

TEAM KENTUCKY™

Community Development Block Grant Handbook 2021



Developed by
ICF
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Glossary of Terms and Acronyms

These terms are used frequently throughout the handbook. Please reference these terms for explanation of commonly used names, acronyms, and phrases.

- ✓ **ACH Routing Number:** The number assigned to each bank by the Federal Reserve for the routing of financial transactions.
- ✓ **Activity Code:** The code numbers assigned for each activity in a project and shown on the cost summary in each grant agreement.
- ✓ **Affirmative Action:** A specific action or activity to eliminate or prevent discrimination. Affirmative action is often designed to remedy past discrimination and to ensure it does not reoccur.
- ✓ **Allowable Costs:** Costs that are acceptable under 2 CFR 200 and are approved as part of an activity in the grant agreement.
- ✓ **Amendment:** A written revision or change to the contract/grant agreement.
- ✓ **American Indian/Alaskan Native:** A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.
- ✓ **ADA:** Americans with Disabilities Act of 1991.
- ✓ **ARC:** Appalachian Regional Commission.
- ✓ **Area Development Districts (ADDs):** Regional planning and development organizations in which counties and cities work together to accomplish common goals and receive shared benefits.
- ✓ **Assessed Value:** The valuation of property for the purpose of levying a tax.
- ✓ **Appraised Value:** An estimate and opinion of the value of property resulting from the analysis of facts. The three generally accepted approaches to real estate value estimates are: (1) market approach - comparison with known sales of other properties in the same area and classification; (2) cost approach—reproduction costs less depreciation; and (3) income approach—capitalization of the estimated net income.
- ✓ **Asian:** A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
- ✓ **Assurance:** A written statement or contractual agreement signed by the chief executive officer in which a grantee agrees to administer Federally-assisted programs in accordance with laws and regulations.

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- ✓ **Beneficiaries:** Persons to whom assistance, services or benefits are ultimately provided.
 - ✓ **Black/African-American:** A person having origins in any of the Black racial groups of Africa.
 - ✓ **Community Development Block Grant (CDBG):** The Federal entitlement program that provides funds to States and cities/counties for community development programs and projects.
 - ✓ **CEO:** Chief Executive Officer or Chief Elected Official.
 - ✓ **Change Order:** A written revision or change to a contract.
 - ✓ **Collateral:** Security given as a pledge for the fulfillment of an obligation normally in the form of fixed assets (i.e., land, building, equipment, etc.).
 - ✓ **Community Development Plan:** See Development Plan.
 - ✓ **Compliance:** The fulfillment of the requirements of applicable laws, implementing regulations and instructions.
 - ✓ **Condemnation:** The act of taking private property for public use by a political subdivision.
 - ✓ **Consolidated Plan (Con Plan):** A plan prepared in accordance with the requirements set forth in 24 CFR Part 91, which describes community needs, resources, priorities, and proposed activities to be undertaken under certain HUD programs, including CDBG.
 - ✓ **Contract Amendment:** Any written alteration in the specifications, delivery point, day of delivery, contract period, price, quantity or other provision of an existing contract.
 - ✓ **Contractors:** A contractor is an entity paid with project funds in return for a specific service (e.g., construction). Contractors must be selected through a competitive procurement process.
 - ✓ **Contractual Break:** A point in time when a community closes all KCDBG projects it has been awarded.
 - ✓ **Cost Reimbursable:** A type of contract where contractors are paid for the work accomplished. The contract specifies an estimate of total costs and designates a maximum dollar amount that cannot be exceeded without the approval of the contracting officer.
 - ✓ **Department for Local Government (DLG):** The agency within the Commonwealth of Kentucky that administers the State CDBG Program.
 - ✓ **Development Plan:** A plan for the redevelopment of all or part of an area when a local public agency is going to purchase and reuse it, including any amendments thereto, approved in accordance with the requirements of KRS 99.070. For CDBG purposes, the plan must be site specific.
 - ✓ **Discrimination:** Unequal treatment of a class of persons. An action, policy or practice is discriminatory if the result is unequal treatment of a particular protected class.

- ✓ **Displaced Person or Business:** When a person or business is forced to move permanently as a direct result of acquisition, demolition or rehabilitation of HUD-assisted projects carried out by public agencies, nonprofit organizations, private developers, and others.
- ✓ **DUNS Number:** The Data Universal Numbering System (DUNS) is a unique numeric identifier assigned to a single business entity, developed and regulated by Dun & Bradstreet (D&B).
- ✓ **Easement:** The right, privilege or interest one party has in the land of another and is an encumbrance against the property that is subject to it. An easement may be permanent or temporary.
- ✓ **Equal Employment Opportunity (EEO):** Refers to a number of laws and regulations that together require that CDBG grantees provide equal opportunity to all persons without regard to race, color, religion, age, familial status, disability, sex, sexual orientation, gender identity, or national origin in the administration of their programs.
- ✓ **Eligible Costs:** The costs of a project that are acceptable according to Section 105 of the Housing and Community Development Act and that are consistent with the grant agreement.
- ✓ **Eminent Domain:** The power of the government to take private property for public use upon just compensation. The power extends to all lands acquired for the purpose of a higher public character deemed necessary for the proper performance of governmental functions essential to the life of the Commonwealth.
- ✓ **Environmental Assessment (EA) Checklist:** A concise public document to aid in a grantee's compliance with the National Environmental Policy Act.
- ✓ **Environmental Clearance:** A clearance given by DLG to indicate a grantee has met the CDBG environmental procedures and sufficient documentation and certification have been provided.
- ✓ **Environmental Impact Statement (EIS):** The documentation that is required when a project is determined to have a potentially significant impact on the environment.
- ✓ **Environmental Review (ER):** The technical process of identifying and evaluating the potential environmental effects of a specific project within each impact category and as a whole.
- ✓ **Environmental Review Record (ERR):** Documentation of the environmental review process including all assessments or environmental impact statements, published notices, notifications and correspondence relating to a specific project.
- ✓ **Equity:** Funds that will be invested in a project by a private company designated as the participating party in the grant agreement.
- ✓ **Extremely Low-Income (ELI):** As defined in the Consolidated Plan regulations and Section 8 Program, a family whose annual income does not exceed 30 percent of the area median family income.

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- ✓ **Fair Housing:** Refers to a number of Federal and State laws and regulations that prohibit a wide range of discriminatory practices and require that CDBG-funded programs be administered in a manner that affirmatively furthers fair housing.
 - ✓ **Fair Market Value:** The price at which a willing seller would sell and willing buyer would buy a piece of real estate with neither being under abnormal pressure. As defined by the courts, the highest estimated price a property would bring if exposed for sale in the open market.
 - ✓ **Family:** As defined in the Entitlement program a group of persons residing together, and includes but is not limited to: a family with or without children, an elderly family; a near-elderly family; a disabled family; or a displaced family. An individual living in a housing unit that contains no other person(s) related to him/her is considered to be a one-person family for this purpose.
 - ✓ **Federal Assistance:** Any funding, property or aid provided for the purpose of assisting a beneficiary.
 - ✓ **Federal Tax ID Number:** The number assigned to the grantee by the Internal Revenue Service (IRS) for the purpose of filing tax information.
 - ✓ **Fee Simple:** Absolute ownership of real property with unrestricted rights of disposition during the owner's life.
 - ✓ **Firm Fixed-Price Contract:** A contract that provides for a price that is not subject to any adjustment in the performance of the contract.
 - ✓ **Finding of No Significant Impact (FONSI):** A public document by a Federal agency or a KCDBG grantee briefly presenting the reasons why an action not otherwise excluded (40 CFR 1508.4) or exempt will not have a significant effect on the human environment and for which an environmental impact statement will not be prepared.
 - ✓ **Full Release of Funds:** The date on which the grantee has received environmental clearance and DLG has received and approved all the items listed in the evidentiary section of the grant agreement.
 - ✓ **Funding Agency:** Term used to refer to the entity that provides funding for an activity, project or program, as used particularly when completing environmental requirements. In the case of CDBG funds, DLG is the funding agency.
 - ✓ **Grantee:** Refers to eligible communities that receive and use CDBG funds under the Commonwealth of Kentucky's CDBG Program.
 - ✓ **Hispanic or Latino:** A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
 - ✓ **Household:** As defined in the Entitlement program, all persons occupying the same housing unit, regardless of their relationship to each other. The occupants could consist of a single family, two or more families living together, or any other group of related or unrelated persons who share living arrangements.

- ✓ **HUD Exchange:** Website with resources and information on various HUD programs, including CDBG. It can be found at www.hudexchange.info.
- ✓ **Inspection:** The examination and testing of supplies and services to determine if they conform to contractual requirements.
- ✓ **Internal Controls:** Policies and procedures that ensure project transactions will be carried out in conformity with applicable regulations and agency policy.
- ✓ **Invitation for Bids (IFB):** Under the sealed bidding method of procurement, the written solicitation document that explains what the grantee is buying and requests bids from potential contractors.
- ✓ **KCDBG:** Kentucky Community Development Block Grant.
- ✓ **KRS:** Kentucky Revised Statutes.
- ✓ **Language Assistance Plan (LAP):** A plan developed by organizations to address other-than-English language service capabilities for limited-English proficient (LEP) individuals.
- ✓ **Lease:** A contract in which a property owner (lessor) transfers the possession of an asset to another party (leasee), usually in exchange for the payment of rent.
- ✓ **Legally Binding Agreement:** Document entered into between the grantee and the nonprofit and/or participating party that defines and delineates each party's responsibilities as contained in the grant agreement.
- ✓ **Lien Position:** The order in which creditors will be satisfied in case of default.
- ✓ **Life Estate:** An estate or interest held during the term of a particular person's life.
- ✓ **Limited English Proficiency (LEP) Individuals:** Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.
- ✓ **Local Development Agency (LDA):** A locally based non-profit that is certified by the KCDBG program to implement CDBG activities under Section 105(a)15 and retain LDA proceeds, which are not considered program income and are not federal funds.
- ✓ **Local Match:** Funds provided by the locality/grantee as a condition of award/use of CDBG funds. Local match can come from a variety of non-grant, cash sources.
- ✓ **Low and Moderate Income (LMI):** As defined in the Consolidated Plan regulations and Section 8 Program a family whose annual income whose annual income is below 80 percent of the area family median income.
- ✓ **Low-income:** A household/family having an income below 50 percent of the area median income.

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- ✓ **Microenterprise:** A commercial enterprise that has five or fewer employees, including the owner (or owners) of the business.
 - ✓ **Middle Income:** As defined by the Consolidated Plan regulations, a household with an income between 80 and 95 percent of the area median income.
 - ✓ **Minority:** A person or groups of persons differing from others in some characteristics such as race, color, national origin, religion, sex, disability or familial status.
 - ✓ **Minority Business Enterprise/Woman-owned Business Enterprise (MBE/WBE):** Companies owned by minorities or women.
 - ✓ **Miscellaneous Revenue:** Revenue recaptured by a grantee that is not program income and not subject to Federal requirements.
 - ✓ **Moderate-income:** A household/family having an income above 50 percent but below 80 percent of the median income for the area.
 - ✓ **Monitoring:** A routine review of projects during and after Federal assistance has been provided to the grantee.
 - ✓ **National Objective(s):** Refers to the three main goals of the CDBG Program—(1) benefit to LMI persons, (2) prevent or eliminate slums/blight, or (3) meet a need having a particular urgency. All funds expended under the program must meet one of the three national objectives.
 - ✓ **National Origin:** Can be defined as a person’s ancestry, nationality group, lineage or country of birth of parents and ancestors before their arrival in the United States.
 - ✓ **Native Hawaiian/Other Pacific Islander:** A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
 - ✓ **Necessary and Appropriate:** The process used by the grantee to ensure that private firms benefiting from KCDBG projects will not be unduly enriched.
 - ✓ **Negotiation:** Discussion regarding technical and price proposals with offers in the competitive range for a contract being awarded using the competitive proposals or noncompetitive proposal method of procurement.
 - ✓ **Noncompetitive Proposals:** The method of procurement in which the grantee solicits proposal(s) from one source or a limited number of sources. This process may be used only under very limited circumstances and DLG must approve the use of noncompetitive proposals.
 - ✓ **Noncompliance:** Failure or refusal to comply with an applicable law or regulation or DLG requirement.
 - ✓ **Notice of Intent/Request Release of Funds (NOI/RROF):** The notice the grantee completes and submits to DLG once it is determined that a project will not require an environmental impact statement.

- ✓ **Office of Management and Budget (OMB):** This is the oversight agency of the Federal government.
- ✓ **Persons with Disabilities:** Persons who have physical or mental impairments that substantially limit one or more of their major life activities (i.e., talking, walking, working, etc.), have histories of those impairments, or are regarded as having those impairments under provisions of the ADA.
- ✓ **Participating Party:** For profit or nonprofit entity that is the beneficiary of the KCDBG funds awarded.
- ✓ **Potential Beneficiaries:** Those persons who are eligible to receive Federally- assisted program benefits and services.
- ✓ **Program Income:** Gross income received by a unit of general local government or a subrecipient that was generated from the use of CDBG funds.
- ✓ **Proposal:** In the competitive/noncompetitive proposal method of procurement, the offer submitted by a potential contractor.
- ✓ **Protected Class(es):** A person or persons who, by virtue of race or color, national origin, religion or creed, sex, disability, age or familial status are protected and given redress by the law when discriminated against.
- ✓ **Public Notification:** Process of publicizing information about CDBG projects. This is attained through the use of newspapers, newsletters, periodicals, radio and television, community organizations, grassroot and special needs directories, brochures, and pamphlets.
- ✓ **Public Posting:** Display of information such as notices in prominent locations throughout the community.
- ✓ **Quotation:** The price or offer submitted by a business in the small purchase method of procurement.
- ✓ **Recipient:** City and/or county that is awarded a KCDBG grant (also referred to as grantee). The term recipient can also be used to refer to beneficiaries of certain programs, like housing programs.
- ✓ **Regulations:** Refers to the implementing requirements that are developed and issued by the agency responsible for a certain program or requirement. In the case of CDBG, the regulations are issued by HUD and can be found at 24 CFR Part 570.
- ✓ **Request for Proposals (RFP):** Under the competitive proposal method of procurement, the agency's written solicitation to prospective firms to submit a proposal based on the terms and conditions set forth therein. Evaluation of the proposal is based on the factors for award as stated in the solicitation.
- ✓ **Request for Qualifications (RFQ):** A form of procurement of professional services by competitive proposals in which price is neither requested in the advertisement nor used as an evaluation factor. Only technical qualifications are reviewed and a fair and reasonable price negotiated with the most qualified firm.

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- ✓ **Request for Quotations:** Under the small purchase method of procurement, a brief written request for a price quotation from potential contractors.
 - ✓ **Responsible Bidder:** A bidder who has the technical and financial capacity to secure the necessary resources in order to deliver the goods or services.
 - ✓ **Responsible Entity (RE):** Term used to refer to the entity responsible for completing and certifying an environmental review record, as required under 24 CFR Part 58. In the case of KCDBG funds, grantees (that are local governments) are the responsible entity.
 - ✓ **Responsive Bid:** A bid that conforms exactly to the requirements in the invitation for bids (IFB).
 - ✓ **Revolving Fund:** A separate fund that is independent of other program accounts established to carry out specific activities that, in turn, generate payments to the fund for use in carrying out such activities. Commonly used under CDBG program income funds for ongoing housing rehabilitation or economic development activities.
 - ✓ **Right of Way:** A privilege operating as an easement upon land whereby the owner has given to another the right to pass over the land to construct a roadway or use as a roadway a specific part of the land. The right to construct through or over the land telephone, telegraph or electric power lines, or the right to place underground water mains, gas mains or sewer mains.
 - ✓ **Sanctions:** Measures that may be invoked by DLG or HUD to exclude or disqualify someone from participation in HUD programs (e.g., debarment and suspension) or to address situations of noncompliance.
 - ✓ **Sealed Bidding:** The procurement method for requesting competitive sealed bids. This method of procurement requires specifications be written clearly, accurately and completely describing the requirements. A public bid opening is held and evaluation of bids and award of the contract are based on the best bid submitted by a responsive and responsible contractor.
 - ✓ **Section 3:** Refers to Section 3 of the Housing and Urban Development Act of 1968, as amended in 1992, which requires that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, be directed to low- and very low-income persons, and/or to businesses that provide economic opportunities to low- and very low-income persons.
 - ✓ **Specifications:** Clear and accurate description of the technical requirements of a service or supply contract.
 - ✓ **State Historic Preservation Office (SHPO):** The State office that determines whether a grantee's project includes historically significant properties under applicable environmental review requirements. In Kentucky, this office is the Kentucky Heritage Council.
 - ✓ **Scope of Work (SoW):** Written definition of work to be performed that establishes standards sought for the goods or services to be supplied, typically used for service contracts.

- ✓ **Statute/Statutory:** Refers to requirements that have their basis in the law passed by Congress. In the case of CDBG, the statute is Title I of the Housing and Community Development Act of 1974. Statutory provisions cannot be waived by HUD, except in cases of a natural disaster, and must be changed or approved by Congress. There are also some parts of the Kentucky Revised Statutes applicable to the KCDBG Program.
- ✓ **Statutory Checklist:** A checklist covering environmental compliance required by other Federal agencies, executive orders and other HUD regulations (24 CFR 58.5).
- ✓ **Subrecipient:** Subrecipients are governmental or private nonprofit organizations chosen by the grantee to undertake certain eligible CDBG activities.
- ✓ **Super (Omni) Circular:** Regulations issued at 2 CFR 200 by the federal Office of Management and Budget (OMB) on December 26, 2013 (officially titled “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”), which is also referred to as the Omni Circular. The Super Circular supersedes and streamlines the uniform administrative requirements of 24 CFR Parts 84 and 85 as well as OMB Circulars A-133, A-110, and A-122. New audit requirements are effective for fiscal years beginning after December 26, 2014 (refer to Chapter 3).
- ✓ **System for Award Management (SAM):** An information system tool that streamlines the Federal acquisition business processes by acting as a single authoritative data source for vendor, contract award, and reporting information.
- ✓ **Termination for Convenience:** Termination of a contract on a unilateral basis when the grantee no longer needs or requires the products or services or when it is in the best interest of the grantee.
- ✓ **Termination for Cause:** Termination of a contract when the contractor fails to perform or make progress so as to endanger performance.
- ✓ **Time Delay:** An interruption during which services, supplies or work are not delivered in accordance with the performance time schedule stated in the contract.
- ✓ **Title VI of the Civil Rights Act of 1964:** Federal law (USC 2000d-4) prohibiting discrimination based on race, color or national origin.
- ✓ **Uniform Federal Accessibility Standards (UFAS):** Uniform standards for the design, construction and alteration of buildings so that physically disabled persons will have ready access to and use of them in accordance with the Architectural Barriers Act.
- ✓ **Uniform Relocation Act (URA):** The Federal regulation governing the acquisition of real property and the relocation or displacement of persons from Federally-assisted projects.
- ✓ **Urban Renewal Plan:** See Development Plan.
- ✓ **US Department of Housing and Urban Development (HUD):** HUD establishes the regulations and requirements for the program and has oversight responsibilities for the use of CDBG funds.

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- ✓ **US Department of Labor (DOL):** Department of the U.S. Government that is responsible for Federal labor regulations and requirements.
 - ✓ **US Environmental Protection Agency (EPA):** Department of the U.S. Government that is responsible for Federal environmental regulations and requirements.
 - ✓ **Very Low-income:** As defined by the Consolidated Plan regulations and Section 8 Program, a family whose annual income falls in the range of 31 to 50 percent of the area median family income.
 - ✓ **White:** A person having origins in any of the original peoples of Europe, North Africa or the Middle East.

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Introduction

The Kentucky CDBG Program

The Kentucky Community Development Block Grant Program (KCDBG) is designed to provide assistance to units of local government in improving economic opportunities and meeting community revitalization needs. Funding for the CDBG Program is provided to the Commonwealth of Kentucky by HUD under Title I of the Housing and Community Development Act of 1974, as amended. All cities and counties in Kentucky are eligible for participation with the exception of the following entitlement jurisdictions, which receive CDBG funds directly from the U.S. Department of Housing and Urban Development (HUD): Ashland, Bowling Green, Covington, Elizabethtown, Henderson, Hopkinsville, Owensboro, Lexington/Fayette County, and the Louisville/Jefferson County metro government.

HUD has established the following three National Objectives for the CDBG Program:

- ✓ **Benefit to low- and moderate-income persons.** This objective requires that 51% of the people benefiting from the KCDBG-funded activity are low and moderate income, based on area median income calculations.
- ✓ **Aid in prevention or elimination of slums or blight.** This objective requires that activities meet a definition of slum area, blighted area, deteriorated or deteriorating under Chapter 99 of Kentucky Revised Statutes (KRS); and that the area contains a substantial number of deteriorating or dilapidated buildings throughout; and that the activity is designed to address one or more of the conditions that contributed to the deterioration of the area; or the activity addresses an individual structure, which would otherwise meet the definition of slum or blight.
- ✓ **Meet community development needs having a particular urgency.** An activity meets this objective if it addresses needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community; is of recent origin (within 18 months) or which recently became urgent; and has no other available source to complete the funding package and the community cannot finance the activity on its own.

The Commonwealth of Kentucky, Governor's Department for Local Government (DLG) is assigned the primary responsibility for the administration of the CDBG Program at the state level. The goals of the KCDBG program are as follows:

- ✓ **Goal 1:** To improve local economies and the economic well-being of the people of Kentucky while protecting the environment.

Objectives:

- Encourage private investment that will result in the creation of new jobs, primarily for the unemployed and underemployed.
 - Discourage the out-migration of businesses that employ and serve the local population.
- ✓ **Goal 2:** To provide public facilities to eliminate conditions which are detrimental to the public health and safety and which thus detract from further community development, or which are necessary to meet other essential community needs.

Objectives:

- Improve existing public facilities.
 - Provide new facilities when warranted by recent population growth or when essential needs exist.
- ✓ **Goal 3:** To improve the condition of housing and expand fair housing opportunities especially for persons of low and moderate income (LMI).

