Notice:
 - Identified a specific day as the earliest date by which the occupant would be required to move, or stated that the occupant will receive a further notice indicating, at least 30 days in advance, the specific date by which the occupant must move.
 - Included a required move-out date at least 90 days after a comparable replacement dwelling was made available.
 - The notice was hand delivered and signed for by the person, or delivered by certified/registered mail return receipt requested.
- A proper 30-day Notice was issued, and if applicable the 30-day Notice was hand delivered and signed for by the person, or delivered by certified/registered mail return receipt requested.
- Minority persons were given reasonable opportunities to relocate to decent, safe and sanitary replacement dwellings that are within their financial means and not located in an area of minority concentration.
- Displaced persons were offered transportation to inspect housing to which the person was referred.
- If the displaced person was eligible for government housing assistance at the replacement dwelling, the person was advised of any requirements of the government housing assistance program that would limit the size of the replacement dwelling, as well as of the long-term nature of any rent subsidy, and the limited (42 month) duration of the relocation rental assistance payment.
- Counseling and advice as to other sources of assistance that may be available were provided, along with technical help to persons applying for such assistance.
- The amounts and dates of payments for moving and related expenses, and whether the payment was for actual expenses, a fixed payment, or a combination of payments.

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- The amounts and dates of replacement housing assistance payments, the date the claim was filed, and the amount claimed.
- Evidence that the replacement unit was inspected and determined to be decent, safe, and sanitary prior to making a replacement payment or releasing the initial payment from escrow, as applicable.

20.12.5 RELOCATION OF NON-RESIDENTIAL DISPLACED PERSON – INDIVIDUAL FILE(S)

- Full name.
- Address of displacement.
- Tenure (owner/renter).
- Date of final move.
- Address of replacement property.
- Type of client (business, farm, nonprofit organization).
- Evidence that the displaced person was interviewed to determine relocation needs and preferences and to explain rights and options, including:
 - Information on the business’s replacement site requirements;
 - The need for outside specialists;
 - Identification and resolution of realty issues;
 - Estimate of time required for the business to vacate the site;
 - Estimate of anticipated difficulty in locating a replacement site; and
 - Identification of any required advance relocation payments.
- Written General Information Notice (GIN), evidence of delivery, and individual’s response.
- Evidence that the GIN informed the person:
 - Of possible displacement, the types of relocation payments the person may be eligible for, and procedures for obtaining payment;
 - That no one will be required to move without at least 90 days advance written notice;
 - That the person and anyone who is an alien not lawfully present in the United States is ineligible for relocation advisory services and relocation payments unless the ineligibility would result in an extremely unusual hardship to a qualifying spouse, parent, or child as defined in 49 CFR 24.208(h); and
 - Of the right to appeal the city or agency determination of eligibility for assistance.

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- Evidence that the displaced person was issued the appropriate HUD information booklet(s).
- Evidence that each displaced business was interviewed and provided advisory services, including the date of the interview(s), and a checklist of topics discussed that is signed and dated by the displaced business representative and the interviewer.
- A Notice of Eligibility for Relocation Assistance was issued, and if applicable the Notice of Eligibility:
 - Informed the business of its eligibility for relocation assistance effective on the date of a notice of intent to acquire, the initiation of negotiations, or actual acquisition, whichever occurred first;
 - Adequately described the assistance, the estimated amount of assistance and the procedures for obtaining the assistance; and
 - Correctly explained to the business the moving expense choices that were available.
 - The displaced business was notified in writing of the availability, purchase prices, and rental costs of suitable replacement sites and assisted in obtaining and becoming established in a suitable replacement location.
 - The notice was hand delivered and signed for by the person, or delivered by certified/registered mail return receipt requested.
- A proper 90-day Notice was issued, and if applicable the 90-day Notice:
 - Identified a specific day as the earliest date by which the occupant would be required to move, or stated that the occupant will receive a further notice indicating, at least 30 days in advance, the specific date by which the occupant must move.
 - The notice was hand delivered and signed for by the person, or delivered by certified/registered mail return receipt requested.
- A proper 30-day Notice was issued, and if applicable the 30-day Notice was hand delivered and signed for by the person, or delivered by certified/registered mail return receipt requested.
- The amounts and dates of payments for moving and reestablishment expenses, and whether the payment was for actual expenses, a fixed payment, or a combination of payments.

20.12.6 SECTION 104(D) RELOCATION ASSISTANCE AND ONE-FOR-ONE REPLACEMENT

- The project involved demolition of or conversion of lower-income dwellings.
- Whether any lower-income person moved permanently from the project site.

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- Whether lower-income persons who moved permanently from the property were displaced by the project
- Each displaced person was provided advisory services that included an explanation of relocation payments for which the person may be eligible under Section 104(d) and the procedures for obtaining such assistance.
- The explanation of Section 104(d) payments provided to displaced persons included moving expenses, reimbursement of security deposits and credit checks, and interim living costs.
- Tenants were apprised of their right to appeal the determination concerning eligibility as a displaced person and/or the amount of relocation assistance.
- The city reviewed appeals filed by aggrieved persons, informed the person(s) of the right to request HUD review of the city's determination and, if full relief was not granted, informed the person(s) of the right to seek a judicial review.
- Each occupied and vacant occupiable lower-income dwelling unit that was demolished or converted was replaced with an acceptable replacement unit within three years.
- The one-for-one replacement preliminary information was made public and submitted to HUD before the city committed the funds.
- If any occupied or vacant occupiable units were not replaced, HUD determined that there was an adequate supply of vacant lower-income dwelling units in standard condition available on a nondiscriminatory basis within the area.

20.12.7 APPRAISALS

If an acquired property was appraised:

- The owner was invited to accompany the appraiser on the inspection of the property;
- The acquiring agency adequately defined the appraisal problem and developed a relevant scope for the appraisal work;
- The appraisal included a description of comparable sales, a statement of value (highest and best use), the effective date of valuation, date of appraisal, signature, and certification of the appraiser;
- A qualified review appraiser examined all appraisals and identified each as recommended (as the basis for the establishment of just compensation), accepted (meets all requirements, but not selected as recommended or approved), or not accepted; and

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- The agency established an amount determined to represent just compensation for the real property in an amount no less than the approved appraisal of fair market value.

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20.13 HOUSING REHABILITATION MONITORING CHECKLIST

20.13.1 PROGRAM DESIGN AND MANAGEMENT

- The types of buildings, improvements, and assistance provided qualify as eligible activities.
- The appropriate income definition was used.
- Written program operating policies and procedures comply with HUD regulations and policies, including:
 - Dispute resolution procedures.
 - For rental rehabilitation, written standards for determining “affordable rents” are in place.
 - Marketing to potential program participants.
 - Staff training on housing rehabilitation requirements.

20.13.2 BUDGET AND PRODUCTIVITY

- Total CDBG funds budgeted, obligated year-to-date, and expended year-to-date.
- The number of proposed versus actual units rehabilitated during the program year.

20.13.3 REHABILITATION STANDARDS

- Written standards and specifications are in place.
- Written standards and specifications incorporate local housing codes, and a process for ensuring local code compliance.
- Written policies and procedures specify/describe:
 - Requirements for preparing work specifications and cost estimates.
 - The specification and cost estimate approval processes.
 - Change orders.
 - Cost reasonableness determinations and processes.

20.13.4 LOAN FINANCING AND SERVICING

- Written loan-financing and servicing procedures are in place that include:
 - Conditions of assistance, including interest rates, loan terms, and maximum loan amounts.

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- Process for handling delinquencies.
 - Loan servicing procedures.
- Individual loan files include:
 - Promissory note and deed of trust.
 - Security documents and evidence of recordation.
- Program files include written agreements with lenders, loan servicing entities, title companies and others involved in administration of the program that detail the roles and responsibilities of each party.