Objectives:

- Encourage the rehabilitation of appropriate existing housing units.
 - Encourage the creation of new housing units including adaptive reuse of suitable structures.
 - Encourage the purchase and preparation of sites for construction of new housing units for persons of low and moderate income.
 - Eliminate blighting conditions in residential areas through demolition, code enforcement, and related activities.
- ✓ **Goal 4:** To improve the quality of life through funding community projects requested by individual communities to enhance community pride and involvement, and perpetuate local identity.

Objectives:

- Enable local communities to provide services they have determined are important but generally cannot afford.
 - Foster a revitalization of community structure to help communities help themselves.
 - Promote energy efficiency in new construction and rehabilitation projects, especially the use of Energy Star qualified products.
- ✓ **Goal 5:** To improve the lives of citizens by helping them overcome chemical addictions and avoid the risk of homelessness.

Objectives:

- Provide operational costs to support new and existing residential substance abuse centers.
 - Provide support to educational programs for at-risk or LMI persons with substance abuse issues.
- ✓ **Goal 6:** To assure that not less than 70% of the total amount of CDBG funds received for a three-year period (determined by DLG) shall be used for support of activities that benefit persons of low and moderate income.

Objectives:

- Expand economic opportunities principally for persons of low and moderate income.
- Provide public facilities that are necessary to the public health and safety principally for persons of low and moderate income.
- Improve the quality of existing housing stock and the availability of housing units principally for persons of low and moderate income.
- Improve the quality of life through funding community projects requested by individual communities to enhance community pride and involvement, and perpetuate local identity.

- ✓ **Goal 7:** To support the intent of the federal Promise Zone designation awarded to eight (8) distressed counties in southeastern Kentucky. The counties are Bell, Clay, Harlan, Knox, Leslie, Letcher, Perry and part of Whitley.

Objectives:

- Foster development of eligible competitive CDBG applications through training of certified CDBG administrators and project meetings with local officials.
- Extend special consideration to eligible and worthy project applications from jurisdictions within targeted distressed counties.

Administrators' Handbook

The purposes of this handbook are to:

- ✓ Assist grant administrators in the day-to-day administration of CDBG projects.
- ✓ Provide practical information on how to implement a CDBG project that will meet legal, financial, and program obligations.
- ✓ Provide the grant administrator a simple step-by-step approach for the implementation of CDBG-funded projects including grant approval, set-up, compliance with applicable requirements, audits, and close-out.
- ✓ Provide tools to assist in CDBG project implementation. The tools include tips, lists, forms, and sample documents that are in the chapter or in the attachments to each chapter.

Note, however, that this Handbook is intended as a guide and reference, not as a substitute for thorough knowledge of State and Federal laws and regulations referenced in the handbook. Though not all inclusive, this Handbook covers the major areas of CDBG administration, provides required and suggested forms and instructions, and provides references for applicable State and Federal laws and regulations.

As necessary, revisions or additions to this Handbook will be issued to current administrators of CDBG projects. This Handbook should be retained and kept up-to-date to ensure effective administration of CDBG grants. Latest versions of the Handbook can be found on the DLG website.

Other Resources and Information

It is very important to note that the applicable regulations and requirements are subject to change. Grantees are responsible for ensuring that they are in compliance with all applicable rules. This can be accomplished by periodically checking the websites listed below to see if updated or revised regulations have been issued:

- ✓ Kentucky websites:
 - https://kydlgweb.ky.gov/FederalGrants/16_CDBG_handbook.cfm
 - https://kydlgweb.ky.gov/FederalGrants/CDBG_cities.cfm
 - <http://www.lrc.ky.gov/statutes/index.aspx>

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- ✓ Guide to National Objectives and Eligible Activities for State CDBG Programs: <https://www.hudexchange.info/resource/2179/guide-national-objectives-eligible-activities-state-cdbg-programs/>
 - ✓ CDP Income Calculator: <https://www.hudexchange.info/incomecalculator/>
 - ✓ HUD Office of Community Planning and Development Training: <https://www.hudexchange.info/training-events/>
 - ✓ HUD Office of Healthy Homes and Lead Hazard Control: http://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes
 - ✓ National Archives: <http://www.gpo.gov/fdsys/>
 - ✓ HUD Office of Labor Standards and Enforcement (OLSE): <https://www.hud.gov/states/shared/working/r4/olr/>
 - ✓ HUD Office of Environment and Energy (OEE): <https://www.hudexchange.info/programs/environmental-review/>
 - ✓ Department of Labor: <http://www.dol.gov/>
 - ✓ Office of Management and Budget: <http://www.whitehouse.gov/omb>

Additional links are provided within each chapter of the Handbook. For more information or assistance, grantees are encouraged to contact DLG.

Chapter 1: Project Administration

Introduction

Administering Kentucky Community Development Block Grant (KCDBG) grants requires regular attention to grant requirements and deadlines. This chapter provides grantees with general information on how to administer a CDBG grant from the Department for Local Government (DLG). The chapter details requirements for certified grant administrators, grant award procedures, release of grant funds, citizen participation and grievances, conflict of interest and record maintenance.

This chapter addresses the following:

1. Certified Grant Administrator Requirement
2. Grant Award Procedures
3. Release of Grant Funds
4. Citizen Participation and Grievance Procedures
5. Conflict of Interest
6. Meeting a National Objective
7. Project Signage
8. Applicable Laws and Regulations
9. Maintaining Records

The basic rules in this KCDBG manual may also apply to CDBG-Disaster Recovery (CDBG-DR); however, CDBG-DR funding allocations have additional or different rules and requirements that would be issued after a funding award. Please refer to your DLG Representative and HUD program guidance for questions or clarifications.

From the award of the grant-to-grant close out, the grant follows a specific course.

Section 1-A. Certified Grant Administrator Requirement

The Commonwealth of Kentucky requires that individuals administering CDBG funds be officially certified by DLG as CDBG Administrators.

Certification Requirements

To be certified as a CDBG Administrator, first time attendees must participate in the DLG-sponsored CDBG Administrator Certification training and pass a test, which is administered at the culmination of the training.

The test follows a comprehensive CDBG Administrator training, which is delivered periodically to allow individuals interested in CDBG administration the opportunity to become certified. The course will be marketed by the Commonwealth of Kentucky via the DLG website and email. Check the DLG website or reach out to a DLG representative for the dates the workshop is offered.

Upon completion of the training, individuals will be informed within approximately 60 days if they have successfully completed the test and received the certification.

It is important to note that it is the individual who attended the training and passed the test that receives the certification, not the firm that employs the individual. Therefore, if an individual leaves the organization the certification goes with the individual. A new CDBG Administrator at the organization will have to become certified.

DLG maintains an updated list of certified CDBG Administrators. The list is updated after new certifications are granted.

Periodic workshops are provided for previously Certified Administrators to update their knowledge and maintain the certification. Certified Administrators must attend required trainings (as notified by DLG) or the certification may be revoked. DLG reserves the right to revoke a certification in cases of repeated findings (refer to Chapter 12 for more information on monitoring) or failure to respond to DLG requests in a timely manner.

Section 1-B. Grant Award Procedures

Background Information

Submitting a CDBG funding application to DLG results in either an award or a notice of non-selection. Communities that are selected to receive a grant are sent a preliminary approval letter. This begins the process of setting up the grant and ensuring that all contractual documents are in place. The steps in the process for newly awarded grants are described in this section.

Steps in the Process

Setting up a new CDBG grant award involves a number of steps. These steps are outlined below.

1. DLG sends the preliminary approval letter to the grantee that announces the award, the amount of the grant, and instructions on how the grantee needs to respond (the process may differ depending on type of grant, i.e., housing, economic development, etc.). If the grantee accepts the terms specified in the preliminary approval letter, the Chief Executive Officer (CEO) will sign and return the offer.
2. The CEO of the grantee community attends a grant agreement conference with DLG staff and key parties such as the grant administrator, engineer/architect, subrecipient, etc. The meeting format and topics discussed will vary depending upon the type of grant.
3. After the grant agreement meeting, the CEO of the grantee community reviews the agreement with their legal counsel and both parties sign the agreement.
4. Two copies of the signed grant agreement are returned to DLG.
5. DLG processes and executes the grant agreement through the State approval system and defines all effective dates.
6. DLG maintains one copy of the grant agreement and sends the other copy back to the grantee for its records.

Grant Agreement Provisions

The grant agreement typically includes the following requirements and provisions:

- ✓ Legal boilerplate information,

- ✓ 2 CFR 200 (Subpart F) on audit information and requirements,
- ✓ Names and addresses of grantee and contacts,
- ✓ List of activities to be completed,
- ✓ A cost summary, and
- ✓ A list of all evidentiary items that are required prior to a release of funds (discussed in the next Section of this chapter).

Section 1-C. Release of Grant Funds

In order for the grantee to begin spending the grant funds, certain evidentiary materials must be submitted to DLG.

Evidentiary Materials Required

The grant agreement specifies which evidentiary materials are required for submission to DLG. DLG must receive and approve these materials before the grantee may expend any project funds for specified activities. Evidentiary materials will be required for the following items:

- ✓ Completion of an environmental review/environmental certification and required documentation (e.g., tear sheets for required notices) (See Chapter 2: Environmental Review); Chapter 2: Environmental Review
- ✓ Firm commitments for “other funds” anticipated in the approved application. The local contribution should be placed in a restricted account for project use only;
- ✓ Evidence of mandatory sewer hook-up ordinance;
- ✓ Approval of Budget Ordinance/Amendment;
- ✓ Approval of Anti-displacement and Relocation Assistance Plan;
- ✓ Copy of adopted resolution approving the CDBG procurement code (see Chapter 4: Procurement); Chapter 4: Procurement
- ✓ Cost overrun resolution stating that any cost overruns will be paid for by the grantee;
- ✓ State Clearinghouse assurance and comments;
- ✓ State Historic Preservation Office (SHPO) approval letter (See Chapter 2: Environmental Review);
- ✓ Evidence that tribal consultation requirements have been met (See Chapter 2: Environmental Review);
- ✓ Fair Housing Resolution or Ordinance (See Chapter 7: Fair Housing); Chapter 7: Fair Housing
- ✓ Letter of designation of local fair housing/EEO responsible official
- ✓ Written assurance (on grantee letterhead signed by the designated grantee official) regarding
 - Maintenance of a copy of the State’s Fair Housing Analysis of Impediments (AI)
 - Commitment to carry out fair housing activities (see list in Chapter 7)

- Maintenance of demographic records
- Required posters will be displayed
- Adoption of the State Title VI Plan
- Adoption of a drug-free workplace policy
- ✓ Policy of Non-Discrimination on the Basis of Disability Status (for grantees with 15 or more employees) (See Chapter 7: Fair Housing);
- ✓ Section 504 Accessibility Self Evaluation and Transition Plan (See Chapter 7: Fair Housing);
- ✓ Title VI Self Survey and Statement of Assurance or Title VI Implementation Plan (See Chapter 7: Fair Housing);
- ✓ Drug Free Workplace Statement;
- ✓ Submission of legally binding commitments between subrecipients, private participants and the grantee;
- ✓ Fully executed grant agreement;
- ✓ All inter-local agreements must be submitted for approval by either DLG or the AG office;
- ✓ Authorized Signature and Electronic Transfer of Funds Forms (See Chapter 3: Financial Management); and
- ✓ Other possible documents:
 - Submission of loan or lease agreements, as applicable;
 - Submission of security documents, as applicable;
 - Submission of certification by legal counsel relating to each of the above documents; and
 - Submission of revolving fund procedures as applicable.

[Chapter 3: Financial Management](#)
[Chapter 5: Contracting](#)

Similar to other community projects, economic development activities often require pre-approval of legal agreements, due to the participation of private, for-profit businesses in these projects. In addition to the above required materials, special conditions or materials may be required depending on the type of grant funded. It is recommended that the grantee submit all of the evidentiary items together in one package. The grantee should not hesitate to contact DLG with any questions, as delays in submitting these materials will delay program implementation.

Request for Approval of Evidentiary Materials and Release of Funds

After completing the evidentiary materials, the grantee should prepare the Request for Release of Funds and attach the necessary documentation (see Attachment 1-1: Request for Approval of Evidentiary Materials and Release of Funds). DLG will review the Request for Release of Funds and other documentation, and notify the grantee upon approval. Once approval is received, the grantee can begin expending project activity funds.

[Attachment 1-1:
Request for Approval
of Evidentiary Materials
and Release of Funds](#)

Note: Grantees should note that DLG may terminate the grant and grant agreement if the required evidentiary and release of funds documentation are not submitted to the department within 90 days of the date of the preliminary approval letter.

Note: If the grantee obligates or expends any project funds for any activity (except for those costs relating to engineering and planning, as applicable) prior to DLG approval of the environmental clearance, these costs are considered an ineligible use of KCDBG funds and the grantee will be denied payment for such expenses.

Section 1-D. Citizen Participation and Grievance Procedures

It is important that citizens of local jurisdictions are able to participate in the funding and decision-making process of local CDBG projects. To that end, Section 5304(a)(2) and (a)(3) of Title I and 24 CFR 570.486(a)5 and 91.115(e) require grantees to provide adequate citizen participation in the planning, implementation, and evaluation of CDBG activities.

Section 5304(a)(2)(3) of Title I of the Housing and Community Development Act of 1974
24 CFR 570.486(a)5
24 CFR 91.115(e)

Citizen Participation

Local government must provide reasonable opportunities for citizen participation, hearings, and access to information with respect to local community development programs. Certain citizen participation requirements must be met by the grantee prior to application submission while other requirements apply throughout the course of the project. Grantees are expected to take whatever actions are appropriate to encourage the participation of all its citizens, including minorities and non-English speaking persons, as well as persons with disabilities.

Program Guidelines, "Citizen Participation Plan"

Grantees are required to conduct at least two public hearings during the course of the grant to elicit citizen feedback on the following:

- ✓ **Needs Assessment:** Solicit input on community development and housing needs as well as potential activities. This hearing must be held prior to application submission.
- ✓ **Review of Performance:** Review past use of funds and program performance. This hearing must be held prior to grant close-out. (Refer to Chapter 13: Project Closeout for more information on the close-out process and the required hearing at this stage.)

Chapter 13: Project Closeout

The citizen participation requirements include that the grantee must identify how the needs of non-English speaking residents will be met in the case of a public hearing where a significant number of non-English speaking residents can be reasonably expected to participate.

KYCDBG recipients are obligated under 24 CFR 91.105 (a) (2)(ii), and 24 CFR 91.115 (b)(3)(iii) to provide language services for the citizen participation process. The regulations provide that for CDBG recipients, "...[a] jurisdiction also is expected to take whatever actions are appropriate to encourage the participation of all its citizens, including minorities and non-English speaking persons, as well as persons with disabilities."

Chapter 7: Fair Housing and Equal Opportunity

Developing a Language Assistance Plan (LAP) is one of the steps that recipients and subrecipients must take to demonstrate that they have taken "reasonable steps" to provide language services to persons who have Limited English Proficiency (LEP), or who are considered LEP persons. See Chapter 7: Fair Housing and Equal Opportunity for more information or contact DLG for additional guidance.

Additional public hearings must be held if a substantial amendment to a funded activity occurs. See Chapter 12: Amendments and Monitoring for more information on substantial amendments.

Chapter 12: Amendments
and Monitoring

The grantee, at a minimum, must perform the following activities in advance of all public hearings:

✓ **Develop the hearing notice** with the following elements (see Attachment 1-2: Sample Public Hearing Notice):

Attachment 1-2:
Sample Public Hearing Notice

- Description of the project;
- Description of CDBG funding available, program income available, and parameters for assistance;
- Amount of CDBG funds being requested and for which activities;
- Anti-displacement plan (if applicable) due to activity undertaken;
- Record of past uses of CDBG;
- Summary of other important program requirements and available technical assistance;
- Information for persons with disabilities on how to request an accommodation, including how to request documents in an alternative format; and
- The State TDD number (800) 648-6056 or State relay number (800) 648-6057 or 711.

✓ **Publish the public hearing notice** as per the guidance provided below.

✓ **Also, an applicant/grantee must make additional efforts to notify the public by utilizing one or more of the methods set forth below:**

- Post the notice of public hearing in public places such as city/county government buildings, libraries, etc.
- Distribute leaflets or flyers to low- and moderate- income neighborhoods in prominent locations (i.e., grocery stores, churches, community centers, door-to-door, etc.) to notify the residents of hearings.
- Conduct public service announcements on radio stations or television.
- Post the public hearing announcement on web site and/or distribute e-mail announcement.

✓ **Conduct the public hearing** to inform the public about the CDBG activities being undertaken. At a minimum, the grantee must ensure the hearing involved the following components:

24 CFR 570.486
KRS 99.350(8)
KRS 61.252(1)

- Held in handicapped-accessible location and/or provide accommodation for persons with disabilities so that they may participate;
- Chosen at a time and date convenient for potential or actual beneficiaries;
- Arranged for interpreters for non-English speaking persons (if necessary); and
- Keep an attendance list and take minutes of the meeting, which should be signed and dated and placed in the files.

- ✓ **Respond to any written comments** that are received during the public hearing process. At a minimum, the grantee must:
 - Indicate comments were considered (including verbal comments at public hearings);
 - Cite reasons for rejection, if applicable; and
 - File comments and responses in the citizen participation file.

Public Notice/Advertisement Requirements

All legal advertisements required as part of the administration of a CDBG project, including, but not limited to, citizen participation, environmental review (Chapter 2) and procurement (Chapter 4), shall be published according to KRS Chapter 424. The advertisement must include the date, time, and location of the hearing, end of comment period, or bid opening.

Note: Failure to strictly adhere to the requirements in this section may result in the advertisement being declared void and another advertisement being required or an application being rejected.

Times of Publication

The general rule for legal advertisements is that the advertisement must run not less than seven, nor more than 21 days prior to the hearing, end of comment period, or bid opening. See Chapter 2 for more specific requirements for Environmental Review advertisements.

When a grantee desires to extend a deadline beyond the 21-day maximum, the grantee must advertise twice, and the second advertisement must fall within the publication window defined above. An exception to this would be an extension of a bid opening as part of a bid addenda, provided it is done within 72 hours of the original bid opening date. Please refer to Chapter 4: Procurement for more information on bid advertisements and addenda.

Calculation of Time

In calculating any period of publication required under a CDBG project, the date of the advertisement **shall not** be counted in the calculation.

Example: For a citizen participation hearing scheduled to be held on the 25th day of the month (a Thursday), assuming a seven to 21-day publication period:

Earliest possible advertisement date: Thursday the 4th

Latest possible advertisement date: Thursday the 18th

Grantees **shall not** schedule hearings or bid openings on Sundays or legal holidays. Whenever a public comment period ends on a Saturday, Sunday, or legal holiday, grantees shall accept comments until the end of the next day that is not a Saturday, Sunday, or legal holiday.

Qualifications of Newspapers

All advertisements shall be published, pursuant to KRS 424.120, in the **newspaper** of largest bona fide paid circulation that publishes in the publication area. A newspaper is considered to “publish” in the

publication area **only** if maintains its principal office in the publication area. “Publication area” means “the city, county, district, or other local area for which an advertisement is required by law to be made.”

Grievance Procedures

Grievances Received by Grantees

Occasionally grantees receive complaints regarding their projects and activities; therefore, it is required under the citizen participation requirements that the grantee develop a procedure to respond to complaints and grievances.

Grantees must provide citizens with an address, phone number, and time period for submitting complaints and grievances. The grantee must respond to the complaint within 15 working days of receipt, where practical.

Each complaint and the resolution to the complaint should be well documented in the grantee’s files and kept in a project complaint file for any project related complaints.

Grievances Received by DLG

Because complaints and grievances are best handled at the local level, DLG will forward any complaints it receives concerning projects to the grantee for response. The complainant will be notified that the complaint has been forwarded to the grantee for resolution. The grantee will follow their grievance procedures.

The grantee has to follow the same timeline of 15 working days from receipt from DLG (where practical). A copy of the letter of resolution must be submitted to DLG. If the grantee does not provide a resolution, DLG will work with the grantee and the complainant to resolve the complaint.

Section 1-E. Conflict of Interest

Conflict of interest requirements must be adhered to in order to ensure that public officers and employees are not gaining a financial and/or any other benefit in the procurement of goods and services, as well as in determining direct beneficiaries. Efforts should be made to recognize and resolve potential conflicts in the application phase of a project; however, a grantee must be vigilant throughout implementation.

Requirements and Persons Covered

Conflict of interest requirements are covered in the following:

- ✓ State CDBG regulations at 24 CFR 570.489;
- ✓ 2 CFR Parts 200, 215, 220, 225 and 230;
- ✓ KRS 45A.340 (covers what specifically constitutes a “conflict of interest” pertaining to public officers and employees) for public municipalities that have adopted the Model Procurement Code;
- ✓ KRS 99.350(8) (covers public officers and employees that participate in the formulation of a development area and dictates what conflicts are prohibited); and
- ✓ KRS 61.252 covers city employees, officers and exceptions to conflicts of interest.

24 CFR 570.489
2 CFR Parts 200, 215, 220, 225 &
230
KRS 45A.340
KRS 99.350(8)
KRS 61.252

The CDBG requirements pertaining to conflict of interest are summarized in the following paragraphs:

- ✓ **Conflicts Prohibited:** Except for the use of CDBG funds to pay salaries and other related administrative or personnel costs, the general rule is that no persons covered (defined below) who exercise or have exercised any functions or responsibilities with respect to CDBG activities or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds there under, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. 24 CFR Part 570.489(h)
- ✓ **Persons Covered:** The conflicts of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the State, the unit of local government, or of any designated public agencies or subrecipients that are receiving CDBG funds.
- ✓ **Exceptions:** Upon the written request of the recipient, DLG may review the provisions of this section on a case-by-case basis when it determines that such an exception will serve to further the purposes of Title I and the effective and efficient administration of the program or project. An exception may be considered only after the local government has provided the following:
 - A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
 - A certification the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;
 - An opinion of the local government's attorney that the interest for which the exception is sought would not violate State or local law.