20.13.5 **CONTRACTOR SELECTION AND OVERSIGHT**

- Written contractor selection procedures are in place for contractors selected in accordance with procurement requirements if the homeowner is not selecting the contractor.
- If the homeowner is selecting the contractor, written guidelines are in place for providing technical assistance to the homeowner.
- A pool of eligible contractors is in place for rehabilitation work.
- There is a written procedure for resolving contractor disputes, if the contractor is selected by the city or subrecipient.
- The quality and scope of rehabilitation work is consistent with the scope of work and cost.
- The eligibility of contractors to participate in federally-funded activities is verified.
- Pre-construction conference attendance, agendas and notes are on file.
- A written notice to proceed is on file.
- Building permits are on file.
- Routine progress inspections are documented.
- All work has been inspected prior to contractor payment.
- The owner or owner's authorized representative approved each contractor payment.
- Change orders are documented and approved by the owner.
- A formal notice of completion is filed and all mechanic's liens have been released.

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20.13.6 BENEFICIARY AND REHABILITATION DATA

- Written procedures are in place for maintaining applicant, beneficiary, and rehabilitation records and information.
- Loan and/or grant agreements are maintained in a secure and fireproof facility.
- Data is backed up electronically.
- Rehabilitation activities are reported in IDIS.
- The data tracking system adequately tracks program outputs.
- The original application for assistance and records of approval/denial are on file.

20.13.7 LUMP SUM DRAWDOWNS

- There is a written lump sum agreement that contains all required elements.
- The agreement describes the benefits to be provided by the private financial institution in support of the rehabilitation program, including provisions of interest payments.
- A copy of the executed agreement, and any amendments or modifications, was provided to the HUD field office.
- Funds are being used in accordance with the written agreement.
- Use of deposited funds commenced within 45 days of deposit.
- Funds were substantially disbursed within 180 days of deposit.
- The level of program activity is reviewed not less than annually.

20.13.8 ESCROW ACCOUNTS

- If established, the use of funds placed in escrow accounts is limited to loans and grants for single-family properties (up to four dwelling units).
- Escrow funds are used only when specifically provided for in an executed contract between a homeowner and contractor.
- The amount of funds deposited in an escrow account is limited to the amount that is expected to be disbursed within 10 days.
- If escrow accounts are interest bearing, interest earned is remitted to HUD not less than quarterly.

20.13.9 OTHER PROGRAM REQUIREMENTS

- The program complies with Lead Hazard requirements.

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- If any owner or tenant was temporarily or permanently relocated, the applicable URA requirements were followed and documented.
- The environmental review requirements were met for the program and for each assisted property.
- If applicable, the Davis-Bacon and Labor Standards requirements were followed and documented.
- Properties located within a special flood hazard area are in compliance with flood insurance and community participation requirements.

20.13.10 **RENTAL REHABILITATION AND MULTI-FAMILY HOUSING – ADDITIONAL MONITORING**

- A written agreement is in place with the property owner that includes:
- The total number of dwelling units in each structure and the number of units that will be occupied by LMI households upon completion.
- The definition of affordable rent or purchase price.
- The total cost of the activity, including both CDBG and non-CDBG funds is documented.
- Initial, interim and final inspection reports are on file.
- The work write-up and cost estimate addresses issues raised in the Capital Needs Assessment.
- An executed copy of the loan agreement, promissory note, and deed of trust are on file.

20.13.11 **PUBLIC IMPROVEMENTS IN SUPPORT OF HOUSING DEVELOPMENT – ADDITIONAL MONITORING**

- For each improvement made, commitments are in place to ensure structures will be occupied by LMI persons.

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20.14 HOMEOWNERSHIP ASSISTANCE MONITORING CHECKLIST

- Written policies and procedures are in place, including the types of assistance provided, and any additional restrictions, such as recapture or resale provisions.
- The program complies with Lead Hazard requirements.
- The environmental review requirements were met for the program and for each assisted property.

20.14.1 BENEFICIARY DATA

- Each beneficiary file includes:
 - Property address;
 - Type of assistance provided (interest subsidy, down payment, etc.);
 - Verification of household income and supporting documentation.
 - The amount of assistance provided.
- Household income was correctly calculated, the correct income limits were used, and the household is LMI.
- If down payment assistance was provided, not more than 50% of the down payment required by the mortgagee was provided on behalf of the purchaser.
- The family was notified of possible Lead Hazard requirements.