Section 1-F. Meeting a National Objective

Before any activity can be funded in whole or in part with KCDBG funds, a determination must be made as to whether the activity is eligible under Title I of the Housing and Community Development Act of 1974, as amended. Additionally, activities must also meet one of the three national objectives.

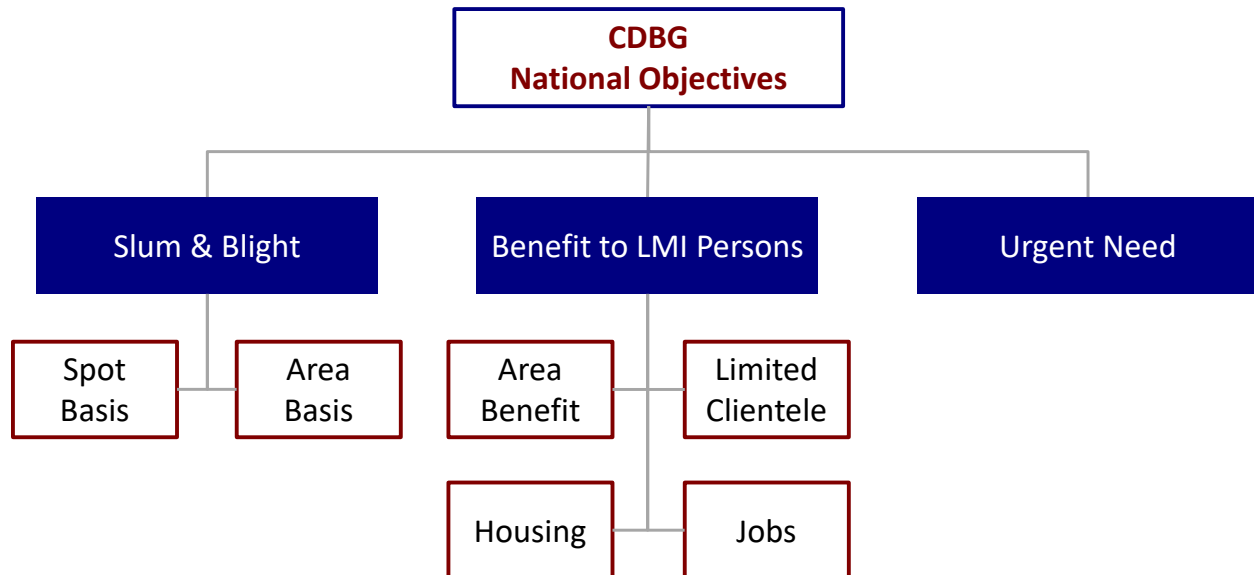
42 U.S.C. 5304(b)(3)
and 24 CFR 570.483

All projects funded under KCDBG must address at least one of three national objectives of the CDBG Program. A determination of the eligibility of an activity is made as a part of the DLG application review process. DLG also reviews which national objective category a project will fall under. However, under the CDBG regulations, a project is not considered as *meeting* a national objective until it is complete. Therefore, grantees must be aware of the national objective category and document compliance appropriately.

National Objectives

- ✓ Benefit low- and moderate-income (LMI) persons
- ✓ Aid in the prevention or elimination of slums or blight
- ✓ Meet other community development needs having a particular urgency

There are a number of different criteria by which an activity can meet one of the three national objectives, as shown in the following exhibit:



The LMI national objective is often referred to as the “primary” national objective because the regulations require that DLG expend the majority of State CDBG funds to meet this particular objective. Applicants must ensure that the activities proposed, when taken as a whole, will not benefit moderate-income persons to the exclusion of low-income persons.

For more information regarding the national objectives, grantees should download a copy of the Guide to National Objectives and Eligible Activities for the State CDBG Program.

Guide to National Objectives and Eligible Activities for State CDBG Program:
<https://www.hudexchange.info/resource/2179/guide-national-objectives-eligible-activities-state-cdbg-programs/>

Section 1-G. Project Signage

Nonresidential construction projects funded by the KCDBG Program are required to have signage at the project site. The signage informs citizens that the project is being funded by DLG’s CDBG Program, as well listing the sponsor, architect and/or engineer and contractor. The sign includes the required equal opportunity language. Visit https://kydlgweb.ky.gov/FederalGrants/CDBG_cities.cfm for the specifications for the required construction sign.

Section 1-H. Drug-Free Workplace

Grantees are required to make a good faith effort to ensure that they operate a drug-free workplace by providing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition. Additionally, grantees must establish an ongoing drug-free awareness program to inform employees about the dangers of drug abuse, the grantee’s policy of maintaining a drug-free workplace, any available drug counseling or

rehabilitation, and the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

- ✓ Each person employed by a grantee that works on a project funded with CDBG dollars must be given a copy of the grantee's drug-free workplace statement.
- ✓ Employees must also be notified that, as a condition of working with CDBG dollars, they must abide by the terms of the statement and notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such a conviction.
- ✓ If an employee is convicted of committing a drug-related offense in the workplace, the grantee must notify every grant officer or other designee on whose grant activity the convicted employee was working. The notice should include the employee's name and title as well as the identification number(s) of each affected grant.
- ✓ Within 30 calendar days of a conviction, grantees must also take appropriate personnel action against the employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended, or require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

Section 1-I. Applicable Laws and Regulations

The following is a list of federal laws, Executive Orders and State statutes applicable, in whole or in part, to the KCDBG Program. This list may not be all-inclusive as there are many laws, regulations and other requirements that may apply. To obtain copies of most of the federal publications, see the website address provided in the box to the right.

For copies of laws and regulations, go to the Government Printing Office at <http://www.gpo.gov>

Or

Go to the HUD Exchange at <https://www.hudexchange.info/programs/cdbg/cdbg-laws-and-regulations/>.

General Statutes and Regulations

- ✓ Title I of the Housing and Community Development Act of 1974, as amended
- ✓ 24 CFR Part 570, Subpart I, Community Development Block Grant: State Program Regulations; Subpart C, Eligible Activities
- ✓ Kentucky Revised Statutes available at www.lrc.state.ky.us/krs/titles.htm

Acquisition/Relocation

- ✓ 24 CFR Part 42 (includes Uniform Relocation Assistance and Real Property Acquisition Policies Act)
- ✓ Section 104(d) (One for One Replacement)
- ✓ 24 CFR Part 570.606, Displacement, Relocation, Acquisition, and Replacement of Housing
- ✓ KRS 416

Fair Housing, Equal Opportunity and Accessibility

- ✓ Title VI-Civil Rights Act of 1964
- ✓ Title VII-Civil Rights Act of 1968
- ✓ Title VIII-Civil Rights Act of 1968, as amended
- ✓ Section 109 of the Housing and Community Development Act of 1974, as amended
- ✓ Section 504 of the Rehabilitation Act of 1973, as amended
- ✓ Executive Order 11246-Equal Employment Opportunity, as amended by Executive Order 11375, Parts II and III
- ✓ Executive Order 11063-Equal Employment Opportunity, as amended by Executive Order 12259
- ✓ Equal Employment Act of 1972
- ✓ Age Discrimination Act of 1975, as amended
- ✓ Executive Order 12432-National Priority to Develop Minority and Women Owned Businesses
- ✓ Executive Order 12138-National Women’s Business Enterprise Policy
- ✓ Executive Order 11625-Minority Business Participation
- ✓ Executive Order 12892-Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing
- ✓ Vietnam Era Veterans’ Readjustment Assistance Act of 1974
- ✓ Immigration Reform and Control Act of 1986
- ✓ Fair Housing Amendment Act of 1988, as amended
- ✓ Americans With Disabilities Act of 1990
- ✓ Civil Rights Restoration Act of 1988
- ✓ 24 CFR Part 5 (FR 5863-F-02) and 24 CFR Part 100 (FR 5248-F-02)
- ✓ Kentucky Civil Rights Act, Chapter 344

Environmental

- ✓ National Environmental Policies Act of 1970, as amended
- ✓ National Historic Preservation Act of 1966, as amended (Section 106)
- ✓ Executive Order 11593, Protection and Enhancement of the Cultural Environment
- ✓ 24 CFR Part 58
- ✓ Executive Order 11988 and 24 CFR Part 55, Floodplain Management
- ✓ Executive Order 11990, Protection of Wetlands

CPD Notice 17-13: Notice for Interpreting the Limits of the Floodway for Linear Infrastructure Projects Complying with HUD Floodplain Management Regulations, 24 CFR Part 55

- ✓ 40 CFR 149, Sole Source Aquifers
- ✓ Safe Drinking Water Act of 1974, as amended
- ✓ Endangered Species Act of 1973, as amended, and 50 CFR 402
- ✓ Wild and Scenic Rivers Act of 1968, as amended
- ✓ Clean Air Act, as amended (Sections 176(c) and (d)) and 40 CFR 6, 51 & 93
- ✓ Clean Water Act
- ✓ Solid Waste Disposal Act, as amended
- ✓ Farmland Protection Policy Act of 1981 (7 CFR 658)
- ✓ 24 CFR 51 B, Noise Abatement and Control
- ✓ 24 CFR 51 C, Siting of HUD-Assisted Projects Near Hazardous Operations
- ✓ 24 CFR 51 D, Airport Clear Zones and Accident Potential Zones
- ✓ Executive Order 12898, Environmental Justice

Financial Management

- ✓ 2 CFR Part 200 (OMB Omni Circular) as adopted by HUD at 2 CFR Part 2400
- ✓ 24 CFR Part 570
- ✓ KRS 43
- ✓ KRS 91A
- ✓ Housing and Community Development Act, Section 104c

Housing Rehabilitation (see also Fair Housing)

- ✓ Truth in Lending Act
- ✓ Title I Consumer Protection Act
- ✓ Lead Safe Housing Rule, 24 CFR Part 35
- ✓ Architectural Barriers Act of 1970 (41 CFR Part 101-107)

Labor Standards

- ✓ Federal Labor Standards Act, including Davis-Bacon
- ✓ 24 CFR Part 24, Debarment and Suspension
- ✓ Contract Work Hours and Safety Standards Act
- ✓ Copeland “Anti-Kickback” Act
- ✓ KRS 337

Procurement and Contracting

- ✓ Section 3 of Housing and Urban Development Act of 1968, as amended
- ✓ 2 CFR Parts 200 (200.317-200.326)KRS 45A
- ✓ KRS 424

Section 1-J. Maintaining Records

It is important that the grantee fully document compliance with all applicable regulations. This is accomplished through maintaining comprehensive records and submitting all necessary reports.

The filing system should be easy to use and provide a historic account of activities for examination and review by the State, auditors and local staff. All records must be available to the following entities upon request:

- ✓ U.S. Department of Housing and Urban Development,
- ✓ The Inspector General,
- ✓ The General Accounting Office,
- ✓ The Comptroller General of the United States,
- ✓ Department for Local Government,
- ✓ Legislative Research Commission, and
- ✓ Auditor of Public Accounts.

These entities must have access to any pertinent books, records, accounts, documents, papers, and other property that is relevant to the grant. Certain records must be available to the public as well. However, grantees must keep files that contain personal information, such as social security numbers, in a secure place.

Files should, to the extent possible, be maintained in a central location. The grantee is responsible for maintaining records for **at least five years** after final project close-out.

The list below identifies major file categories, and the materials that should be maintained in each file. This list is not all-inclusive; therefore, refer to applicable laws and regulations as well as the other chapters of this handbook for more information.

National Objectives

Grantees must maintain records that funded activities meet one of the national objectives. Depending on the objective, the files must contain the specific documentation below. This documentation can also be used in reporting performance measures information.

- ✓ Low/Mod Area Benefit
 - Boundaries of service area
 - Census data including total persons and percentage low/mod
 - Evidence area is primarily residential

- Survey documentation (if applicable)
- ✓ Low/Mod Limited Clientele
 - Documentation that the beneficiaries are low/mod or presumed to be low/mod (by category)
- ✓ Low/Mod Housing (see also Housing section below)
 - Income verification of households (using the Section 8 definition) including source documentation
- ✓ Low/Mod Job Creation and Retention
 - Number of jobs created or retained
 - Type and title of jobs created or retained
 - Income of persons benefiting from the jobs created or retained
- ✓ Slum and Blight
 - Area designation (e.g., boundaries, evidence area meets State slum/blight requirements)
 - Documentation and description of blighted conditions (e.g., photographs, structural surveys, or development plans)
 - If applicable, evidence that the property meets spot designation requirements (e.g., inspections)
- ✓ Urgent Need
 - Documentation of urgency of need and timing
 - Certification that other financing resources were unavailable and CDBG had to be used

Application

- ✓ Application
- ✓ Amendments and revisions to the application, if any
- ✓ Correspondence regarding the application

Grant Agreement

- ✓ Preliminary Approval Letter
- ✓ Grant Agreement
- ✓ Records/correspondence concerning Evidentiary Materials
- ✓ Amendments and documentation
- ✓ Performance Measures information

Acquisition

- ✓ Acquisition Documentation System Chart
- ✓ Property Acquisition File for each property acquired
- ✓ Written letter of voluntary acquisition

-
- ✓ For involuntary acquisition:
 - HUD Form 40061, “Selection of Most Representative Comparable Replacement Dwelling for Purposes of Computing a Replacement Housing Payment”
 - Documentation of eminent domain authorization, if applicable
 - Contract of sale
 - Statement of Settlement Costs showing the grantee reimbursed the property owner for acquisition price, recording fees, transfer taxes, title option, prepayment penalty on a mortgage, and pro-rate share of property taxes, etc.
 - Receipt for purchase price and the cancelled check
 - Copy of the recorded deed
 - ✓ Urban Renewal Plan, if applicable
 - ✓ Statement of Qualification of Appraisers
 - ✓ Kentucky Appraisal Certificate
 - ✓ Appraisal contracts
 - ✓ Donations/Waiver of Rights and Benefits of the Uniform Act
 - ✓ Copies of public solicitations for voluntary acquisitions
 - ✓ Annual Report on Relocation and Real Property Acquisition Activities
 - ✓ Acquisition Log of Contacts

Audit

- ✓ Professional Services Agreement with independent CPA (if paid with CDBG funds)
- ✓ Annual audit(s), as applicable
- ✓ Documentation that all CDBG-related audit findings and any questioned costs have been cleared

Citizen Participation

- ✓ Documentation of the public hearings (notices, minutes, comments/responses)
- ✓ Documentation of comments received and responses
- ✓ Complaint procedures
- ✓ Complaints and resolution documentation

Fair Housing and Equal Opportunity

- ✓ Fair Housing Resolution
- ✓ Policy of Nondiscrimination on the Basis of Disability Status (for grantees with 15 or more employees)
- ✓ Project Benefit Profile and documentation
- ✓ Local government employment records

- ✓ Fair Housing Profile
- ✓ Demographic data, including data for target area projects
- ✓ Employment Affirmative Action Plan
- ✓ Documentation of actions taken to affirmatively further fair housing in the community
- ✓ Section 504 Self Evaluation and Transition Plan and project documentation
- ✓ Title VI Implementation Plan and Self-Survey
- ✓ Drug Free Workplace Certification
- ✓ Record of complaints and how they were resolved

Contracts

- ✓ Bid package(s)
- ✓ Professional contract(s)
- ✓ Pre-construction activities
 - Council/Fiscal Court authorization of contract award
 - Notice of Contract award and Preconstruction Conference sent to DLG's Office of Federal Grants
 - Notice to proceed issued to contractor and a copy to DLG
- ✓ Documentation of construction inspection
- ✓ Notice of Completion/ Final Inspection
- ✓ Adequate documentation of services provided, including invoices and deliverables
- ✓ If a Section 3 Plan was required, documentation that it was carried out
- ✓ Construction contract/subcontracts
- ✓ Attorney certification
- ✓ Evidence of bonding
- ✓ Legally binding agreement(s)

Economic Development

- ✓ Procurement Form and the Contracting & Contract Management Form, if applicable
- ✓ Minority & Women's Business Enterprise Form, if applicable
- ✓ Labor Standards Form, if applicable
- ✓ Property Acquisition Form, if applicable
- ✓ Business Relocation Form, if applicable
- ✓ For Infrastructure projects
 - Assessment plan, if required

-
- Documentation that entities covered under the infrastructure assessment plan have been reporting as required
 - ✓ For activities carried out through nonprofit organizations
 - Legally binding agreements
 - Documentation of eligible costs
 - Evidence that the nonprofit has conducted an on-site inventory of equipment purchased or leased with grant funds
 - Building and equipment appraisals, if applicable
 - ✓ For direct assistance to businesses
 - Evidence that the grantee has conducted an on-site inventory of equipment purchased with grant funds
 - Building and equipment appraisals, if applicable
 - ✓ For microenterprise assistance
 - Evidence that the entity providing training has written agreements with owners outlining their responsibilities
 - Documentation of the cost of providing training
 - ✓ For service facilities in support of economic development
 - Legally binding agreement with assisted businesses
 - Documentation of eligible costs
 - ✓ Loan/lease and security documents
 - ✓ Job creation/retention documentation

Environmental Review

- ✓ Environmental Review Record
- ✓ Finding of Exemption, Finding of Categorical Exclusion Not Subject to 24 CFR Part 58.5, or Statutory Checklist for Categorically Excluded Activities/Projects
- ✓ Combined Notice of Finding of No Significant Impact (FONSI) Determination and Notice of Intent to Request Release of Funds published in the local newspaper
- ✓ Public Notice Distribution List
- ✓ Request for Approval of Evidentiary Materials
- ✓ Environmental Certification signed by the Certifying Officer
- ✓ Historic Preservation and tribal consultation documentation, as applicable
- ✓ Environmental Assessment Checklist and documentation for projects requiring an Environmental Assessment

Financial Management

- ✓ Authorized Signature Form
- ✓ Direct Electronic Transfer of Funds Form
- ✓ Requests for Payment
- ✓ Accounting records
- ✓ Record of commitment of other funds
- ✓ Source documentation (approved invoices, payrolls, contracts, etc.)
- ✓ Canceled checks, deposit slips, bank statements, etc.
- ✓ Copy of current city or county budget or amendments
- ✓ Records documenting acquisition of asset(s)
- ✓ Records of any disposition of properties
- ✓ Program income records including revolving loan funds (receipt, accounting, expenditure, etc.)

Housing

- ✓ Program guidelines
- ✓ Local rehabilitation policies and procedures
- ✓ Applications for assistance
- ✓ Rehabilitation Household Survey
- ✓ Income verifications
- ✓ Rehabilitation contract file for each job
- ✓ Lead-Based Paint Hazard Notification, documentation the appropriate pamphlet was provided, and notification of any hazard reduction activity and clearance results
- ✓ Lead-Based Paint Testing Report, Assessment and/or Screening report
 - For projects where the level of assistance provided is under \$5,000, a clearance report
 - For projects where the level of assistance provided is \$5,000-\$25,000, a clearance report
 - For projects where the level of assistance provided is over \$25,000, an abatement report
- ✓ Work write-ups and cost estimates (including lead-based paint work calculations if necessary)
- ✓ Evidence of systematic and thorough inspections
- ✓ Notice of Acceptance of work signed by the homeowner for each payment
- ✓ Documentation of change orders
- ✓ Evidence and certification of Safe Work Practices and Occupant Protection (including relocation, if necessary)
- ✓ Documentation of exemptions when relocation was not required

-
- ✓ Written agreements
 - ✓ Certificate of Inspection, at project completion
 - ✓ Executed loan/grant documents
 - ✓ Proof of ownership
 - ✓ Certification of primary residence
 - ✓ Proof of current insurance
 - ✓ For multifamily rehab:
 - Documentation that the rents for the LMI units do not exceed the applicable HUD FMR for the area (by bedroom size)
 - Documentation of a local system that monitors rents charged (or to be charged) after rehab, for each dwelling unit in each rehabilitated structure.
 - Estimated number of units rehabilitated in each structure and the percent of units that will be occupied by low- and moderate-income households.
 - ✓ For single-family rehab:
 - An estimate of the number of units to be rehabilitated
 - Income characteristics of the area in which the rehabilitation is to be carried out
 - Number of units to be rehabilitated for low- and moderate-income households
 - Amount spent on each unit to be rehabbed for low- and moderate-income households
 - ✓ Progress reports
 - ✓ Release of liens and warranties signed by the contractor and any subcontractors

Labor Standards

- ✓ Federal and state wage rates, as applicable
- ✓ Construction bid and awards
- ✓ Contracts containing proper and applicable labor standards provisions
- ✓ Notice of Contract Award and Notice to Proceed
- ✓ Change orders
- ✓ Weekly payrolls from prime and subcontractors
- ✓ Payroll Deduction Authorizations
- ✓ Employee interview forms
- ✓ Overtime waivers
- ✓ Evidence that the contractor posted the wage rate decision and wage rate poster at the job site (with the date and time noted by inspector)
- ✓ Documentation of resolution of any underpayment or nonpayment of wages

Procurement

- ✓ Procurement Code
- ✓ Professional services contract procurement files
- ✓ Construction contract procurement files
- ✓ Evidence of MBE/WBE outreach efforts and listing
- ✓ Contract/Subcontract Activity Report
- ✓ Section 3 Plan and evidence of qualitative efforts
- ✓ Notice of Contract Award and Notice to Proceed
- ✓ Signed contract with scope of work
- ✓ Documentation of three price quotes for small purchases
- ✓ Copies of all bids received and bid tabulation for competitive sealed bids
- ✓ RFQ/RFP, responses to RFQ/RFP, and written basis for selection for competitive negotiation awards
- ✓ Documentation that the contractor performing the grant administration is a Certified Administrator, if applicable
- ✓ Evidence of a wage rate modification obtained from DLG, if contract was awarded after 90 days.
- ✓ Written statement explaining why each low bidder was deemed non-responsible or non-responsive, if contract not awarded to lowest bidder.