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20.15 ECONOMIC DEVELOPMENT ACTIVITY MONITORING CHECKLIST

- The name and address of the assisted entity and geographic location of the activity are documented.
- The activity is properly classified.
- If the activity was undertaken by a Community Based Development Organization (CBDO), the CBDO was certified as meeting CBDO requirements.
- The type of assistance provided.
- The national objective is documented.
- Evidence of a written agreement between the city/subrecipient and business regarding its commitment to create low- and moderate-income jobs OR documentation to support low- and moderate-income benefits based on the retention of jobs as applicable.

20.15.1 SPECIAL ECONOMIC DEVELOPMENT

- Proposed vs. actual jobs created or retained.
- Proposed vs. actual number of LMI people residing the area.
- Basic financial underwriting was conducted prior to providing financial assistance to a for-profit business.
- The activity was expected to create one FTE permanent job per \$50,000 of CDBG assistance OR benefitted at least one LMI person per \$1,000 of CDBG assistance.

20.15.2 PUBLIC BENEFIT INDIVIDUAL AND AGGREGATE STANDARDS

The aggregate public benefit requirements are based on ALL CDBG/108 obligations made by the city and its subrecipients during a single CDBG program year. When reviewing for compliance with the public benefit standards, job creation/retention activities are monitored separately from areawide benefit activities.

- If any amendments were made to a written agreement, both individual and aggregate public benefits testing was conducted for the amendment.
- Records demonstrate the level of public benefit actually achieved by the activities.

20.15.3 JOB CREATION/RETENTION ACTIVITIES

- For each individual business assisted, CDBG assistance resulted in at least one FTE equivalent job for every \$50,000 of CDBG assistance invested.

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- For all assisted businesses combined, CDBG assistance resulted in at least one FTE equivalent job for every \$35,000 of CDBG assistance invested.

20.15.4 AREA BENEFIT ACTIVITIES

- For each business assisted, CDBG assistance benefited at least one LMI person per \$1,000 of CDBG assistance invested based on the number of LMI persons in the defined service area.
- For all assisted businesses combined, CDBG assistance benefited at least one LMI person per \$350 of CDBG invested based on the number of LMI persons in the defined service area.

20.15.5 OTHER REQUIREMENTS

- If applicable, documentation supports compliance with Lead Hazards requirements.
- If CDBG funds were used for construction, acquisition and/or rehabilitation of real property located in a Special Flood Hazard Area, properties are in compliance with the flood insurance and community participation requirements.
- The Uniform Relocation Act was followed if any tenants or owners were temporarily or permanently relocated.
- The appropriate level of environmental review was conducted.
- Labor standards requirements were met, if applicable.

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20.16 OVERALL MANAGEMENT SYSTEMS MONITORING CHECKLIST

- All activities undertaken are consistent with an identified priority in the city's most current Consolidated Plan.
- The city and subrecipients have written policies and procedures.
- The city's and subrecipient's written policies and procedures describe:
 - Methods to ensure that CDBG funds are used in accordance with program requirements.
 - How implementation and management responsibilities are assigned and delegated.
 - Evidence that the person responsible for day-to-day administration and management has sufficient experience.
 - Evidence that the person responsible for day-to-day administration and management has appropriate authority to effect change or undertake actions.
- A system is in place to track the progress of each CDBG-funded project and/or activity.
The system:
 - Includes a timeline with scheduled completion dates.
 - Collects and maintains data regarding the physical location, number of LMI beneficiaries, racial/ethnic data for beneficiaries and persons displaced, fair housing activities, and housing characteristics.
- Tracking system data is consistent with data entered into IDIS.
- Any discrepancies between tracking system data and data entered into IDIS are isolated.
- The CAPER is submitted in a timely and accurate manner.