Relocation/Displacement

- ✓ Residential Anti-displacement and Relocation Assistance Plan
- ✓ One-for-One Replacement Summary Grantee Performance Report
- ✓ Relocation file for each relocated or displaced household
 - Documentation of owner receiving reimbursement for moving expenses
 - Receipts of moving expenses to document cost reasonableness
 - Various forms, as required (see Chapter 8: Relocation)

Chapter 8: Relocation

Monitoring

- ✓ State letters of findings/recommendations
- ✓ Grantee response to letter of findings
- ✓ State response to clearance of findings
- ✓ Other correspondence related to compliance assistance reviews and technical assistance visits

Grant Close-out

- ✓ Close-out Public Hearing Notice, minutes and comments/responses
- ✓ Project Completion Report (PCR)

REQUEST FOR APPROVAL OF EVIDENTIARY MATERIALS AND RELEASE OF FUNDS

Grantee Name:		Grant Agreement Number:		
Grantee Address:		Date of Request:		
Evidentiary Materials		Items* Included	State Use Only	
1. Environmental Review	I hereby state that the community has completed the required environmental review process and a Certification of Completion is attached to this request for release of funds.			
2. Historic Properties	I hereby state that the State Historic Preservation Officer was provided information and given thirty (30) days to comment on proposed activities and correspondence is attached.			
3. Tribal Consultation	I hereby state that the tribal consultation requirements of 24 CFR Part 58 and related guidance have been adhered to and correspondence is attached.			
4. Other Fund Commitments	I hereby state that firm commitments for other funds referenced in the evidentiary materials have been secured and are attached to this request for release of funds.			
5. Legally Binding Commitments	I hereby certify that the legally binding commitments required have been submitted and are attached to this request for release of funds.			
6. Other				
Typed Name and Title of City/County Official:		Signature of City/County Official:		Date:
FOR STATE USE ONLY				
Action Taken:		Individual Authorizing Action:		Date:

* Items Included Code:

N/A = Not Applicable to this program

X= Included

Sample Public Hearing Notice

To all interested citizens of _____ *City/County* _____, Kentucky:

The Kentucky Department of Local Government (DLG) is accepting application material under the 20__ Community Development Block Grant (CDBG) Program. _____ *City/County* _____ intends to apply for assistance to

Detailed Project Description

_____. The *City/County* will hold a public hearing prior to the submission of the application form. The public hearing will be held on *Day of Week*, *Month* _____ *Day*, 20__ at *Time* _____ *am/pm* at the *Location* _____. The purpose of this hearing is to obtain views on housing and community development needs, review proposed activities, review the proposed application, and solicit public comments. Technical assistance is available to help groups representing low and moderate income persons in developing proposals.

The following information concerning the CDBG program is available for public inspection at _____ *Location* _____ during regular business hours:

- A. Amount of funds available and range of activities that may be undertaken.
- B. Estimated amounts of funds proposed to be used for activities benefiting persons of low and moderate income.
- C. Plans for minimizing displacement of persons as a result of activities associated with CDBG funds and plans for providing assistance to those persons to be actually displaced as a result of CDBG-funded activities.
- D. Records regarding the past use of CDBG funds.
- E. A summary of other important program requirements.

Comments on Application

A copy of the CDBG application material will be on file at _____ *Location* _____ for citizens' review and comment during regular business hours from _____ *Month* _____ *Day*, 20__ through _____ *Month* _____ *Day*, 20__. Comments on the proposed application may be submitted to the attention of _____ *Mayor/County Judge* _____ until the close of business on _____ *Month* _____ *Day*, 20__.

Non-Discrimination Clause

The _____ *City/County* _____ does not discriminate on the basis of race, color, national origin, sex, sexual orientation, gender identify, age, religion or disability. The _____ *City/County* _____ provides, upon request, reasonable accommodation, including auxiliary aids and services, to afford individuals with disabilities an equal opportunity to participate in all services, programs and activities. Any persons requiring special needs assistance or services for non-English speaking residents should contact

Name _____ at *How to contact* _____ at least five days prior to the meeting. The TDD number for the hearing impaired is 1/800-648-6057 (*or local number if available*).

NOTE: Americans with Disability Act (ADA) Contacts

Department for the Blind	1/877/KYBLIND	www.kyblind.state.ky.us
American Printing House	1/800/223-1839	www.aph.org
Commission for the Deaf and Hard of Hearing	1/800/372-2907	www.kcdhh.org
For Interpreter Directory		www.hcdhh.org/access/interpdir.html
State Relay TDD Number	1/800/648-6057	

Chapter 2: Environmental Review

Introduction

The purpose of the environmental review process is to analyze the effect a CDBG-funded project may have on the people in and the natural environmental features of a project area.

Grantees who are recipients of KCDBG funds are considered responsible entities (REs) and must complete an environmental review of all project activities prior to obligating any project funds. This requirement also applies to projects funded with KCDBG-generated program income.

This chapter will cover the environmental regulations and requirements that must be followed on all KCDBG funded projects. Definitions, forms and step-by-step instructions on how to complete the environmental reviews are provided within this chapter and its attachments.

Section 2-A. Applicable Regulations

The HUD rules and regulations that govern the environmental review process can be found at 24 CFR Part 58. The provisions of the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) regulations in 40 CFR Parts 1500 through 1508, and a myriad of other state and federal laws and regulations (some of which are enforced by state agencies) also may apply depending upon the type of project and the level of review required. These laws and authorities are referenced in the HUD and NEPA regulations and are listed in several of the chapter attachments.

24 CFR Part 58:
Environmental Review Procedures
for Entities Assuming HUD
Environmental Responsibilities

The information contained in this chapter summarizes a number of state and federal statutes and regulations and is solely intended to give the grantee (responsible entity) an overview of its obligations in the environmental review process. Citation of these summaries may not be used as the basis for any action or inaction or as a defense in any litigation. The grantee (responsible entity) and the Environmental Certifying Officer are responsible for referring to and complying with the specific citations listed herein.

Section 2-B. Legal Responsibilities

The Responsible Entity

Under 24 CFR Part 58, the term “responsible entity” (RE) means the grantee (unit of local government) under the state CDBG Program. Therefore, these terms are used interchangeably with grantee throughout this chapter and the attachments. (The term “funding agency” is used in place of DLG, but can be interpreted to include any agency that provides funds to a project and has environmental oversight responsibilities.) The responsible entity must complete the environmental review process.

Environmental review responsibilities have both legal and financial ramifications. As part of the assurances and agreements signed by the responsible entity, the Chief Executive Officer (CEO) of the

responsible entity agrees to assume the role of “responsible federal official” under the provisions of the National Environmental Policy Act (NEPA). This means that if someone brings suit against the responsible entity in federal court on environmental grounds, the CEO will be named as the defendant. There may be financial implications associated with any lawsuit and, of course, any fines, judgments or settlements that may result. The Commonwealth of Kentucky accepts no responsibility or liability for the quality or accuracy of the local environmental review process. DLG’s responsibility is to inform the grantee of the proper procedural requirements of various environmental statutes, regulations, and executive orders and review that process.

Environmental Certifying Officer

Under Part 58, the local chief elected or appointed official must assume the role of the Environmental Certifying Officer (ECO) or formally designate another person to do so. If the CEO does designate a staff person to serve as the ECO, this designation must be made in writing and signed by the CEO and placed in the Environmental Review Record (ERR).

The ECO accepts full responsibility for the completeness and accuracy of the review and compliance with applicable laws and regulations. Local officials should review the municipal liability and indemnification statutes as well as the status and coverage of local liability insurance policies when accepting responsibility under environmental laws. The responsibilities of the ECO include making findings and signing required certifications.

Other key points regarding the ECO designation include:

- ✓ The ECO must be a line officer of the responsible entity who is authorized to make decisions on behalf of the grantee and represent the responsible entity in federal court.
- ✓ This person does not need to be a technical expert, but should be credible if it becomes necessary to defend whether or not the required procedures were followed and completed. Further, that resolution and/or mitigation of adverse effect, if any, are incorporated into and accounted for in the project implementation.
- ✓ The ECO is not the one who actually conducts the review and completes the applicable documentation in the ERR. That responsibility is given to a staff person or consultant that is hired by the grantee.

Environmental Review Record

Each responsible entity must 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), and it must be available for public review.

The ERR shall contain all the environmental review documents, public notices, and written determinations or environmental findings required by 24 CFR Part 58 as evidence of review, decision making, and actions pertaining to a particular project. The document shall:

24 CFR Part 58.38

- ✓ Describe the project and each of the related activities comprising the project, regardless of individual activity funding source;
- ✓ Evaluate the effects of the project or the activities on the human environment;

- ✓ Document compliance with applicable statutes and authorities; and
- ✓ Record the written determinations and other review findings required by 24 CFR Part 58.

The ERR will vary in length and content depending upon the level of review required for the categories of proposed activities.

Public comments, concerns and appropriate resolution by the recipient with regard to public notices that have been issued by the grantee are extremely important and must be fully documented in the ERR.

Section 2-C. Actions Triggering Environmental Review and Limitations Pending Clearance

Actions Triggering the Requirements of Part 58

All HUD-assisted activities must have some level of environmental compliance review completed for them. Compliance with the Part 58 requirements is initiated with the acceptance of applications from applicants for KCDBG funds to the state.

Activities that have physical impacts or which limit the choice of alternatives cannot be undertaken, even with the grantee or other project participant's own funds, prior to obtaining environmental clearance. If prohibited activities are undertaken after submission of an application but prior to receiving approval from the state, the applicant is at risk for the denial of CDBG assistance. The reason is that these actions interfere with the grantee's and the state's ability to comply with NEPA and Part 58. If prohibited actions are taken prior to environmental clearance, then environmental impacts may have occurred in violation of the federal laws and authorities and the standard review procedures that ensure compliance.

There are certain kinds of activities that may be undertaken without risking a violation of requirements of Part 58. For example, the act of either hiring a consultant to prepare a Phase I Environmental Site Assessment (an investigative study for environmental hazards), or hiring a consultant to complete an engineering design study or plan, or a study of soil and geological conditions, would be allowed. Environmental compliance reviews for these activities may be completed early on, and even prior to the grantee's execution of a grant agreement with the state.

24 CFR Part 58.22

Limitations Pending Environmental Clearance

According to the NEPA (40 CFR 1500-1508) and Part 58, the RE is required to ensure that environmental information is available before decisions are made and before actions are taken. In order to achieve this objective, Part 58 prohibits the commitment or expenditure of CDBG funds until the environmental review process has been completed and, if required, the grantee receives a release of funds from the state. This means that the grantee may not spend either public or private funds (CDBG, other federal or

The RE should note that, on the average, an environmental review usually takes at least 45 to 60 days to complete. Environmental assessments may take longer depending upon the environmental conditions and applicable requirements.

non-federal funds), or execute a legally binding agreement for property acquisition, clearance or grading, rehabilitation, conversion, demolition, repair or construction pertaining to a specific site until environmental clearance has been achieved. In other words, grantees must avoid any and all actions that would preclude the selection of alternative choices before a final decision is made – that decision being based upon an understanding of the environmental consequences and actions that can protect, restore and enhance the human environment (i.e., the natural, physical, social, and economic environment).

Note that HUD issued a policy in April of 2011 that states that a grantee (or other project participants) cannot go to bid on activities that would be choice limiting (e.g., construction, demolition) until an environmental review is complete. This policy is based on NEPA and requires the environmental process to be completed prior to bidding in order to allow for an unprejudiced decision about the action and to allow for any modifications or project cancellation based upon the environmental review. To comply with this policy, grantees must have a signed environmental clearance from DLG prior to bid advertisement.

Moreover, until the grantee has completed the environmental review process (and received a release of funds), these same restrictions apply to project participants (e.g., subrecipients, developers, consultants, real estate agents, etc.) as well. It is the responsibility of the grantee to ensure project participants are apprised of these restrictions.

For the purposes of the environmental review process, “commitment of funds” includes:

- ✓ Execution of a legally binding agreement (such as a property purchase or construction contract);
- ✓
- ✓ Use of any non-CDBG funds on actions that would have an adverse impact—e.g., demolition, dredging, filling, excavating; and
- ✓ Use of non-CDBG funds on actions that would be “choice limiting”—e.g., acquisition of real property; leasing property; rehabilitation, demolition, construction of buildings or structures; relocating buildings or structures, conversion of land or buildings/structures.

It is acceptable for grantees to execute non-legally binding agreements prior to completion of the environmental review process and receiving DLG approval. A non-legally binding agreement contains stipulations that ensure the project participant does not have a legal claim to any amount of CDBG funds to be used for the specific project or site until the environmental review process is satisfactorily completed.

It is also acceptable to execute an option agreement for the acquisition of property when the following requirements are met:

- ✓ The option agreement is subject to a determination by the grantee on the desirability of the property for the project as a result of the completion of the environmental review in accordance with Part 58; and
- ✓ The cost of the option is a nominal portion of the purchase price.

In a memo issued by HUD on August 26, 2011, the use of conditional contracts in acquisitions of existing single family and multifamily properties that involve the use of CDBG funds was clarified. A conditional contract for the purchase of property is a legal agreement between the potential buyer of a real estate property and the owner of the property. The conditional contract includes conditions that must be met

for the obligation to purchase to become binding. Conditional contracts can be used in more limited circumstances than option contracts. As already mentioned, conditional contracts are allowed only for residential property acquisition.

Secondly, for single family properties (one to four units):

- ✓ The purchase contract must include the appropriate language for a conditional contract (See the text box below); and
- ✓ No transfer of title to the purchaser or removal of the environmental conditions in the purchase contract occurs unless and until the grantee determines, on the basis of the environmental review, that the transfer to the buyer should go forward and the grantee has received release of funds and environmental clearance; and
- ✓ The deposit must be refundable or, if a deposit is non-refundable, it must be in an amount of \$1,000 or less.

Finally, for multi-family properties:

- ✓ The structure may not be located in a Special Flood Hazard Area (100-year floodplain or certain activities in the 500-year floodplain);
- ✓ The purchase contract must include the appropriate language for a conditional contract (See the text box below);
- ✓ No transfer of title to the purchaser or removal of the environmental conditions in the purchase contract occurs unless and until the grantee determines, on the basis of the environmental review, that the transfer to the buyer should go forward and the grantee has received release of funds and environmental clearance; and
- ✓ The deposit must be refundable or, if a deposit is non-refundable, it must be a nominal amount of three percent of the purchase price or less.

Language that Must be Included in Conditional Contracts for Purchase of Residential Property

“Notwithstanding any other provision of this Contract, Purchaser shall have no obligation to purchase the property and no transfer of title to the Purchaser may occur, unless and until [the RE name] has provided purchaser and/or seller with a written notification that: 1) it has completed a federally-required environmental review and its request for release of funds has been approved and subject to any other contingencies in this contract, (a) the purchase may proceed or (b) the purchase may proceed only if certain conditions to address issues in the environmental review shall be satisfied before or after the purchase of the property; or 2) it has determined that the purchase is exempt from federal environmental review and a request for release of funds is not required. [RE name] shall use its best efforts to conclude the environmental review of the property expeditiously.”

Please contact DLG if assistance is needed with options or conditional contract language.

Section 2-D. Classifying Activities and Conducting the Review

To begin the environmental review process, the responsible entity must first determine the environmental classification of each activity in the project. This section will focus upon the five environmental classifications that are recognized under the CDBG program:

- ✓ Exempt activities;
- ✓ Categorically excluded activities not subject to Part 58.5;
- ✓ Categorically excluded activities subject to Part 58.5;
- ✓ Activities requiring an environment assessment (EA); or
- ✓ Activities requiring an environmental impact statement (EIS).

This section discusses the types of classifications and the steps required for each classification to ensure compliance with the applicable requirements.

The environmental regulations at 24 CFR Part 58.32 require the responsible entity to “...group together and evaluate as a single project all individual activities which are related geographically or functionally,” whether or not HUD-assistance will be used to fund all the project activities or just some of the project activities. Once this has been done, the responsible entity must decide if the project is exempt, categorically excluded, or the project requires an environmental assessment or an environmental impact statement. The level of environmental review will be dictated by whichever project activity that requires the higher level of review. For example, if one activity in a project requires an environmental assessment then the entire project must be assessed at this level of review.

24 CFR Part 58.32

Exempt Activities

Certain activities are by their nature highly unlikely to have any direct impact on the environment. Accordingly, these activities are not subject to most of the procedural requirements of environmental review. Listed below are examples which may be exempt from environmental review. For complete details refer to the environmental regulations at 24 CFR Part 58.34(a)(1) through (12).

- ✓ Environmental and other studies;
- ✓ Information and financial services;
- ✓ Administrative and management activities;
- ✓ Engineering and design costs;
- ✓ 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;
- ✓ Public service activities that will not have a physical impact or result in any physical changes;
- ✓ Inspections and testing of properties for hazards or defects;
- ✓ Purchase of tools or insurance;

- ✓ Technical assistance or training;
- ✓ Payment of principal and interest on loans made or guaranteed by HUD; and
- ✓ Any of the categorically excluded activities subject to Part 58.5 (as listed in 58.35(a)) provided there are no circumstances which require compliance with any other federal laws and authorities listed at Part 58.5 of the regulations. Refer to the section below on categorically excluded activities subject to Part 58.5. NOTE: This decision is based upon the results of having completed a “Finding of Categorical Exclusion Subject to Section 58.5” (Attachment 2-2).

24 CFR Part 58.34 (a)(12)

If a project is determined to be exempt the responsible entity is required to document in writing that the project is exempt and meets the conditions for exemption. The responsible entity must complete the HUD form titled *Environmental Review for Activity/Project that is Exempt or Categorically Excluded not Subject to Section 58.5* (Attachment 2-1). The form must be signed by the certifying official and a copy sent to the appropriate funding agency for review.

Attachment 2-1:
Environmental Review for
Activity/Project that is Exempt or
Categorically Excluded not Subject
to Section 58.5

Categorically Excluded not Subject to Part 58.5 Activities

The following activities, listed at 24 CFR Part 58.35(b), have been determined to be categorically excluded from NEPA requirements and are not subject to Section 58.5 compliance determinations.

24 CFR 58.35(b)

- ✓ Tenant based rental assistance;
- ✓ 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 and services;
- ✓ Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training, recruitment, and other incidental costs;
- ✓ Economic development activities including but not limited to equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations;
- ✓ 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
- ✓ 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 which do not have a physical impact.
- ✓ Approval of supplemental assistance to a project previously approved under Part 58, if the approval was made by the same RE that conducted the environmental review on the original project AND re-

evaluation of the findings is not required under Part 58.47. See the section later in the chapter on re-evaluation of previously cleared projects for further guidance.

To complete environmental requirements for Categorically Excluded projects not Subject to 24 CFR Part 58.5, the responsible entity must make a finding of Categorical Exclusion Not Subject to 58.5 for activities that qualify under that category (using Attachment 2-1) and put in the ERR. The RE must also carry out any applicable requirements of 24 CFR Part 58.6 and document the ERR.

Attachment 2-1:
Environmental Review for
Activity/Project that is Exempt or
Categorically Excluded not Subject
to Section 58.5

- ✓ Finally, the RE must complete the Request for Approval of Evidentiary Materials and Release of Funds form and submit to DLG along with the Environmental Review for Activity/Project that is Exempt or Categorically Excluded not Subject to Section 58.5 form (Attachment 2-1).

Attachment 1-1:
Sample Request for Approval of
Evidentiary Materials and Release
of Funds Form

The RE does not have to publish or post the Notice of Intent to Request Release of Funds (NOI/RROF) or execute the environmental certification.

Categorically Excluded Subject to Part 58.5 Activities

The list of categorically excluded activities is found at 24 CFR Part 58.35 of the environmental regulations. While the activities listed in 58.35(a) are categorically excluded from National Environmental Protection Act (NEPA) requirements, the grantee must nevertheless demonstrate compliance with the laws, authorities and Executive Orders listed in 58.5 and 58.6.

24 CFR Part 58.35(a) and 58.5

The following are categorically excluded activities subject to 58.5:

- ✓ 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.
- ✓ Special projects directed toward the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and disabled persons.
- ✓ Rehabilitation of buildings and improvements when the following conditions are met:
 - For residential properties with one to four units:
 - The density is not increased beyond four units, and
 - The land use is not changed.
 - For multi-family residential buildings (with more than four units):
 - Unit density is not changed more than 20 percent;
 - The project does not involve changes in land use from residential to non-residential; and
 - The estimated cost of rehabilitation is less than 75 percent of the total estimated replacement cost after rehabilitation.

- For non-residential structures including commercial, industrial and public buildings:
 - The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
 - The activity does not involve a change in land use, e.g. from commercial to industrial, from non-residential to residential, or from one industrial use to another.
- ✓ An individual action on up to four-family dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between;
- ✓ 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;
- ✓ 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.
- ✓ Combinations of the above activities.

To complete environmental requirements for Categorically Excluded projects subject to 24 CFR Part 58.5, the responsible entity must take the following steps:

- ✓ Determine whether or not the project is located in or will have an impact on floodplains and/or wetlands.
 - It is highly desirable to avoid floodplains and wetlands when undertaking project activities. However, when this cannot be avoided, specific review procedures contained in 24 CFR Part 55 (Floodplain Management and Wetlands Protection) must be completed. Since development in these areas is clearly an environmental issue, the effects of these actions must be clearly articulated in one of the decision processes described in §§ 55.12(a) and 55.20, whichever process is applicable.

NOTE: For “minor” improvement of single family (1-4 unit) residential buildings, neither decision making process must be undertaken. However, it must be documented on Attachment 2-4 that § 55.12b)(2) is applicable.
 - If the project is located in the floodplain or proposes construction in a wetland, the RE must provide written documentation of the decision process in the ERR. See the section, “Projects in Floodplains and Wetlands” later in this chapter for more information.
- ✓ Complete the Environmental Review for Activity/Project that is Categorically Excluded Subject to Section 58.5 (Attachment 2-2). The checklist helps to comply with the other (non-NEPA) federal laws.