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20.17 PUBLIC FACILITIES AND IMPROVEMENTS MONITORING CHECKLIST

- Documentation is maintained to support activity eligibility and compliance with a national objective.
- The activity includes acquisition, construction, reconstruction, rehabilitation, or new construction.
- The boundaries of the service area are fully described.
- The size of the service area is consistent with the nature and scope of the activity.
- The appropriate census or survey data was used.
- If a special survey was conducted, the survey methodology met the regulatory requirements for statistical reliability.
- The activity meets the area benefit standard of at least 51% LMI, or the exception criteria for the program year, if applicable.
- The activity qualifies towards meeting the city's minimum 70% requirement to benefit LMI persons.

20.17.1 OTHER REQUIREMENTS

- All procurement requirements were met for the type(s) of procurement conducted.
- Adequate documentation is maintained to support expenditures.
- Expenditures are consistent with the contract/written agreement scope of work.
- The correct environmental review was conducted for the activity.

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20.18 PUBLIC SERVICES MONITORING CHECKLIST

- Not more than 15% of the annual allocation was used for public services activities.
- The public service activity was either a new service or a service that represents a quantifiable increase of an existing service above that which has been provided by or on behalf of the city in the preceding twelve (12) calendar months, regardless of funding source.
- The entity providing the public service has committed to continue the service for a minimum of one (1) year after the expenditure of the CDBG funds (based on all known factors at the time of application).

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20.19 CODE ENFORCEMENT MONITORING CHECKLIST

- There are written local operating procedures and policies for the code enforcement program that include a definition of code enforcement.
- If the city hired a code enforcement inspection company or specialist, that company or specialist was procured in accordance with 2 CFR 200.318-200.326.
- If the city is using its employees, the percentage of time for each employee conducting code inspection, code enforcement (e.g., issuing violation notices, receiving and processing fines), or code enforcement hearings using CDBG funds is documented on timesheets and the salary is paid based on that percentage of time.
- If depreciation costs are charged to CDBG for vehicles and other equipment used in code enforcement, depreciation costs were limited to the percentage of use for CDBG-assisted code enforcement.
- Costs incurred for CDBG-assisted code enforcement are necessary and reasonable.
- Documentation demonstrates that the areas where CDBG-assisted code enforcement is being carried out are deteriorated or are deteriorating according to local and/or state law.
- Documentation demonstrates improvements that have or will be made in areas where CDBG-assisted code enforcement is being carried out.
- Any fines for violations are used to recoup the costs of conducting the code enforcement and credited those activities to CDBG.

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20.20 NATIONAL OBJECTIVE COMPLIANCE MONITORING CHECKLIST

20.20.1 LMI AREA WIDE BENEFIT

- The boundaries of the service area are fully described.
- The service area is primarily residential.
- The size of the service area is consistent with the nature and scope of the activity.
- The appropriate census or survey data was used.
- The activity meets the area benefit standard of at least 51% LMI, or the exception criteria for the program year, if applicable.
- If the activity did not meet the 51% or exception criteria standard for the program year, the activity was limited to paying special assessments levied against residential properties owned and occupied by LMI persons for a public improvement activity that benefited all residents of the service area.
- The activity qualifies towards meeting the city's minimum 70% requirement to benefit LMI persons.
- If a special survey was conducted, the survey methodology met the regulatory requirements for statistical reliability.
- If a special survey was conducted to qualify the activity using the program year exception criteria, the survey included all block groups in the city, all block groups in the city were re-ranked, and a new upper quartile limit was correctly calculated.
- Any fees charged are affordable to low-income persons.

20.20.2 LMI LIMITED CLIENTELE BENEFIT

- The activity is appropriately classified as presumed benefit, family size and income, LMI eligibility restrictions, or nature and location.
- Presumed benefit clientele meet one or more of the segments presumed LMI by HUD.
- If classified under family size and income, documentation demonstrates that at least 51% of beneficiaries are LMI.
- If classified under LMI eligibility restrictions, documentation demonstrates that all beneficiaries are LMI.
- If classified under nature or location of the activity, documentation demonstrates that at least 51% of beneficiaries are LMI.

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- Facility or service inspection evidences the activity predominantly or exclusively benefits LMI persons.
- The correct income limits were used for the family size and year of assistance.
- Documentation supports that income status was properly assessed, and updated if necessary.

20.20.3 HOUSING BENEFIT

- The activity is an eligible housing activity.
- The types of buildings, improvements, and assistance provided qualify as eligible activities.
- If the property has no structures, written agreements and other restrictions are in place to ensure a national objective will be met when the property is developed.
- A written agreement exists with the landlord or developer receiving CDBG assistance for development of the property. The written agreement indicates the total number of dwelling units in each structure and the total number of units that will be occupied by low- and moderate-income households following completion of the assisted activity.
- Reporting mechanisms are in place to ensure that the activity will comply with occupancy requirements.

20.20.3.1 Owner-occupied Structures

- Each assisted structure meets the requirements for occupancy by low- and moderate-income households.
- Income eligibility was determined by project annual household income.
- The appropriate income limits and program year were used to calculate and confirm owner occupancy by an LMI household.

20.20.3.2 Rental Buildings

- Documentation demonstrates the amount of rent charged (or to be charged for unfinished projects) after assistance for each dwelling unit occupied by a LMI household in each assisted structure.
- Program documentation contains the affordable rents criteria, and demonstrates rents meet the city's affordability standard.

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- If more than one rental building is being assisted and the buildings are under common ownership and management and located on the same or contiguous properties, the buildings are treated as one structure.
- Documentation demonstrates that at least 51% of rental units were initially occupied by LMI households paying an affordable rent.

20.20.3.3 Multi-family Structures

- If the structure contains two units, at least one unit was initially occupied by an LMI household paying an affordable rent.
- If the structure contains three or more units, at least 51% of units were initially occupied by LMI households paying an affordable rent.
- Activities have been spot-checked to verify levels of initial occupancy by LMI households paying an affordable rent.

20.20.3.4 New Construction of Multi-family Non-elderly Rental Housing

- The CDBG assistance was used to reduce the development cost of the new construction of a multi-family, non-elderly rental housing project; and
- At least 20% of the units are (or will be) occupied by low- and moderate-income households at affordable rents; and
- The proportion of the CDBG funding is not greater than the percentage of low- and moderate-income units.
- The appropriate Section 8 income limits and household size were used to determine the number of units initially occupied by low- and moderate-income households.

20.20.4 JOB CREATION/RETENTION BENEFIT

20.20.4.1 Job Creation

- A written agreement is in place with the assisted business that includes a completion date, and commits the business to have at least 51% of the jobs, on a full-time equivalent basis, held by LMI persons.
- The agreement contains a listing by job title of the permanent jobs to be created, identifying which are part-time, if any.
- A method or system is in place for tracking the business' progress in meeting its responsibilities under the agreement.

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- Part-time jobs were computed on a full-time equivalent (FTE) basis using 40 hours as an FTE.
- Temporary jobs were excluded from job computations.
- If the activity is not yet complete, it appears the job commitment will be met.
- If the activity is complete:
 - The number of permanent FTE jobs created is documented.
 - At least 51% of permanent jobs created were initially held by LMI persons, on an FTE basis.
 - Documentation lists by job title the permanent jobs filled and which jobs were initially held by LMI persons.
 - For each LMI person hired, documentation supports household income, presumed benefit status, or residence in an LMI block group.

20.20.4.2 **Jobs Made Available to LMI Persons**

- A written agreement is in place with the assisted business that includes a completion date, and commits the business to making available at least 51% of the jobs (by giving first consideration to), on a full-time equivalent basis to LMI persons, and training will be provided for any jobs requiring special skills and education.
- The agreement contains a listing by job title of the permanent jobs to be created, identifying which are part-time, which will be made available to LMI persons, and which require special skills or education.
- A method or system is in place for tracking the business' progress in meeting its responsibilities under the agreement.
- Part-time jobs were computed on a full-time equivalent (FTE) basis using 40 hours as an FTE.
- Temporary jobs were excluded from job computations.
- If the activity is not yet complete, it appears the job commitment will be met.
- If the activity is complete:
 - The number of permanent FTE jobs created is documented.
 - At least 51% of permanent jobs created were made available to, by giving first consideration to LMI persons, on an FTE basis.