Attachment 2-2:
Environmental Review for
Activity/Project that is
Categorically Excluded Subject to
Section 58.5

 - In regard to “Historic Properties,” review Clearinghouse comments prior to writing to the State Historic Preservation Officer (SHPO) for comments. (The Clearinghouse may have already stated that the SHPO has no objection to the project.) If the Clearinghouse states that a SHPO review is required, send a letter describing the activities and the reviewer’s determination if the activity (or activities) have an effect on

Attachment 2-3a & b:
SHPO Project Cover Sheet &
Instructions

historic preservation or not, to the SHPO allowing 30 days for comments. Respond to these comments as required and file all correspondence and evidence of response in your ERR. Be sure reliable sources are cited on each line of the checklist. All historic property reviews must be done prior to the responsible entity making a final determination of environmental status.

- Consultation with tribal entities is also required. See Attachment 2-4 for a Sample Tribal Consultation letter. Refer to HUD Notice 12-006 for more guidance.

Attachment 2-4:
Sample Tribal Consultation Letter

- ✓ For those projects that cannot convert to exempt, publish and distribute the Notice of Intent to Request a Release of Funds (NOI/RROF). The Notice, which has been updated for 2015, informs the public that the grantee will accept written comments on the findings of its ERR and of the grantee's intention to request release of funds from the state. At least seven (7) calendar days after the date of publication must be allowed for public comment. The notice also says that DLG will receive objections for at least 15 days following receipt of the grantee's request for release of funds (Attachment 2-5).

- ✓ **The NOI/RROF must be published in a newspaper of general circulation.** The grantee must retain the "tear sheet" from the newspaper evidencing that the notice was published and on what date.

Attachment 2-5:
Sample Notice of Intent to Request
a Release of Funds (NOI/RROF)

- ✓ **The grantee must also send a copy of the notice (NOI/RROF) to interested parties** (i.e., persons and entities that have commented on the environmental process or that have requested to be notified of environmental activities), local news media, appropriate local, state, and federal agencies, the regional Environmental Protection Agency (EPA) and the HUD Kentucky State Office (Attachment 2-5).

Attachment 2-6:
Sample Public Notice Distribution
List

- ✓ The grantee may also post the notice in prominent public locations (e.g., library, courthouse, etc.); however, publication is still required.

TIP: All time periods for notices shall be counted in calendar days. The first day of a time period begins at 12:01 a.m. local time on the day following the publication of the notice.

- ✓ After the seven-day comment period has elapsed, the responsible entity must prepare and submit the actual Request for Approval of Evidentiary Materials and Release of Funds (Attachment 1-1) and Environmental Certification (Attachment 2-7) and attachments to the appropriate funding agencies. The Environmental Certification certifies that responsible entities are in compliance with all the environmental review requirements.

Attachment 1-1:
Request for Approval of
Evidentiary Materials and Release
of Funds

Attachment 2-7:
Sample Environmental
Certification

- ✓ At the completion of the review, check the ERR using the Environmental Review Record Checklist provided in the attachments to ensure that it contains the following documents:

Attachment 2-8: Environmental
Review Record Checklist

- Completed Environmental Review for Activity/Project that is Categorically Excluded Subject to Section 58.5 (including statutory checklist and other elements as well as supporting documentation)
- Correspondence with the SHPO (and documentation of mitigating measures, if applicable);

- Floodplain notices and documentation of alternatives considered, if applicable;
- Full tear sheet from newspaper with Notice of Intent to Request Release of Funds (NOI/RROF);
- Request for approval of evidentiary materials and release of funds, environmental certification and related correspondence; and
- DLG’s approval of the release of funds.

Projects in Floodplains and Wetlands (24 CFR Part 55)

When a project meets one or more of the following criteria, the implementation of a specific decision-making process is required for compliance with Executive Orders 11988 and 11990 and 24 CFR Part 55:

Executive Order 11988 and 11990
24 CFR Part 55

- ✓ Is in the 100-year floodplain (Zones A or V mapped by FEMA, or best available information);
- ✓ Is a “critical action” in a 500-year floodplain (Sec. 55.(b)(3)). A critical action is any activity where 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 (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; 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., hospitals, nursing homes, etc.). For more details, refer to 24 CFR Part 55; or
- ✓ Proposes construction in a wetland.

There are two decision-making processes identified in Part 55 concerning floodplains and wetlands. They are the 8-step process (sec. 55.20) and the 5-step process (sec. 55.12(a)). The 8-step process will apply unless a project falls under the allowed criteria for using the 5-step decision making process, which are:

- Disposition of multifamily and single family (1-4 unit) properties [sec. 55.12(a)(1)].
- Repair, rehabilitation, modernization, weatherization, or improvement of existing residential properties (multifamily, single family, assisted living, etc.) [Sec. 55.12.(a)(3)]
 - Number of units is not increased more than 20%;
 - Does not involve conversion from non-residential to residential; and
 - Does not meet definition of “substantial improvement” [sec. 55.2(b)(10)(i)].
- Repair, rehabilitation, modernization, weatherization, or improvement of nonresidential properties (i.e., public facilities, commercial/retail, and industrial) [sec. 55.12(a)(4)]
 - Does not meet the threshold of “substantial improvement” (i.e., the cost equals or exceeds 50% of the market value before repair is started or damage occurred; and
 - The structure footprint and paved area is not significantly increased more than 10%.

-
- Repair, rehabilitation, modernization, weatherization, or improvement of a structure listed on the National Register of Historic Places or on a State Inventory of Historic Places. [“Substantial improvement” does not apply to historic properties, Sec. 55.2(b)(10)(ii)(B)].

The grantee must document in writing which process is applicable and each step of the applicable process.

There are also two decision-making processes identified in Part 55 concerning proposed construction in wetlands. Typically, the 8-Step or 5-Step process is required (sec. 55.20). However, there may be circumstances for which the U.S. Army Corps of Engineers (COE) has issued an Individual Permit under section 404 of the Clean Water Act. In this case, a 3-Step decision process may be followed instead, provided that all the stipulations outlined in sec. 55.28 are met.

NOTE: When a project is located in a floodplain AND also proposes construction in a wetland, the 8-Step decision process must be completed regardless of the issuance of a Section 404 permit (sec. 55.20(a)(3)). Below is an overview of each of the steps in the 8-Step decision process. When the 5-Step decision process is permissible, only Steps 1, 4 through 6, and 8 are applicable. For construction in wetlands, when the 3-Step decision process is permissible due to an Individual Section 404 permit, Steps 6-8 are applicable. All steps must be documented in writing.

- ✓ **Step One: Floodplain Determination.** Determine if the project is located in a base (100-year) floodplain, or 500-year floodplain for Critical Actions. A floodplain refers to any land area susceptible to being inundated from any source of flooding including those which can be flooded from small and often dry water course. 24 CFR Part 55 requires HUD and Responsible Entities to rely on floodplain maps issued by the Federal Emergency Management Agency (FEMA) to evaluate flood risks and impacts. In general, this will be the current, effective Flood Insurance Rate Map (FIRM). However, when FEMA has issued interim flood hazard data, including Advisory Base Flood Elevations (ABFE) or preliminary maps or studies, these sources must be used as the best available information.
 - The maps identified below are published by the Federal Emergency Management Agency (FEMA). Check the following maps to determine if the project is located within a floodplain:
 - Flood Hazard Boundary Map; and/or
 - Flood Insurance Rate Map (both can be found here: <https://msc.fema.gov/portal>).
 - Additional information on Floodplain Maps for HUD Projects can be found here: <https://www.hudexchange.info/resource/5834/floodplain-maps-for-hud-projects/>
 - If the community has been identified as flood-prone by FEMA, a copy of the community's most recently published map (including any letters of map amendments or revisions) should be obtained. The map will identify the community's special flood hazard areas.
 - If the FEMA maps are not available, a determination of whether the project is located in a floodplain may be made by consulting other sources, such as:
 - U. S. Army Corps of Engineers - Hydrology, Hydraulics, and Coastal Team;
 - Local Soil Conservation Service District;
 - Floodplain Information Reports;
 - USGS Flood-prone Area;

- Topographic Quadrangle maps; or
 - State and local maps and records of flooding.
 - The responsible entity should request developers to provide an evaluation by an engineer or hydrologist for areas which are not covered by FEMA or these other sources. Further information may be available at the Kentucky Division of Water (DOW).
 - Use floodplain maps to make this decision and record date in the ERR
- ✓ **Step Two: Early Public Review.** 24 CFR Part 55 includes requirements that the public be provided adequate information, opportunity for review and comment, and an accounting of the rationale for the proposed action affecting a floodplain or wetland. Involve the public in the decision-making process as follows:
- **Publish the Floodplains and Wetlands Early Public Notice in the non-legal section of the newspaper** of general circulation in the area to make the public aware of the intent. Refer to sec. 55.20(b) for the minimum information that must be given in the notice. See also the sample in Attachment 2-9: Sample Floodplains and Wetlands Early Public Notice. **The Floodplains and Wetlands Early Public Notice must be published (it cannot be posted).**
 - The notice must provide a complete description of the proposed action.
 - The notice must allow at least a 15-day comment period for public comments.
- Attachment 2-9:
Sample Floodplains and Wetlands
Early Public Notice
- ✓ **Step Three: Identify and Evaluate Alternate Locations.** Determine if there is a practical alternative. This determination requires the responsible entity to consider whether the base floodplain and/or wetland can be avoided:
- Through alternative siting;
 - Through alternative action that performs the intended function but would minimize harm to/within the floodplain; or
 - By taking no action.
- ✓ **Step Four: Identify Impacts of Proposed Project.** Identify and evaluate the potential direct and indirect impacts associated with the occupancy or modification of the 100-year floodplain (or 500-year for Critical Action) or the wetland and the potential direct and indirect support of floodplain and wetland development that could result from the proposed action.

Floodplain evaluation: If negative impacts are identified, methods must be developed to prevent potential harm as discussed in Step 5. The focus should be on adverse impacts to lives, property, and natural and beneficial floodplain values. See 24 CFR Part 55.20(d)(1) for additional information.

Wetland evaluation: The responsible entity shall consider factors relevant to the project's potential adverse impacts on the survival and quality of the wetland. Among the factors that should be considered are public health, safety and welfare including water supply, quality recharge, and discharge; pollution; flood and storm hazards; sediment and erosion; maintenance of natural systems including existing flora and fauna; natural hydraulic function; wildlife; timber; food sources; and cost increases attributed to wetland development. See 24 CFR Part 55.20(d)(2) for additional information.

✓ **Step Five: Identify Methods to Restore and Preserve Potential Harm to Floodplains and Wetlands Area.** If the proposed project has identifiable impacts (as identified in Step 4), the floodplains and wetlands must be restored and preserved, where practicable.

- Minimization techniques for floodplain and wetland purposes include, but are not limited to: use of permeable surfaces, natural landscape enhancements that preserve/restore natural hydrology, use of native plant species, storm water capture and reuse, floodproofing and elevating structures, etc. See 24 CFR Part 55.20(e) for more information.
- Appropriate compensatory mitigation is recommended for unavoidable impacts to more than 1 acre of wetland. Compensatory mitigation includes, but is not limited to, mitigation banking, use of preservation easements, and any form of mitigation recommended by state or federal agencies.
- Actions covered under 55.12(a) must be rejected if the proposed mitigation is financially or physically unworkable.
- All critical actions in the 500-year floodplain shall be designed and built at or above the 100-year floodplain and include additional project modifications including the preparation of an early warning system as outlined in 24 CFR Part 55.20(e)(3).

Methods to be used to perform these actions are discussed in Step 6.

✓ **Step Six: Re-evaluate Alternatives.** At this stage, the proposed project needs to be re-evaluated, taking into account the identified impacts, the steps necessary to minimize these impacts and the opportunities to restore and preserve floodplain and/or wetland natural and beneficial functions and values.

- Discuss whether the alternatives rejected in Step 3 are now practicable in light of information gained in Steps 4 and 5.
- If the proposed project is determined to be no longer feasible, consider limiting the project to make non-floodplain or wetland sites practicable.
- If the proposed project has impacts that cannot be minimized, the recipient should consider whether the project can be modified or relocated in order to eliminate or reduce the identified impacts or, again, take no action.
- Discuss the economic costs due to locating the project in a floodplain or wetland.

The reevaluation should also include a provision for comparison of the relative adverse impacts associated with the proposed project located both in and out of the floodplain. The comparison should emphasize floodplain values and a site out of the floodplain should not be chosen if the overall harm is significantly greater than that associated with the floodplain site.

✓ **Step Seven: Publish the Floodplains and Wetlands Notice of Explanation.** If the re-evaluation results in the determination that the only practicable alternative is to locate the project in the floodplain, the grantee must **publish** the Floodplains and Wetlands Notice of Explanation in the non-legal section of a local newspaper of general circulation (Refer to sec. 55.20(b) and (g) for the minimum information that must be given in the notice. See also the sample in Attachment 2-10: Sample Floodplains and Wetlands Notice of Explanation).

Attachment 2-10:
Sample Floodplains and Wetlands
Notice of Explanation

- The Floodplains and Wetlands Notice of Explanation (described previously) may **not** be posted.
- It should be noted that when a project triggers the E.O. 11988/11990 “Eight Step Process,” the Notice of Early Public Review should be published first and the minimum 15-day comment period elapsed **before** the grantee can publish the Floodplains and Wetlands Final Notice of Explanation.
- The Floodplains and Wetlands Final Notice of Explanation can be published simultaneously with the 24 CFR Part 58 required Combined/Concurrent Notice of Finding of No Significant Impact (FONSI) and Notice of Intent to Request Release of Funds (NOI/RROF) (Attachment 2-14).

Attachment 2-14:
Combined Concurrent FONSI NOI
RROF Notice
- Any written comments received in response to the above required notice must be addressed and filed in the ERR.
- Document compliance with E.O. 11988/11990. See Attachment 2-11: Sample HUD Case Study for Floodplains/Wetlands Eight Step Process and on HUD Exchange at:
<https://www.hudexchange.info/resource/3190/floodplain-management-8-step-decision-making-process/>

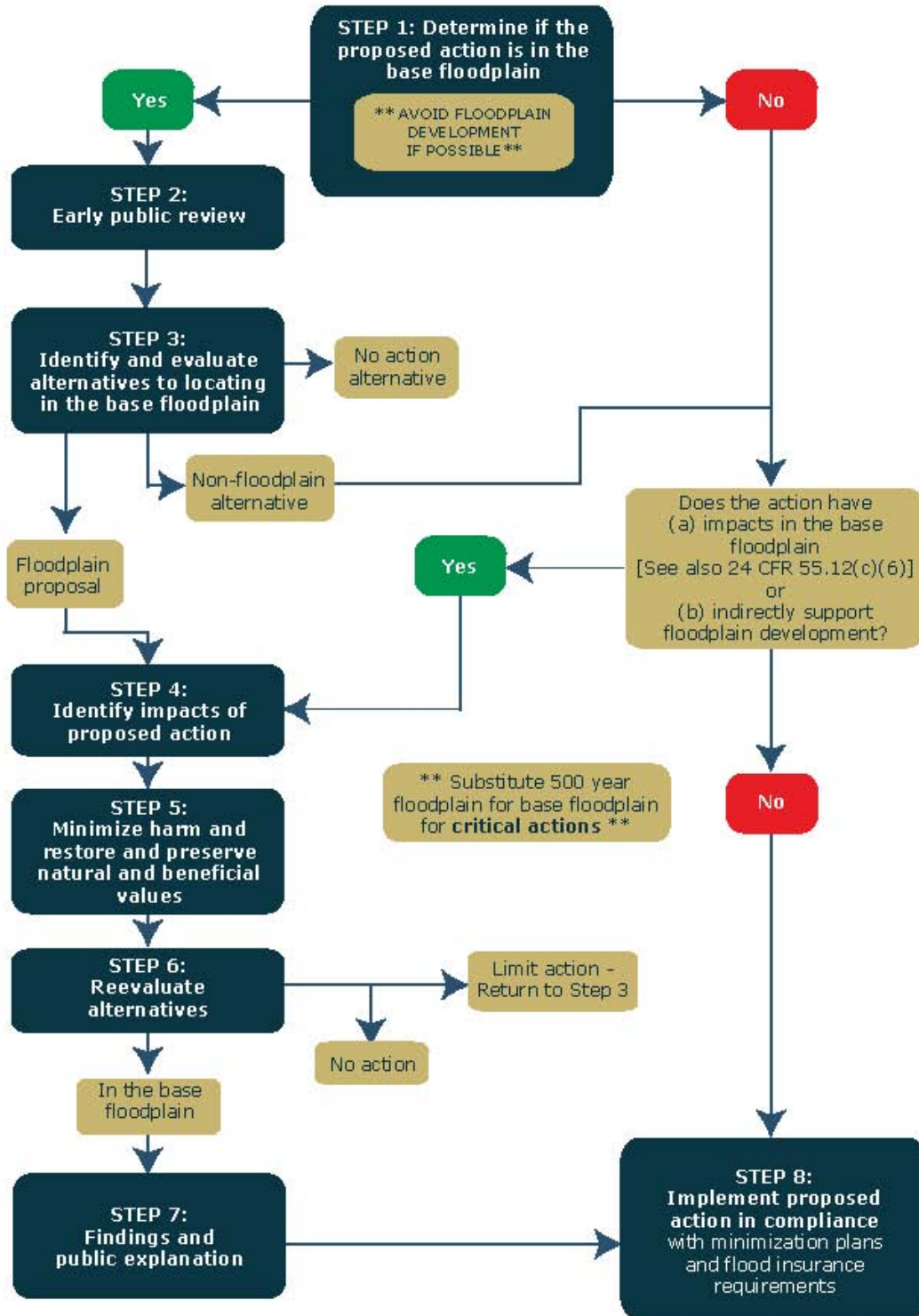
Attachment 2-11:
HUD Case Study Sample
Documentation
for Floodplains/Wetlands Eight
Step Process
- File all documentation and responses relating to the above described procedures in the ERR.

✓ **Step Eight: Implement the Proposed Project.** Implement the project with appropriate mitigation.

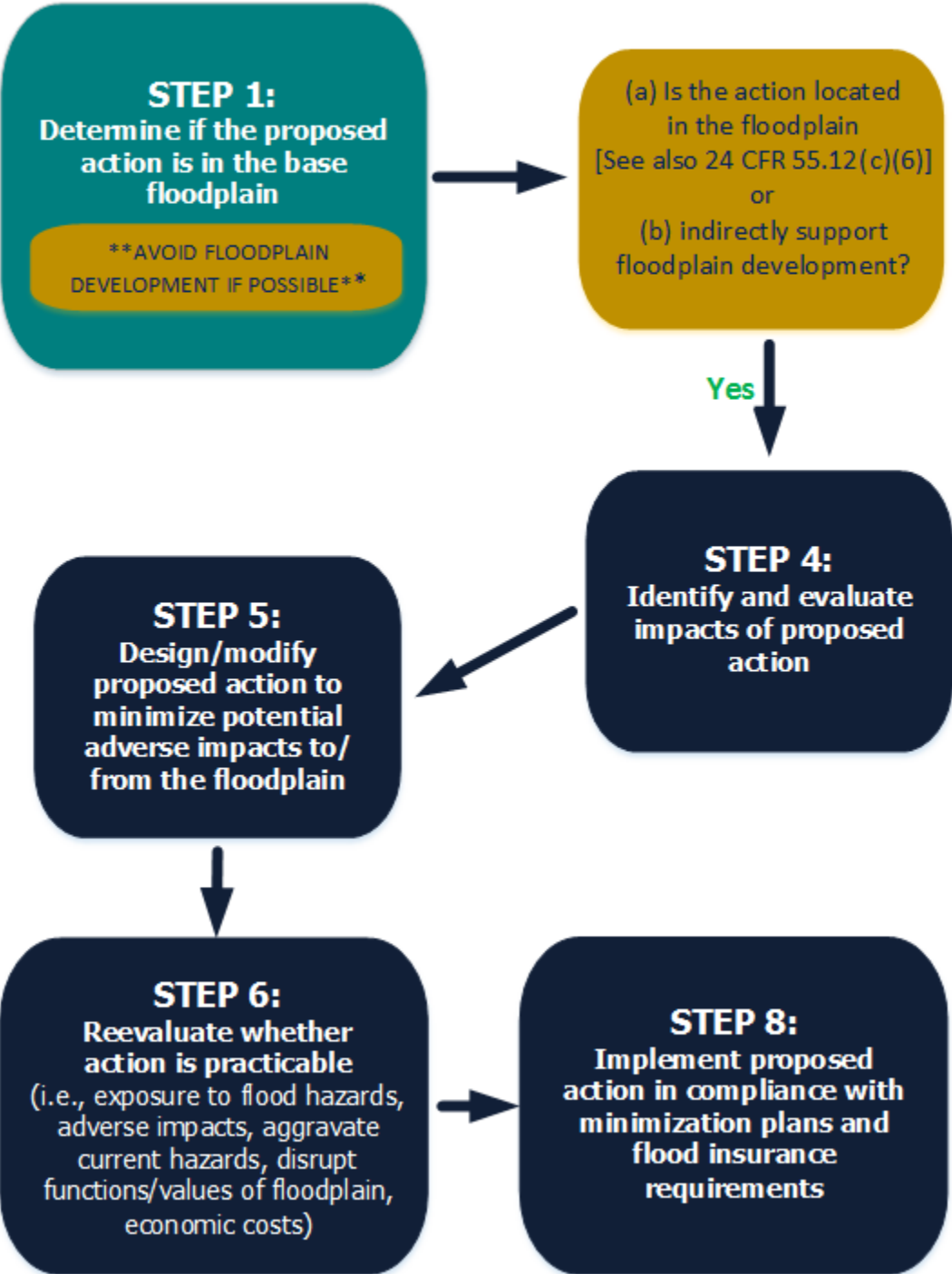
NOTE: If directional boring or drilling beneath a wetland is anticipated, please consult with DLG prior to undertaking the Eight-Step Process. HUD issued guidance in 2011 that exempts directional boring/drilling beneath wetlands from the Eight-Step Process *provided that* certain conditions are met. The memo on directional boring can be found on HUD Exchange at:
<https://files.hudexchange.info/resources/documents/Memo-Directional-Boring-Beneath-Wetlands-and-EO-11990.pdf>

As stated previously, when the 5-Step decision process is required, only Steps 1, 4 through 6, and 8 are applicable. For construction in wetlands when the 3-Step decision process is permissible due to an Individual Section 404 permit, Steps 6-8 are applicable. The flow charts to follow show the 8-Step (for floodplains and wetlands), 5-Step (for floodplains and wetlands), and 3-Step (wetlands only) processes. All steps must be documented in writing.