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- Documentation demonstrates how first consideration was given to LMI persons, including the hiring process used, LMI person interviewed for each job, LMI persons hired for each job.
- Documentation lists by job title the permanent jobs filled and which jobs were initially held by LMI persons.
- For each LMI person hired, documentation supports household income, presumed benefit status, or residence in an LMI block group.

20.20.4.3 Job Retention

- A written agreement is in place with the assisted business that includes a completion date, and commits the business to retaining, making available or filling at least 51% of the jobs, on a full-time equivalent basis, for LMI persons.
- A method or system is in place for tracking the business' progress in meeting its responsibilities under the agreement.
- Part-time jobs were computed on a full-time equivalent (FTE) basis using 40 hours as an FTE.
- Documentation demonstrates jobs would have been lost without CDBG assistance and the number of jobs to be retained.
- Documentation lists the job title of the permanent jobs retained (including which jobs are part-time) and which jobs are held by low- and moderate-income persons (where it is known) at the time CDBG assistance was provided.
- Documentation includes which of the retained jobs are projected to become available to low- and moderate-income persons through job turnover within two years of the CDBG assistance being provided and the basis for the turnover projection.
- Where jobs will be filled through turnover, documentation lists by job title:
 - the permanent jobs;
 - which jobs, if any, were part-time; which jobs required special skills or education; and
 - which of those jobs were made available to LMI persons.
- Where jobs will be filled through turnover, documentation evidences LMI persons will be given first consideration, the hiring process used, LMI persons interviewed for each job, and LMI persons hired for each job.

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- Documentation demonstrates the actual jobs turned over, how first consideration was given to LMI persons, and which jobs were either made available to or taken by LMI persons.
- At least 51% of the jobs retained were held by LMI persons on a permanent FTE basis at the time CDBG assistance was first provided.
- For each LMI person retained or hired through turnover, documentation supports household income, presumed benefit status, or residence in an LMI block group.

20.20.5 SLUM/BLIGHT AREA BASIS

- Date designated as slum/blight is not more than ten years ago.
- Documentation identifies the state or local law that contains the definition of a slum, blighted, deteriorated or deteriorating area and was used to qualify the area.
- The geographical boundaries of the designated area for the activity are clearly defined.
- If the area qualified on the basis of deteriorated or deteriorating buildings, documentation demonstrates that the area, at time of designation, had a substantial number of deteriorating or deteriorated buildings.
- If the area qualified on the basis of the condition of the public improvements (e.g., streets, sidewalks) in the area, documentation demonstrates that the public improvements throughout the area were in a general state of deterioration.
- The activity or activities address one or more conditions that contributed to the deterioration of the area.
- If residential buildings will be rehabilitated under the slum and blight area national objective:
 - The local definition of substandard housing conditions is used and the definition, at a minimum, meets housing quality assistance standards for Section 8 Housing Choice Voucher programs.
 - Structure files include how the building met the local definition of substandard, a pre-rehabilitation inspection report describing all deficiencies in the structure to be rehabilitated is documented, the scope of work details necessary rehabilitation, and documentation demonstrates substandard conditions were eliminated prior to less critical work on the structure.

20.20.6 SLUM/BLIGHT SPOT BASIS

- The activity consists of acquisition, clearance, relocation, historic preservation, and/or building rehabilitation.

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- Documentation describes the specific condition of blight or physical decay that the activity eliminates.
- Except of historic property rehabilitation, rehabilitation of a building was limited to addressing conditions detrimental to public health and safety, and the rehabilitation addressed clearly-described public health and safety conditions.
- Inspection of the site demonstrates only specific conditions of blight or physical decay were addressed.

20.20.7 URGENT NEED

- The condition of particular urgency that poses a serious and immediate threat to the health or welfare of the community is clearly documented.
- The condition became critical within the 18 months preceding the urgent need certification.
- If the condition did not become critical within the 18 months preceding the urgent need certification, documentation justifies the condition is of recent origin.
- Documentation demonstrates the activity or activities were limited to those necessary to alleviate the threat to the health and welfare of the community.
- Documentation demonstrates that other sources of funding were not available to cover all activity costs.
- Inspection evidences the activity or activities alleviated the threat to community health or welfare.