8- Step Decision-Making Process for Executive Order 11988

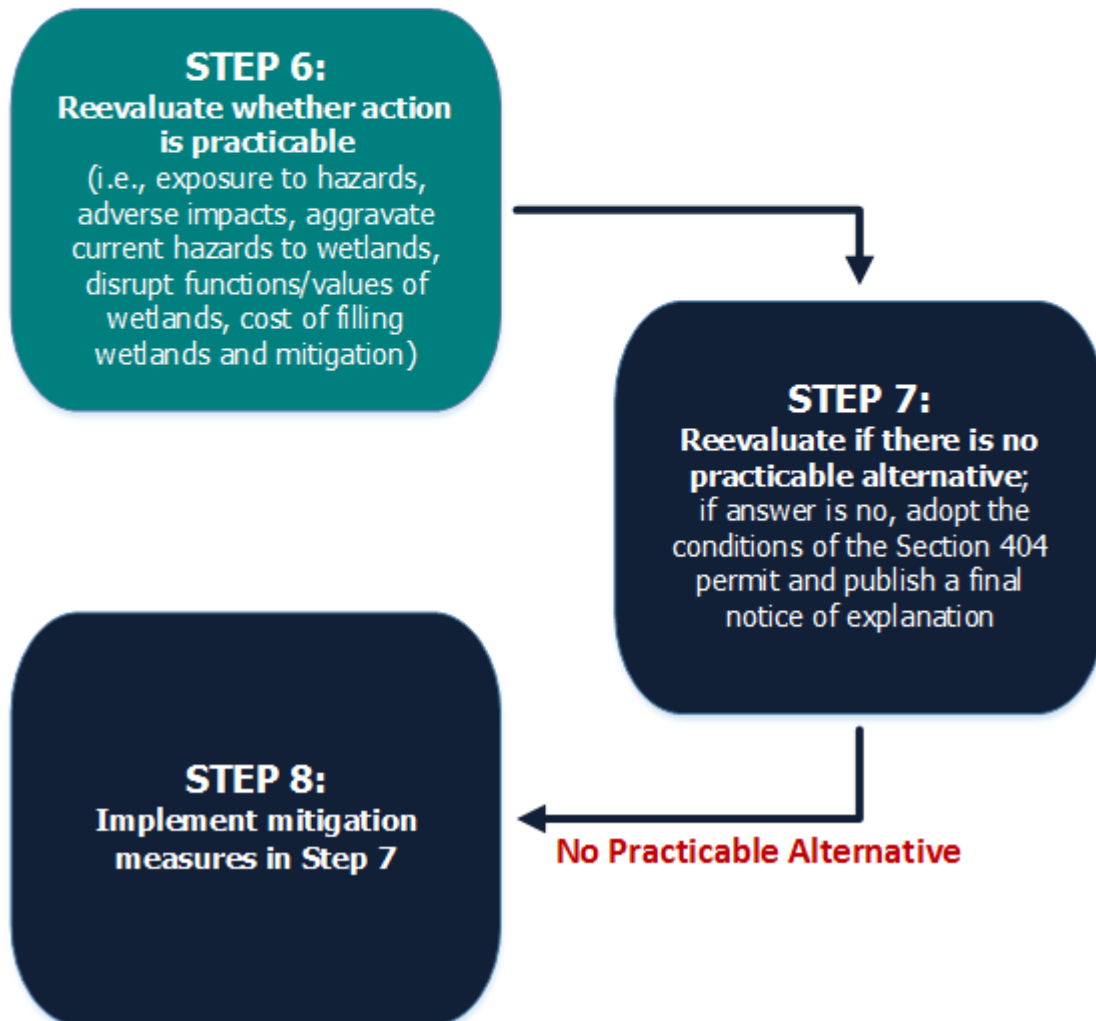


5-Step Decision-Making Process for Executive Order 11988 (Floodplain Management)



3-Step Decision-Making Process for Executive Order 11990 (Wetlands Protection)

NOTE: All of the following conditions must be met for the 3-Step decision-making process to be applicable: the applicant must have submitted the Section 404 permit with their application for HUD-assistance, the proposed action is outside the floodplain, and the proposed action is covered by the permit, and the Section 404 permit that was issued is not a general permit. (24 CFR 55.28)



Circumstances Requiring NEPA Review

If a responsible entity determines that an activity or project identified under the above sections about categorical exclusions (both subject to and not subject to Part 58.5) because of extraordinary circumstances and conditions at or affecting the location of the activity or project may have a significant environmental effect, it shall comply with all the requirements of 24 CFR Part 58.35(c).

24 CFR Part 58.35(c)

The responsible entity is responsible for determining that a given activity qualifies under the definitions for exclusion and/or expedited procedures. 24 CFR Part 58.2(a)(3) an activity's clearance level may be elevated if it exhibits extraordinary circumstances that affect its impact on the environment.

24 CFR Part 58.2(a)(3)

Such circumstances are defined as actions that are unique and without precedent; are substantially similar to those which would require an Environmental Assessment (EA) or Environmental Impact Statement (EIS); are unlikely to alter HUD policy or HUD mandates; or due to unusual physical conditions on the site or in the vicinity, have a potential for a significant impact on the environment or in which the environment could have a significant impact on users of the facility.

The environmental review record must contain a well-organized written record of the process and determinations made per 24 CFR Part 58.38.

Activities Requiring an Environmental Assessment

Activities that are not determined to be exempt or categorically excluded will require an environmental assessment (EA) to document compliance with NEPA, HUD environmental requirements and other federal laws.

24 CFR 58.36 and 58.5

The responsible entity must be aware that if a project consists of several activities that by themselves would fall under various levels as outlined above, the responsible entity must conduct an environmental assessment on the entire project.

The responsible entity must take the following steps to complete environmental requirements for projects requiring an environmental assessment:

- ✓ Follow the instructions for categorically excluded projects subject to 24 CFR Part 58.5 to complete the statutory checklist, including historic preservation and floodplain requirements.
- ✓ The floodplain requirements do not apply if the project is not located within a floodplain.
- ✓ Complete the Environmental Assessment form. The responsible entity must ensure that reliable documentation sources are cited and incorporated into the ERR for every item on the EA checklist (see Attachment 2-12).
- ✓ The final step in the process involves making a determination as to whether the project will or will not have a significant impact on the environment. This can be done once the review has been completed and all comments have been addressed appropriately. The RE must select one of the following two findings/determinations:
- ✓ The project is not an action that significantly affects the quality of the human environment and, therefore, does not require the preparation of an environmental impact statement; or

Attachment 2-12:
Environmental Assessment

-
- ✓ The project is an action that significantly affects the quality of the human environment and, therefore, requires the preparation of an environmental impact statement. Both the finding and the environmental assessment must be signed by your environmental certifying officer and included in the ERR.

Attachment 2-13:
Sample Environmental
Assessment Process/File Checklist

A sample checklist for completing the environmental assessment is included as Attachment 2-13.

No Environmental Impact Statement Required

In most instances, the environmental assessment will result in a finding that the project is not an action that significantly affects the quality of the human environment and, therefore, does not require an environmental impact statement. If this is the case, the responsible entity must complete the following:

- ✓ Provide public notice called the Combined/Concurrent Notice of Finding of No Significant Impact (FONSI) and Notice of Intent to Request Release of Funds (NOI/RROF) from the appropriate funding agency. A sample notice is provided as Attachment 2-14.

Attachment 2-14:
Sample Combined/Concurrent
Notice to Public of No Significant
Impact on the Environment and
Notice to Public of Request for
Release of Funds

- The FONSI and NOI/RROF must **be published in a newspaper of general circulation.**
- The grantee must retain the “tear sheet” from the newspaper evidencing that the notice was published and on what date.

- The notice must also be distributed to interested parties, local news media, appropriate local/ state/federal agencies, regional EPA, and Kentucky HUD. (See Attachment 2-6: Sample Public Notice Distribution List for a more complete listing of potentially interested parties.)

Attachment 2-6:
Sample Public Notice Distribution
List

- The notice must also be posted in public buildings within the project area.

- ✓ It is very important to remember this requires two separate 15-day review periods. A 15-day period for comment to the city/county and, after that period, a 15-day period for comment to the appropriate funding agency. The appropriate funding agency 15-day comment period does not commence until the date the appropriate funding agency receives the notice, or the date specified in the published notice, whichever is later. Call or email the appropriate funding agency to verify dates on the combined/concurrent notice before publishing.

- Any written comments received in response to these notices must be addressed and filed in the ERR. The persons that provided the comments should be added to the distribution list of interested parties.
- The environmental certification, request for approval of evidentiary materials and release of funds forms must be submitted to the appropriate funding agency at least 16 days after publishing the combined/concurrent notice.
- Check the ERR. Be sure this file contains all items listed on the ERR Checklist (Attachment 2-15).

Attachment 2-15:
Sample Environmental Review
Record Checklist

Environmental Impact Statement

An Environmental Impact Statement (EIS) is required when a project is determined to have a potentially significant impact on the environment. Consult with DLG if an EIS is anticipated.

Section 2-E. Re-Evaluation of Previously Cleared Projects

Sometimes, projects are revised, delayed or otherwise changed such that a re-evaluation of the environmental review is necessary. The purpose of the responsible entity's re-evaluation is to determine if the original findings are still valid. If the original findings are still valid, but the data and conditions upon which they were based have changed, the responsible entity must amend the original findings and update their ERR by including this re-evaluation and its determination based on its findings. A sample determination is provided as Attachment 2-16. It has to document the following:

24 CFR 58.47

Attachment 2-16:
Sample Re-Evaluation
Determination

- ✓ Reference to the previous environmental review record,
- ✓ Description of both old and new projects activities and maps delineating both old and new project areas,
- ✓ Determination if FONSI is still valid, and
- ✓ Signature of the certifying officer and date.

Place the written statement in the ERR and send a copy to the appropriate funding agency with the Request for Release of Funds (RROF).

If the responsible entity determines that the original findings are no longer valid, it must either reject the project, prepare a new EA or an EIS if the reevaluation indicates potentially significant impacts.

Section 2-F. Environmental Reviews Prepared by or for Other Federal Agencies

DLG will accept environmental reviews prepared by or for other federal funding agencies provided that the ERR, including consultation with other agencies and documentation, as well as associated public notifications meet or exceed the requirements established by 24 CFR Part 58 and are NEPA-like reviews. Contact DLG for further guidance.



**U.S. Department of Housing and Urban
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Environmental Review for Activity/Project that is Exempt or Categorically Excluded Not Subject to Section 58.5 Pursuant to 24 CFR Part 58.34(a) and 58.35(b)

This is a suggested format that may be used by Responsible Entities to document completion of an Exempt or Categorically Excluded Not Subject to Section 58.5 environmental review.

Project Information

Project Name:

Responsible Entity:

Grant Recipient (if different than Responsible Entity):

State/Local Identifier:

Preparer:

Certifying Officer Name and Title:

Consultant (if applicable):

Project Location:

Description of the Proposed Project [24 CFR 58.32; 40 CFR 1508.25]:

Level of Environmental Review Determination:

Activity/Project is Exempt per 24 CFR 58.34(a): _____

Activity/Project is Categorically Excluded Not Subject To §58.5 per 24 CFR 58.35(b):

Funding Information

Grant Number	HUD Program	Funding Amount

Estimated Total HUD Funded Amount:

This project anticipates the use of funds or assistance from another Federal agency in addition to HUD in the form of (if applicable):

Estimated Total Project Cost (HUD and non-HUD funds) [24 CFR 58.32(d)]:

Compliance with 24 CFR §50.4 and §58.6 Laws and Authorities

Record below the compliance or conformance determinations for each statute, executive order, or regulation. Provide credible, traceable, and supportive source documentation for each authority. Where applicable, complete the necessary reviews or consultations and obtain or note applicable permits of approvals. Clearly note citations, dates/names/titles of contacts, and page references. Attach additional documentation as appropriate.

Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR 50.4 and 58.6	Are formal compliance steps or mitigation required?	Compliance determinations
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR §58.6		
Airport Runway Clear Zones and Accident Potential Zones 24 CFR Part 51 Subpart D	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Coastal Barrier Resources Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Flood Insurance	Yes No <input type="checkbox"/> <input type="checkbox"/>	

Project Name

Project Locality and State

HEROS Number

Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]		
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Mitigation Measures and Conditions [40 CFR 1505.2(c)]

Summarize below all mitigation measures adopted by the Responsible Entity to reduce, avoid, or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements, and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure

Preparer Signature: _____ Date: _____

Name/Title/Organization: _____

Responsible Entity Agency Official Signature:

_____ Date: _____

Name/Title: _____

This original, signed document and related supporting material must be retained on file by the Responsible Entity in an Environmental Review Record (ERR) for the activity/project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).



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Environmental Review for Activity/Project that is Categorically Excluded Subject to Section 58.5

Pursuant to 24 CFR 58.35(a)

**This is a suggested format that may be used by Responsible Entities to document completion of a
Categorically Excluded Subject to Section 58.5 environmental review.**

Project Information

Project Name:

Responsible Entity:

Grant Recipient (if different than Responsible Entity):

State/Local Identifier:

Preparer:

Certifying Officer Name and Title:

Grant Recipient (if different than Responsible Entity):

Consultant (if applicable):

Direct Comments to:

Project Location:

Description of the Proposed Project [24 CFR 50.12 & 58.32; 40 CFR 1508.25]:

Level of Environmental Review Determination:

Categorically Excluded per 24 CFR 58.35(a), and subject to laws and authorities at §58.5: _____

Funding Information

Grant Number	HUD Program	Funding Amount

Estimated Total HUD Funded Amount:

Estimated Total Project Cost (HUD and non-HUD funds) [24 CFR 58.32(d)]:

Compliance with 24 CFR 50.4, 58.5, and 58.6 Laws and Authorities

Record below the compliance or conformance determinations for each statute, executive order, or regulation. Provide credible, traceable, and supportive source documentation for each authority. Where applicable, complete the necessary reviews or consultations and obtain or note applicable permits of approvals. Clearly note citations, dates/names/titles of contacts, and page references. Attach additional documentation as appropriate.

Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR §58.5 and §58.6	Are formal compliance steps or mitigation required?	Compliance determinations
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.6		
Airport Hazards 24 CFR Part 51 Subpart D	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Coastal Barrier Resources Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Flood Insurance Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994	Yes No <input type="checkbox"/> <input type="checkbox"/>	

[42 USC 4001-4128 and 42 USC 5154a]		
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.5		
Clean Air Clean Air Act, as amended, particularly section 176(c) & (d); 40 CFR Parts 6, 51, 93	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Coastal Zone Management Coastal Zone Management Act, sections 307(c) & (d)	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Contamination and Toxic Substances 24 CFR Part 50.3(i) & 58.5(i)(2)	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Endangered Species Endangered Species Act of 1973, particularly section 7; 50 CFR Part 402	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Explosive and Flammable Hazards 24 CFR Part 51 Subpart C	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Farmlands Protection Farmland Protection Policy Act of 1981, particularly sections 1504(b) and 1541; 7 CFR Part 658	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Floodplain Management Executive Order 11988, particularly section 2(a); 24 CFR Part 55	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Historic Preservation National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Noise Abatement and Control Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart B	Yes No <input type="checkbox"/> <input type="checkbox"/>	

Sole Source Aquifers Safe Drinking Water Act of 1974, as amended, particularly section 1424(e); 40 CFR Part 149	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Wetlands Protection Executive Order 11990, particularly sections 2 and 5	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Wild and Scenic Rivers Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c)	Yes No <input type="checkbox"/> <input type="checkbox"/>	
ENVIRONMENTAL JUSTICE		
Environmental Justice Executive Order 12898	Yes No <input type="checkbox"/> <input type="checkbox"/>	

Field Inspection (Date and completed by):

Summary of Findings and Conclusions:

Mitigation Measures and Conditions [40 CFR 1505.2(c)]

Summarize below all mitigation measures adopted by the Responsible Entity to reduce, avoid, or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements, and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure

Determination:

- This categorically excluded activity/project converts to Exempt, per 58.34(a)(12) because there are no circumstances which require compliance with any of the federal laws and authorities cited at §58.5. **Funds may be committed and drawn down after certification of this part** for this (now) EXEMPT project; OR
- This categorically excluded activity/project cannot convert to Exempt because there are circumstances which require compliance with one or more federal laws and authorities cited at §58.5. Complete consultation/mitigation protocol requirements, **publish NOI/RROF and obtain “Authority to Use Grant Funds”** (HUD 7015.16) per Section 58.70 and 58.71 before committing or drawing down any funds; OR
- This project is now subject to a full Environmental Assessment according to Part 58 Subpart E due to extraordinary circumstances (Section 58.35(c)).

Preparer Signature: _____ Date: _____

Name/Title/Organization: _____

Responsible Entity Agency Official Signature:

_____ Date: _____

Name/Title: _____

This original, signed document and related supporting material must be retained on file by the Responsible Entity in an Environmental Review Record (ERR) for the activity/project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).

Tribal Consultation Letter Template – Part 58

[Letterhead of the Responsible Entity]

Date

[Name], [Title]
[Name of Tribe]
[Address]

Re: Name and address of project
HUD Program

Dear [Title] [Last Name],

The [name of HUD grantee] is considering funding the project listed above with federal funds from the U.S. Department of Housing and Urban Development (HUD). Under HUD regulation 24 CFR 58.4, the [name of HUD grantee] has assumed HUD's environmental review responsibilities for the project, including tribal consultation related to historic properties. Historic properties include archeological sites, burial grounds, sacred landscapes or features, ceremonial areas, traditional cultural places and landscapes, plant and animal communities, and buildings and structures with significant tribal association.

[Name of HUD grantee] will conduct a review of this project to comply with Section 106 of the National Historic Preservation Act and its implementing regulations 36 CFR Part 800. We would like to invite you to be a consulting party in this review to help identify historic properties in the project area that may have religious and cultural significance to your tribe, and if such properties exist, to help assess how the project might affect them. If the project might have an adverse effect, we would like to discuss possible ways to avoid, minimize or mitigate potential adverse effects.

[Summarize and include known info from SHPO and other sources including non-confidential information from other tribes]

To meet project timeframes, if you would like to be a consulting party on this project, can you please let us know of your interest within 30 days? If you have any initial concerns with impacts of the project on religious or cultural properties, can you please note them in your response?

Enclosed is a map that shows the project area and, if applicable, an additional area of potential indirect effects. The project consists of [insert project description].

More information on the Section 106 review process is available at <http://www.onecpd.info/environmental-review/historic-preservation/>.

HUD's process for tribal consultation under Section 106 is described in a Notice available at <https://www.onecpd.info/resource/2448/notice-cpd-12-006-tribal-consultation-under-24-cfr-part-58>.

If you do not wish to consult on this project, can you please inform us? If you do wish to consult, can you please include in your reply the name and contact information for the tribe's principal representative in the consultation? Thank you very much. We value your assistance and look forward to consulting further if there are historic properties of religious and cultural significance to your tribe that may be affected by this project.

Sincerely,

Name

Title

Phone

E-mail

FAX

cc: [THPO]

Tribal Consultation Template Letter – Part 50

HUD letterhead

Date

«AddressBlock»

Re: Name and address of project
HUD Program

«GreetingLine»

The [name of HUD grantee] is considering [funding, providing mortgage insurance for] the project listed above with federal funds from the U.S. Department of Housing and Urban Development (HUD) and we are reviewing the project under HUD regulation 24 CFR Part 50 and Section 106 of the National Historic Preservation Act and its implementing regulations 36 CFR Part 800 for possible impacts on historic properties. Historic properties include archeological sites, burial grounds, sacred landscapes or features, ceremonial areas, traditional cultural places and landscapes, plant and animal communities, and buildings and structures with significant tribal association.

We would like to invite you to be a consulting party in this review to help identify historic properties in the project area that may have religious and cultural significance to your tribe, and if such properties exist, to help assess how the project might affect them. If the project might have an adverse effect, we would like to discuss possible ways to avoid, minimize or mitigate potential adverse effects.

[Summarize and include known info from SHPO and other sources including non-confidential information from other tribes]

To meet project timeframes, if you would like to be a consulting party on this project, can you please let us know of your interest within 30 days? If you have any initial concerns with impacts of the project on religious or cultural properties, can you please note them in your response?

Enclosed is a map that shows the project area and, if applicable, an additional area of potential indirect effects. The project consists of [insert project description].

More information on the Section 106 review process is available at <http://www.onecpd.info/environmental-review/historic-preservation/>.

General information on HUD's process for tribal consultation under Section 106 is described in a Notice available at <https://www.onecpd.info/resource/2448/notice-cpd-12-006-tribal-consultation-under-24-cfr-part-58>.

If you do not wish to consult on this project, can you please inform us? If you do wish to consult, can you please include in your reply the name and contact information for the tribe's principal representative in the consultation? Thank you very much. We value your assistance and look forward to consulting further if there are historic properties of religious and cultural significance to your tribe that may be affected by this project.

If you have questions regarding this finding, please direct them to []. Thank you for your attention to this matter.

Sincerely,

Name
Title
Phone
E-mail
FAX

cc: THPO

Sample Notice of Intent to Request a Release of Funds

The sample language below is HUD's recommended wording of the Notice of Intent to Request a Release of Funds. This Notice is used to request the environmental release of funds for Categorically Excluded projects [24 CFR Part 58, Section 58.35(a)] or for projects for which a Notice of Finding of No Significant Impact was previously issued. Words in **bold type** are required language. Words in *italics* are to be replaced by language appropriate to the particular project and Responsible Entity. The minimum comment period is seven days following publication or ten days if posting and mailing without publication is used

NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS

Date of Notice

Name of Responsible Entity [RE]

Address (e.g., Street No. or P.O. Box)

City, State, Zip Code

Telephone Number of RE

On or about *at least one day after the end of the comment period* **the name of RE will** *if the RE is not also the grant recipient, insert the following language here: "authorize the [name of grant recipient] to"* **submit a request to the HUD/State administering agency for the release of name of grant program funds under Title/Section [] of the name of the Act of [year], as amended, to undertake a project known as project title for the purpose of nature/scope of project, estimated funding (include non-HUD funding sources if applicable) and project location if applicable.**

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

PUBLIC COMMENTS

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

ENVIRONMENTAL CERTIFICATION

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

OBJECTIONS TO RELEASE OF FUNDS

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

Name and Title of RE Certifying Officer

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

Following completion of the comment period recipients may FAX the form HUD-7015.15 to HUD/State together with a copy of the public notice and a cover letter stating whether comments were received and, if so, how the recipient responded to the comment. The Request for Release of Funds and Certification should not be submitted before the recipient has responded. If the request is sent by FAX, the original signed form should be mailed to HUD/State. The date of receipt by FAX will be counted as the submission date. However, HUD will not issue the 7015.16 "Authority to Use Grant Funds" until after the original signed form is received.

MODELO DE AVISO DE INTENCIÓN DE SOLICITAR UNA LIBERACIÓN DE FONDOS

A continuación se provee el lenguaje recomendado por HUD para redactar un Aviso de Intención de Solicitar una Liberación de Fondos. Este aviso se utiliza para solicitar la liberación ambiental de fondos para proyectos categóricamente excluidos [24 CFR (Código de Reglamentos Federal, por sus siglas en inglés) Parte 58 Sección 58.35(a)] o proyectos para los cuales un Aviso de Determinación de No Impacto Significativo fue emitido previamente. Palabras destacadas en **letra negrita** son lenguaje obligatorio. Palabras en *letra itálica* deben ser reemplazadas por lenguaje apropiado al proyecto y Entidad Responsable particular. El período mínimo para comentarios es siete días a partir de la publicación del aviso en prensa escrita, o diez días si el aviso se envía por correo y se exhibe en lugares públicos y el área del proyecto, pero no se publica en prensa escrita.

AVISO DE INTENCIÓN DE SOLICITAR LIBERACIÓN DE FONDOS

Fecha del Aviso

Nombre de la Entidad Responsable [RE, por sus siglas en inglés]

Dirección (por ejemplo, Calle o Apartado Postal)

Ciudad, Estado, Código Postal

Número de Teléfono del RE

En o cerca del *al menos un día después del final del período para comentarios* **el o la** *nombre del RE* **procederá a** *(si el RE no es también el beneficiario de la subvención inserte aquí el siguiente lenguaje: “autorizar a [nombre del beneficiario de la subvención] a)”* **someter una solicitud a HUD / Agencia Estatal encargada para la liberación de fondos del programa nombre del programa de subvención bajo la Sección/el Título [] de la nombre de la Ley del [año], según enmendada, para llevar a cabo el proyecto conocido como nombre del proyecto con el propósito de naturaleza / alcance / componentes del proyecto, estimado de fondos (incluyendo fuentes de fondos ajenas a HUD, si aplica) y localización del proyecto, si aplica.**

Las actividades propuestas *Alternativa # 1: están categóricamente excluidas bajo la reglamentación de HUD (24 CFR 58) de los requisitos de la Ley de Política Ambiental Nacional (NEPA, por sus siglas en inglés) o Alternativa # 2: conforman un proyecto para el cual una Determinación de No Impacto Significativo al ambiente se [publicó en prensa escrita / se envió por correo y se exhibió en lugares públicos y el área del proyecto] en [fecha de publicación / fecha de envío y exhibición].* **Un Expediente de Revisión Ambiental (ERR, por sus siglas en inglés) que documenta las determinaciones ambientales para este proyecto está disponible en nombre y dirección de la oficina del RE donde el ERR puede ser examinado, y nombre y dirección de otros lugares donde el expediente está disponible para revisión y puede ser examinado o reproducido en días laborables de _____ a. m. a _____ p. m.**

COMENTARIOS PÚBLICOS

Cualquier individuo, grupo o agencia puede proveer comentarios por escrito acerca del ERR a oficina designada por el RE como responsable de recibir y responder a comentarios. Todo comentario recibido hasta si el aviso se publica en prensa escrita: fecha del aviso más siete días; si el aviso se envía por correo y se exhibe en lugares públicos y el área del proyecto: fecha de envío y exhibición más diez días será considerado por nombre del RE antes de autorizar que se someta la solicitud de liberación de fondos.

CERTIFICACIÓN AMBIENTAL

Nombre del RE certifica a HUD / Estado que nombre del Oficial Certificador en su capacidad como Título oficial da su consentimiento a aceptar la jurisdicción de las cortes federales si una acción legal fuera iniciada para hacer cumplir responsabilidades relacionadas al proceso de revisión ambiental y que estas responsabilidades se satisfagan. La aprobación por parte de HUD / Estado de la certificación satisface sus responsabilidades bajo NEPA, y las leyes y autoridades relacionadas, y permite que nombre del beneficiario de la subvención utilice fondos del Programa.

OBJECIONES A LA LIBERACIÓN DE FONDOS

HUD / Estado aceptará objeciones a su liberación de fondos y la certificación por parte de Nombre del RE por un período de quince días a partir de la fecha anticipada de recibo o la fecha en que en efecto se reciba la solicitud de liberación de fondos (lo que ocurra más tarde) solamente si estas se basan en una de las siguientes posibles razones: (a) la certificación no fue firmada por el Oficial Certificador de Nombre del RE; (b) Nombre del RE omitió un paso o no tomó una decisión o determinación que es requisito de la reglamentación de HUD en 24 CFR Parte 58; (c) el beneficiario de la subvención u otros participantes en el proceso de desarrollo comprometieron fondos, incurrieron en gastos, o llevaron a cabo actividades no autorizadas por 24 CFR Parte 58 antes de que HUD / Estado apruebe la liberación de fondos; o (d) otra agencia federal actuando de acuerdo con 40 CFR Parte 1504 sometió una determinación de que el proyecto no es satisfactorio desde el punto de vista de calidad ambiental. Las objeciones deben prepararse y someterse de acuerdo con los requisitos procesales (24 CFR Parte 58, Sección 58.76) y dirigirse a HUD / Oficina de Administración Estatal a dirección de esa oficina. Objetores potenciales deben contactar a HUD / Estado para verificar la fecha en que en efecto finaliza el período para objeciones.

Nombre y título del Oficial Certificador

Nota: Los períodos para comentarios públicos de siete o diez días son los períodos mínimos establecidos en la reglamentación previo a someter una Solicitud de Liberación de Fondos y Certificación [forma HUD-7015.15] a HUD / Estado. La Entidad Responsable puede permitir un período para comentarios más largo. El período para objeciones de 15 días a partir de la fecha de entrega de la solicitud es un

requisito estatutario. El período para objeciones viene después de la fecha de radicación especificada en el aviso o la fecha efectiva de recibo por HUD / Estado, la que sea más tarde.

Después que se completa el período para comentarios los beneficiarios pueden enviar la forma HUD-7015.15 a HUD / Estado por fax junto con una copia del aviso público y una carta de trámite indicando si se recibieron comentarios, y de ser así, como el beneficiario respondió a los comentarios. La Solicitud de Liberación de Fondos y Certificación no debe someterse antes que el beneficiario haya respondido. Si la solicitud se envía por fax, la forma original firmada debe enviarse por correo a HUD / Estado. La fecha de recibo por fax se considerará como la fecha de entrega. Sin embargo, HUD no emitirá la forma 7015.16 (Autorización para Utilizar Fondos de Subvención) hasta después que la forma de solicitud original firmada se reciba.

NOTICE OF INTENT TO REQUEST A RELEASE OF FUNDS (NOIRROF) DISTRIBUTION LIST

The Notice of Intent to Request Release of Funds and/or the Concurrent Notice (FONSI-NOIRROF) must be sent to the following organizations and individuals:

- Local Newspaper of General Circulation
- Area Development District
- Local Special Interest Groups
- Tribal Councils (if applicable)
- Interested persons/organizations

Environmental Protection Agency U.S. EPA Region 4 Sam Nunn Atlanta Federal Center 61 Forsyth Street, SW Atlanta, GA 30303-8960	Kentucky Department of Local Government Department for Local Government 100 Airport Road, 3rd Floor Frankfort, KY 40601 Phone: (800) 346-5606 FAX: (502) 227-8691
State Historic Preservation Officer Kentucky Heritage Council The Barstow House 410 High Street Frankfort, KY 40601 (502) 564-7005	U.S. Department of Housing and Urban Development Kentucky State Officer Gene Snyder Courthouse 601 W. Broadway, Room 110 Louisville, KY 40202 Phone: (502) 582-5251 Email: Customer Service Fax: (502) 582-6074 TTY: (800) 648-6056 Field Office Director: Peter E. Jackson

For Floodplain & Wetlands advertisements, also send a copy to the appropriate U.S. Army Corp of Engineers Office.

**Early Notice and Public Review of a Proposed
Activity in a [100-Year/500-year Floodplain or Wetland]**

**[Note: May also be combined with other notices such as state floodplain or wetland notices so long
as it contains the required information]**

To: All interested Agencies **[include all Federal, State, and Local]**, Groups and Individuals

This is to give notice that **[HUD under part 50 or Responsible Entity under Part 58]** has determined that the following proposed action under **[Program Name]** and **[HUD grant or contract number]** is located in the **[100-year/500-year floodplain/wetland]**, and **[HUD or the Responsible Entity]** will be identifying and evaluating practicable alternatives to locating the action in the **[floodplain/wetland]** and the potential impacts on the **[floodplain/wetland]** from the proposed action, as required by **[Executive Order 11988 and/or 11990]**, in accordance with HUD regulations at 24 CFR 55.20 Subpart C Procedures for Making Determinations on Floodplain Management and Protection of Wetlands. **[Describe the activity, e.g. purpose, type of assistance, the size of the site, proposed number of units, size of footprint, type of floodplain/wetland, natural and beneficial functions (e.g. floodwater storage and conveyance, groundwater discharge or recharge, erosion control, water quality maintenance, and habitat for flora and fauna) and values (e.g. recreational, educational, scientific, historic, and cultural) of the floodplain/wetland potentially adversely affected by the activity]. [State the total number of acres of floodplains/wetland].** The proposed project(s) is located **[at addresses]** in **[Name of City]**, **[Name of County]**.

There are three primary purposes for this notice. First, people who may be affected by activities in **[floodplains/wetlands]** and those who have an interest in the protection of the natural environment should be given an opportunity to express their concerns and provide information about these areas. Commenters are encouraged to offer alternative sites outside of the **[floodplain/wetland]**, alternative methods to serve the same project purpose, and methods to minimize and mitigate impacts. Second, an adequate public notice program can be an important public educational tool. The dissemination of information and request for public comment about **[floodplains/wetlands]** can facilitate and enhance Federal efforts to reduce the risks and impacts associated with the occupancy and modification of these special areas. Third, as a matter of fairness, when the Federal government determines it will participate in actions taking place in **[floodplains/wetlands]**, it must inform those who may be put at greater or continued risk.

Written comments must be received by **[HUD or Responsible Entity]** at the following address on or before **[month, day, year]** **[a minimum 15 calendar day comment period will begin the day after the publication and end on the 16th day after the publication]: [HUD or Responsible Entity], [Address]** and **[phone number]**, Attention: **[Name of Certifying Officer or designee], [Title]**. A full description of the project may also be reviewed from **[enter available office hours]** at **[address or state address is same as above]** and **[web address if available]**. Comments may also be submitted via email at **[email address]**.

Date:

Final Notice and Public Explanation of a Proposed Activity in a [100-Year/500-year Floodplain or Wetland]

To: All interested Agencies **[include all Federal, State, and Local]**, Groups and Individuals

This is to give notice that the **[HUD under part 50 or Responsible Entity under Part 58]** has conducted an evaluation as required by **[Executive Order 11988 and/or 11990]**, in accordance with HUD regulations at 24 CFR 55.20 Subpart C Procedures for Making Determinations on Floodplain Management and Wetlands Protection. The activity is funded under the **[Program Name]** under **[HUD grant or contract number]**. The proposed project(s) is located **[at addresses]** in **[Name of City], [Name of County]**. **[Describe the activity, e.g. purpose, type of assistance, the size of the site, proposed number of units, size of footprint, type of floodplain/wetland, natural values]. [State the total number of acres of floodplains/wetland involved].**

[HUD or Responsible Entity] has considered the following alternatives and mitigation measures to be taken to minimize adverse impacts and to restore and preserve natural and beneficial values: **[List (i) ALL of the reasons why the action must take place in a floodplain/wetland, (ii) alternatives considered and reasons for non-selection, (iii) all mitigation measures to be taken to minimize adverse impacts and to restore and preserve natural and beneficial functions (e.g. floodwater storage and conveyance, groundwater discharge or recharge, erosion control, water quality maintenance, and habitat for flora and fauna) and values (e.g. recreational, educational, scientific, historic, and cultural) of the floodplain/wetland] [Cite the date of any final or conditional LOMR's or LOMA's from FEMA where applicable] [Acknowledge compliance with state and local floodplain/wetland protection procedures]**

[HUD or Responsible Entity] has reevaluated the alternatives to building in the **[floodplain/wetland]** and has determined that it has no practicable alternative. Environmental files that document compliance with steps 3 through 6 of **[Executive Order 11988 and/or 11990]**, are available for public inspection, review and copying upon request at the times and location delineated in the last paragraph of this notice for receipt of comments.

There are three primary purposes for this notice. First, people who may be affected by activities in **[floodplains/wetlands]** and those who have an interest in the protection of the natural environment should be given an opportunity to express their concerns and provide information about these areas. Second, an adequate public notice program can be an important public educational tool. The dissemination of information and request for public comment about **[floodplains/wetlands]** can facilitate and enhance Federal efforts to reduce the risks and impacts associated with the occupancy and modification of these special areas. Third, as a matter of fairness, when the Federal government determines it will participate in actions taking place in **[floodplains/wetlands]**, it must inform those who may be put at greater or continued risk.

Written comments must be received by the **[HUD or Responsible Entity]** at the following address on or before **[month, day, year] [a minimum 7 calendar day comment period will begin the day after the publication and end on the 8th day after the publication]: [Name of Administrator], [Address]** and

[phone number], Attention: **[Name of Certifying Officer or designee]**, **[Title]**. A full description of the project may also be reviewed from **[enter available office hours]** at **[address or state address is same as above]** and **[web address if available]**. Comments may also be submitted via email at **[email address]**.

Date:

**AVISO Y REVISIÓN PÚBLICA TEMPRANOS DE UNA ACTIVIDAD PROPUESTA
EN UN [VALLE INUNDABLE DE 100 AÑOS / 500 AÑOS O HUMEDAL]**

[Nota: Puede combinarse con otros avisos, tales como avisos estatales de valles inundables o humedales, siempre y cuando el aviso contenga la información necesaria]

A: Todas las agencias interesadas **[incluyendo federales, estatales y locales]**, grupos e individuos

Se notifica que **[HUD cumpliendo con la Parte 50 o la Entidad Responsable cumpliendo con la Parte 58]** determinó que la siguiente acción propuesta bajo **[Nombre del Programa]** y **[Número Subvención de HUD o de contrato]** ubica en un **[valle inundable de 100 años / 500 años / humedal]**, y que **[HUD o la Entidad Responsable]** identificará y evaluará alternativas prácticas a la ubicación de la acción en el **[valle inundable / humedal]** y los posibles impactos de la acción propuesta en el **[valle inundable / humedal]**, según establecen **[la(s) Orden(es) Ejecutiva(s) 11988 o 11990]**, de acuerdo con los reglamentos de HUD en 24 CFR 55.20 Subparte C - Procedimientos para hacer determinaciones sobre el manejo del valle inundable y la protección de humedales. **[Describa la actividad, por ejemplo, propósito, tipo de ayuda, tamaño de la parcela, número de unidades propuestas, tamaño de la huella del proyecto, tipo de valle inundable/humedal, funciones naturales y beneficiosas (tales como, almacenaje y descarga de aguas de inundación, descarga y recarga de acuíferos, control de erosión, control de calidad de agua y hábitat de flora y fauna) y valores (tales como, recreacionales, educativos, científicos, históricos y culturales) del valle inundable/humedal que posiblemente sea afectado por la actividad]. [Indique el número total de acres de valle inundable/humedal].** La localización de(l)(los) proyecto(s) propuesto(s) es **[proveer dirección]**.

Este aviso tiene tres propósitos principales. Primero, las personas que puedan verse afectadas por actividades en **[valles inundables / humedales]** y aquellos que tengan interés en la protección del ambiente natural deben recibir la oportunidad de expresar sus preocupaciones y proveer información sobre estas áreas. Los interesados en proveer comentarios están invitados a ofrecer o recomendar alternativas de ubicación fuera del **[valle inundable / humedal]**, métodos alternativos para lograr el propósito del proyecto, y métodos para minimizar y mitigar impactos. Segundo, un programa adecuado de avisos públicos puede ser una herramienta importante de educación pública. La diseminación de información y solicitud de comentarios públicos sobre **[valles inundables / humedales]** puede facilitar y mejorar los esfuerzos federales para reducir los riesgos e impactos asociados con la ocupación y alteración de estas áreas especiales. Tercero, como materia de justicia, cuando el gobierno federal determina participar en acciones ubicadas en **[valles inundables / humedales]**, debe informárselo a quienes puedan ser expuestos a un riesgo mayor o similar al presente.

Comentarios por escrito deben ser recibidos por **[HUD o Entidad Responsable]** en la siguiente dirección en o antes de **[día, mes, año]** **[un período mínimo de comentarios de 15 días comenzará el día siguiente de la publicación y terminará en el 16^{to} día después de la publicación]: [HUD o Entidad Responsable], [Dirección] y [Número de Teléfono], Atención: [Nombre de Oficial Certificador o designado], [Título].** Una descripción completa del proyecto está disponible al público para revisión de **[indicar horario de disponibilidad]** en **[dirección o indicar si la dirección es la misma que se proveyó arriba]** y **[dirección de internet si aplica]**. Comentarios por escrito pueden enviarse también por correo electrónico a **[dirección de correo electrónico]**.

Fecha:

AVISO Y EXPLICACIÓN PÚBLICA FINALES DE UNA ACTIVIDAD PROPUESTA EN UN [VALLE INUNDABLE DE 100 AÑOS / 500 AÑOS O HUMEDAL]

A: Todas las agencias interesadas [incluyendo federales, estatales y locales], grupos e individuos

Se notifica que [HUD cumpliendo con la Parte 50 o la Entidad Responsable cumpliendo con la Parte 58] completó una evaluación según establece(n) [la(s) Orden(es) Ejecutiva(s) 11988 o 11990], de acuerdo con los reglamentos de HUD en 24 CFR 55.20 Subparte C - Procedimientos para hacer determinaciones sobre el manejo del valle inundable y la protección de humedales. La actividad está subvencionada con fondos del programa [Nombre del Programa] bajo [Número de Subvención de HUD o de contrato]. El(Los) proyectos propuestos está(n) localizados en [dirección]. [Describa la actividad, por ejemplo, propósito, tipo de ayuda, tamaño de la parcela, número de unidades propuestas, tamaño de la huella del proyecto, tipo de valle inundable / humedal y valores naturales]. [Indique el número total de acres del valle inundable / humedal afectado].

[HUD o Entidad Responsable] consideró las siguientes alternativas y medidas de mitigación para minimizar impactos adversos y restaurar y preservar valores naturales y beneficiosos: [Liste (i) TODAS las razones por la cuales la acción debe llevarse a cabo en un valle inundable / humedal, (ii) alternativas consideradas y razones para descartarlas, (iii) toda medida de mitigación a llevarse a cabo para minimizar impactos adversos y restaurar y preservar funciones naturales y beneficiosas (tales como, almacenaje y descarga de aguas de inundación, descarga y recarga de acuíferos, control de erosión, control de calidad de agua, y hábitat de flora y fauna) y valores (tales como, recreacionales, educativos, científicos, históricos, y culturales) del valle inundable / humedal] [Cite la fecha de cualquier carta de revisión de mapa (LOMR, por sus siglas en inglés) o carta de enmienda de mapa (LOMA, por sus siglas en inglés) de FEMA aplicable] [Confirme cumplimiento con procedimientos y requisitos estatales y locales de protección del valle inundable / humedal]

[HUD o Entidad Responsable] reevaluó las alternativas a construir en el [valle inundable / humedal] y determinó que no cuenta con alternativas prácticas. Documentación ambiental que evidencia el cumplimiento con los pasos 3 al 6 de la(s) [Orden Ejecutiva 11988 o 1990], está disponible para inspección, revisión y reproducción de parte del público, de ser solicitado, en el horario y lugar indicado en el último párrafo sobre recibo de comentarios de este aviso.

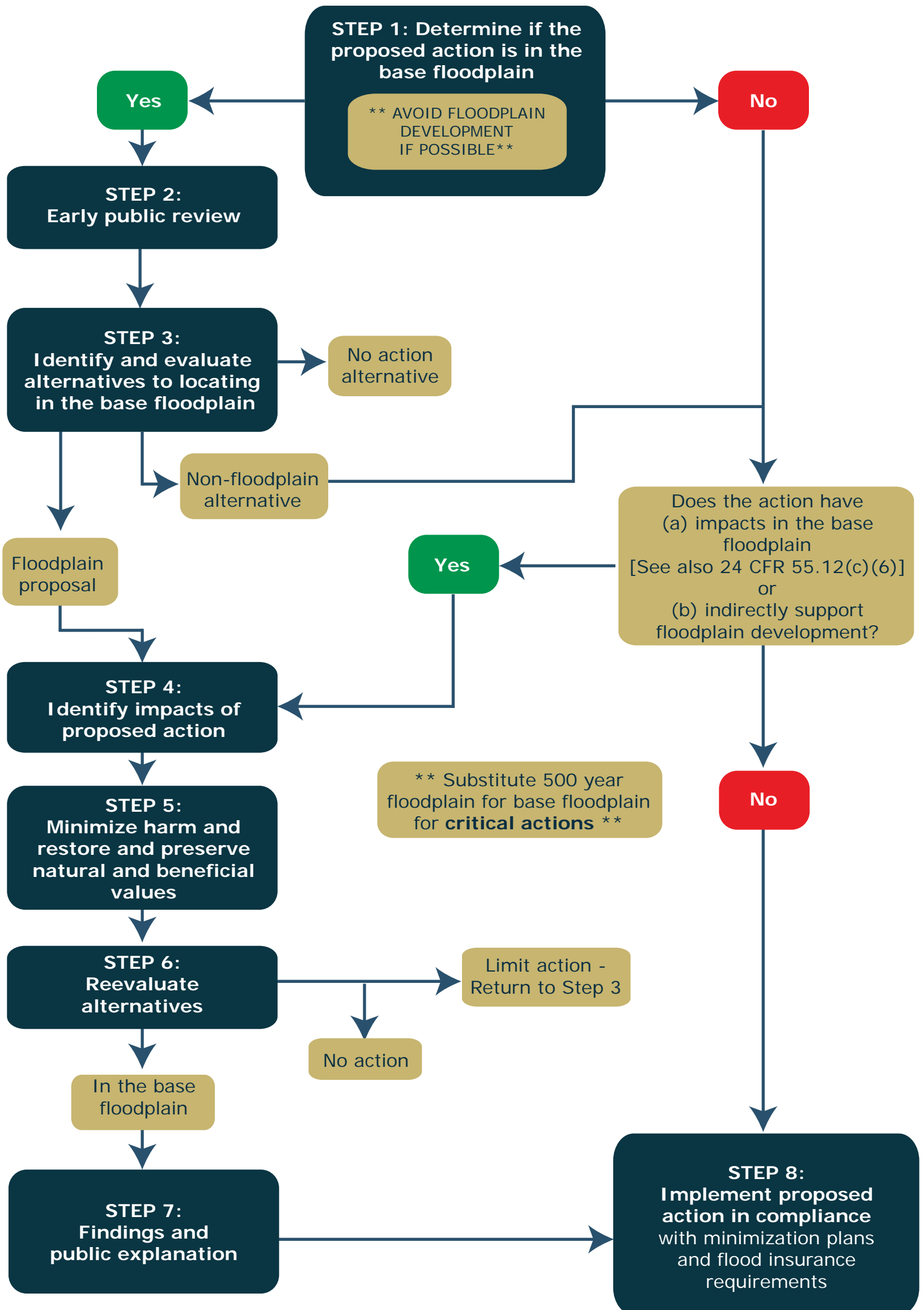
Este aviso tiene tres propósitos principales. Primero, las personas que puedan verse afectadas por actividades en [valles inundables / humedales] y aquellos que tengan interés en la protección del ambiente natural deben recibir la oportunidad de expresar sus preocupaciones y proveer información sobre estas áreas. Segundo, un programa adecuado de avisos públicos puede ser una herramienta importante de educación pública. La disseminación de información y solicitud de comentarios públicos sobre [valles inundables / humedales] puede facilitar y mejorar los esfuerzos federales para reducir los riesgos e impactos asociados con la ocupación y alteración de estas áreas especiales. Tercero, como materia de justicia, cuando el gobierno federal determina participar en acciones ubicadas en [valles inundables / humedales], debe informárselo a quienes puedan ser expuestos a un riesgo mayor o similar al presente.

Comentarios por escrito deben ser recibidos por [HUD o Entidad Responsable] en la siguiente dirección en o antes de [día, mes, año] [un período mínimo de comentarios de 7 días comenzará el día siguiente de la publicación y terminará en el 8º día después de la publicación]: [Nombre del Administrador], [Dirección] y [Número de Teléfono], Atención: [Nombre de Oficial Certificador o

designado], [Título]. Una descripción completa del proyecto está disponible al público para revisión de **[indicar horario de disponibilidad]** en **[dirección o indicar si la dirección es la misma que se proveyó arriba]** y **[dirección de internet si aplica]**. Comentarios por escrito pueden enviarse también por correo electrónico a **[dirección de correo electrónico]**.

Fecha:

8- Step Decision-Making Process for Executive Order 11988





**U.S. Department of Housing and Urban
Development**

451 Seventh Street, SW
Washington, DC 20410
www.hud.gov

espanol.hud.gov

Environmental Assessment Determinations and Compliance Findings for HUD-assisted Projects 24 CFR Part 58

**This is a suggested format that may be used by Responsible Entities to document completion of an
Environmental Assessment.**

Project Information

Project Name:

Responsible Entity:

Grant Recipient (if different than Responsible Entity):

State/Local Identifier:

Preparer:

Certifying Officer Name and Title:

Grant Recipient (if different than Responsible Entity):

Consultant (if applicable):

Direct Comments to:

Project Location:

Description of the Proposed Project [24 CFR 50.12 & 58.32; 40 CFR 1508.25]:

Statement of Purpose and Need for the Proposal [40 CFR 1508.9(b)]:

Existing Conditions and Trends [24 CFR 58.40(a)]:

Funding Information

Grant Number	HUD Program	Funding Amount

Estimated Total HUD Funded Amount:

Estimated Total Project Cost (HUD and non-HUD funds) [24 CFR 58.32(d)]:

Compliance with 24 CFR 50.4, 58.5, and 58.6 Laws and Authorities

Record below the compliance or conformance determinations for each statute, executive order, or regulation. Provide credible, traceable, and supportive source documentation for each authority. Where applicable, complete the necessary reviews or consultations and obtain or note applicable permits of approvals. Clearly note citations, dates/names/titles of contacts, and page references. Attach additional documentation as appropriate.

Compliance Factors: Statutes, Executive Orders,	Are formal compliance steps or	Compliance determinations
---	--------------------------------	---------------------------

and Regulations listed at 24 CFR §58.5 and §58.6	mitigation required?	
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 and 58.6		
Airport Hazards 24 CFR Part 51 Subpart D	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Coastal Barrier Resources Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Flood Insurance Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]	Yes No <input type="checkbox"/> <input type="checkbox"/>	
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.5		
Clean Air Clean Air Act, as amended, particularly section 176(c) & (d); 40 CFR Parts 6, 51, 93	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Coastal Zone Management Coastal Zone Management Act, sections 307(c) & (d)	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Contamination and Toxic Substances 24 CFR Part 50.3(i) & 58.5(i)(2)	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Endangered Species Endangered Species Act of 1973, particularly section 7; 50 CFR Part 402	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Explosive and Flammable Hazards 24 CFR Part 51 Subpart C	Yes No <input type="checkbox"/> <input type="checkbox"/>	

Farmlands Protection Farmland Protection Policy Act of 1981, particularly sections 1504(b) and 1541; 7 CFR Part 658	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Floodplain Management Executive Order 11988, particularly section 2(a); 24 CFR Part 55	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Historic Preservation National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Noise Abatement and Control Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart B	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Sole Source Aquifers Safe Drinking Water Act of 1974, as amended, particularly section 1424(e); 40 CFR Part 149	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Wetlands Protection Executive Order 11990, particularly sections 2 and 5	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Wild and Scenic Rivers Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c)	Yes No <input type="checkbox"/> <input type="checkbox"/>	
ENVIRONMENTAL JUSTICE		
Environmental Justice Executive Order 12898	Yes No <input type="checkbox"/> <input type="checkbox"/>	

Environmental Assessment Factors [24 CFR 58.40; Ref. 40 CFR 1508.8 &1508.27] Recorded below is the qualitative and quantitative significance of the effects of the proposal on the character, features and resources of the project area. Each factor has been evaluated and documented, as appropriate and in proportion to its relevance to the proposed action. Verifiable source documentation has been provided and described in support of each determination, as appropriate. Credible, traceable and supportive source

documentation for each authority has been provided. Where applicable, the necessary reviews or consultations have been completed and applicable permits of approvals have been obtained or noted. Citations, dates/names/titles of contacts, and page references are clear. Additional documentation is attached, as appropriate. **All conditions, attenuation or mitigation measures have been clearly identified.**

Impact Codes: Use an impact code from the following list to make the determination of impact for each factor.

- (1) Minor beneficial impact
- (2) No impact anticipated
- (3) Minor Adverse Impact – May require mitigation
- (4) Significant or potentially significant impact requiring avoidance or modification which may require an Environmental Impact Statement

Environmental Assessment Factor	Impact Code	Impact Evaluation
LAND DEVELOPMENT		
Conformance with Plans / Compatible Land Use and Zoning / Scale and Urban Design		
Soil Suitability/ Slope/ Erosion/ Drainage/ Storm Water Runoff		
Hazards and Nuisances including Site Safety and Noise		
Energy Consumption		

Environmental Assessment Factor	Impact Code	Impact Evaluation
SOCIOECONOMIC		
Employment and Income Patterns		
Demographic Character Changes, Displacement		

Environmental Assessment Factor	Impact Code	Impact Evaluation
COMMUNITY FACILITIES AND SERVICES		

Educational and Cultural Facilities		
Commercial Facilities		
Health Care and Social Services		
Solid Waste Disposal / Recycling		
Waste Water / Sanitary Sewers		
Water Supply		
Public Safety - Police, Fire and Emergency Medical		
Parks, Open Space and Recreation		
Transportation and Accessibility		

Environmental Assessment Factor	Impact Code	Impact Evaluation
NATURAL FEATURES		
Unique Natural Features, Water Resources		
Vegetation, Wildlife		
Other Factors		

Additional Studies Performed:

Field Inspection (Date and completed by):

List of Sources, Agencies and Persons Consulted [40 CFR 1508.9(b)]:

List of Permits Obtained:

Public Outreach [24 CFR 50.23 & 58.43]:

Cumulative Impact Analysis [24 CFR 58.32]:

Alternatives [24 CFR 58.40(e); 40 CFR 1508.9]

No Action Alternative [24 CFR 58.40(e)]:

Summary of Findings and Conclusions:

Mitigation Measures and Conditions [40 CFR 1505.2(c)]

Summarize below all mitigation measures adopted by the Responsible Entity to reduce, avoid, or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements, and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure

Determination:

Finding of No Significant Impact [24 CFR 58.40(g)(1); 40 CFR 1508.27]
 The project will not result in a significant impact on the quality of the human environment.

Finding of Significant Impact [24 CFR 58.40(g)(2); 40 CFR 1508.27]
 The project may significantly affect the quality of the human environment.

Preparer Signature: _____ Date: _____

Name/Title/Organization: _____

 Certifying Officer Signature: _____ Date: _____

Name/Title: _____

This original, signed document and related supporting material must be retained on file by the Responsible Entity in an Environmental Review Record (ERR) for the activity/project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).

Attachment 2-14

COMBINED NOTICE
NOTICE TO PUBLIC OF NO SIGNIFICANT IMPACT ON THE ENVIRONMENT
AND NOTICE TO PUBLIC OF REQUEST FOR RELEASE OF FUNDS
(Sample)

*Date _____

(Name of Applicant)

(Street, City, Zip Code)

(Telephone #)

These notices shall satisfy two separate but related procedural requirements for the activities to be undertaken by the *(insert RE name)*

TO ALL INTERESTED AGENCIES, GROUPS, AND PERSONS:

Request for Release of Funds

On or about *(date, at least one day after end of public comment period)*, the *(insert RE name)* will submit a request to the Department for Local Government for the release of Community Development Block Grant (CDBG) funds under Title 1 of the Housing and Community Development Act of 1974 (PL 93-383) to undertake the following project:

(Project Title or Name)

(Purpose or Nature of the Project)

(Location – City, County, State – of Project)

(Census Tract(s))

Finding of No Significant Impact

The *(insert RE name)* has determined that the project will have no significant impact on the human environment. Therefore, an Environmental Impact Statement under the National Environmental Policy Act of 1969 (NEPA) (PL-91-190) is not required. An Environmental Review Record (ERR) respecting the within project has been made by *(insert RE name)* which documents the environmental review of the project and more fully sets forth the reasons why such Statement is not required. This Environmental Review Record is on file at

the (*insert RE name and address*) (*also insert address of other locations ERR is available*) and is available for public examination and copying, upon request, at Room _____ between the hours of _____ A.M. and _____ P.M. No further environmental review of such project is proposed to be conducted.

Public Comments

All interested agencies, groups, and persons disagreeing with the ERR decision are invited to submit written comments for consideration by the (*insert RE name*) to the (*office of the undersigned*) (*other specified place*). Such written comments should be received at (*the address specified*) on or before (*date***). All such comments so received will be considered prior to authorizing submission of a request for a release of funds or taking any administrative action on the within project prior to the date specified on the proceeding sentence. Comments should specify which Notice they are addressing.

Environmental Certification

The (*insert RE name*) will undertake the project described above with Block Grant funds from the Department for Local Government under Title I of the Housing and Community Development Act of 1974. *The (insert RE name)* is certifying to the state that (*name of applicant*) and (*chief executive officer or other environmental certifying officer of applicant approved by the state*), in his/her official capacity as _____ (*office*) _____ consent to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to environmental reviews, decision making, and action; and that these responsibilities have been satisfied. The legal effect of the certification is that upon its approval (*insert RE name*) may use the Block Grant funds and the state and HUD will have satisfied their responsibilities under the National Environmental Policy Act of 1969 and related laws and authorities.

Objection to Release of Funds

The state will accept objections to its release of funds and the (*insert RE name*) certification for a period of fifteen days following the anticipated submission dates or it's actual receipt for the request (whichever is the later) only if they are on one of the following bases:

- (a) The certification was not in fact executed by the (*insert RE name*) Certifying Officer.
- (b) The (*insert RE name*) has failed to make one of the two findings pursuant to S58.41 or to make the written determination decision required by SS578.57, 58.53 or 58.64 for the project, as applicable.
- (c) The (*insert RE name*) has omitted one or more of the steps set forth at Subparts F and G for the preparation and completion of an EA.

- (d) No opportunity was given to the Advisory Council on Historic Preservation or its Executive Director to review the effect of the project on a property listed on the National Register of Historic Places, or found to be eligible for such listing by the Secretary of the Interior, in accordance with 36 CFR Part 800.
- (e) The recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by 24 CFR part 58 before approval of the release of funds and approval of the Environmental Certification by HUD or the State.
- (f) Another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality.

Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58, Sec. 58.76) and shall be addressed to the Department for Local Government, Office of Federal Grants, 1024 Capital Center Drive, Ste. 340 Frankfort, Kentucky 40601.

Objections to the release of funds on bases other than those stated above will not be considered by the state. No objection received after (^{***} date of last day in the 15 day period) will be considered by the state. Potential objectors should contact the Department for Local Government to verify the actual last day of the state Comment period.

(Name of Certifying Officer of Applicant/Title)

(Address)

* Date of Publication.

** No Less than 15 days after date of this publication, i.e., 16 days.

*** Estimate this date from time grantee anticipates the State will receive request. See Part 58.31.

Environmental Review Process (To Be Conducted by Responsible Entity)



Chapter 3: Financial Management

Introduction

With KCDBG funding comes certain administrative and financial management requirements. Financial management is the constant process of tracking progress towards financial objectives and safeguarding the financial assets of an organization. The key principles of financial management are common to all types of organizations and include sound financial management systems, internal controls, allowability of costs, use and tracking of program income, and audits.

This chapter details the financial management regulations and requirements that apply to the use of KCDBG funds.

Section 3-A. Applicable Requirements

The CDBG regulations require grantees that are governmental entities or public agencies to adhere to certain administrative and financial management requirements. The CDBG regulations at 24 CFR 570.489 contain basic program administrative requirements.

- ✓ In addition, 2 CFR Part 200 “Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards” which was adopted by HUD at 2 CFR 2400, also applies. It is referred to as the Omni Circular because it consolidated and replaced numerous previously applicable circulars and regulations
- ✓ 2 CFR Part 200 establishes principles and standards for determining allowable costs under federal grants. It also includes requirements for audits such as the type and level of audit required, reports issued by auditors, and audit review and resolution. It includes requirements for financial management systems, reports, records, and grant close-outs for recipients of federal grant funding. Subjects covered include financial management standards, internal controls, budget controls, accounting controls, cash management, procurement, and contracting.

24 CFR 570.489
2 CFR Part 200
2 CFR Part 2400

Section 3-B. Establishing a Financial Management System

Overview

Financial management is important to grantees administering KCDBG funding. A fundamental purpose of financial management is to ensure the appropriate, effective, timely and honest use of funds.

Specifically, grantees must ensure that:

- ✓ Internal controls are in place and adequate;
- ✓ Documentation is available to support accounting record entries;
- ✓ Financial reports and statements are complete, current, reviewed periodically; and
- ✓ Audits are conducted in a timely manner and in accordance with applicable standards.

Requirements

In establishing a financial management system, grantees are to follow 24 CFR Part 85 “Administrative Requirements for Grants and Cooperative Agreements to state, Local, and Federally Recognized Indian Tribal Governments” (also known as the Common Rule).

2 CFR 200.302

Both 24 CFR Part 570 and 2 CFR Part 200 govern CDBG grantee financial management systems. In addition, the use and accounting for KCDBG funds are governed by DLG requirements, HUD Notice CPD-04-11, and Treasury Circular 1075. KRS 91A.020 requires grantees to follow generally accepted accounting principles (GAAP). Failure to account for and manage KCDBG funds accordingly may result in sanctions imposed by DLG and/or HUD.

A grantee’s financial management system must provide for the following:

- ✓ Accurate, current, and complete disclosure of financial results;
- ✓ Records that identify adequately the source and application of grant funds;
- ✓ Comparison of actual outlays with amounts budgeted for the grant;
- ✓ Procedures to minimize the amount of time elapsed between the transfer of funds from the US Treasury and the disbursements by the grantee;
- ✓ Procedures for determining reasonableness and allowable costs;
- ✓ Accounting records that are supported by appropriate source documentation; and
- ✓ A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

The three basic functions, which must be served by the financial management system, are:

1. The financial management system must have an identified procedure for recording all financial transactions.
2. All expenditures should be related to allowable activities in the grant agreement approved by DLG.
3. All expenditures of KCDBG funds must be in compliance with applicable laws, rules, and regulations.

Tip: Use the **Sample Financial Management Checklist (see Attachment 3-1)** as a tool to help your organization set up and maintain your financial management system.

Attachment 3-1:
Sample Financial Management
Checklist

2 CFR Part 200 also requires that grantees take reasonable measures to safeguard personally identifiable information (e.g., social security or bank account numbers) and other information designated to be sensitive by HUD or the state, consistent with applicable federal, state, and local laws regarding privacy and obligations of confidentiality.

Internal Controls

Internal controls refer to the combination of policies, procedures, defined job responsibilities, personnel, and records that allow an organization (or an agency) to maintain adequate oversight and control of its cash, property, and other assets.

The soundness of any grantee's financial management structure is determined by its system of internal controls. Specifically, internal controls refer to:

- ✓ Effectiveness and efficiency of operations;
- ✓ Reliability of financial reporting; and
- ✓ Compliance with applicable laws and regulations.

With a sound internal control system, a grantee can ensure:

- ✓ Resources are used for authorized purposes and in a manner consistent with applicable laws, regulations, and policies;
- ✓ Resources are protected against waste, mismanagement or loss; and
- ✓ Information on the source, amount, and use of funds is reliable, secured, and up-to-date and that this information is disclosed in appropriate reports and records.

As part of an effective internal control system, one person should be designated as the primary person at the grantee organization responsible for the financial management of a KCDBG project. This person should be familiar with their organization's present accounting system. The accounting of KCDBG funds can be integrated into the grantee's existing system. Refer to 2 CFR 200.303 for more information.

Accounting Records

Each grantee should determine the accounting procedures that will assist in providing accurate and complete financial information. Grantees are required to maintain accounting records that sufficiently identify the source and use of the KCDBG funds provided to them. All records must be supported by source documentation (see the next section).

The grantee may have KCDBG accounting records fully integrated into an existing accounting system. Grantees may also have partially integrated records into an existing system; however, ledgers should be developed to provide the required accounting information for the KCDBG grant. Separate records eliminate potential conflicts with the grantee's usual record keeping systems.

At a minimum, a grantee's accounting system, must:

- ✓ Clearly identify all receipt and expenditure transactions of the grant; and
- ✓ Provide for budgetary control by tracking expenditures and accrued obligations by approved activity.

DLG staff and the grantee's auditors should be able to readily trace all transactions through the accounting system at any time during the grant period of performance or after grant close-out.

Budget Controls

The grantee must be able to report expenditures for each approved activity. A record of the account balances must be maintained for each approved activity that accounts for expenses accrued as well as obligations that have been incurred but not yet been paid out.

Source Documentation

Accounting records must be supported by source documentation. Source documentation includes many items such as cancelled checks, paid bills, payrolls, time and attendance records, contract documents and other paperwork.

Tip: It is important that a grantee establishes a system in which all source documents pertaining to the project are clearly marked by an identifier on each source document. This will help assure that transactions are properly classified and segregated in the accounting records.

Source documentation should tell the story of the basis of the costs incurred and the actual dates of the expenditure. For example, source documentation on payments to contractors would include a request for payment, proof of inspection to verify work and materials, and cancelled checks. DLG encourages the use of purchase orders or payment vouchers when preparing expenditures for payment of any cost associated with the project. These documents are prepared in accordance with local policies and procedures as well as those required by federal regulations.

Additionally, contracts should be kept in a file separate from accounting files. The signed contract represents an obligation of funds. When payments are made on the contract, they should be recorded in the contract file.

Receipt of Funds Procedures

In addition to CDBG funds received from DLG, receipt of other project funds may also include program income and project funds received from other sources.

The grantee must be certain that project funds are adequately safeguarded. This includes providing proper bonding of those individuals that handle program funds, in accordance with state and local law.

All project funds should be promptly deposited to the proper bank account and recorded as a receipt in the accounting system. KCDBG funds are to be drawn from DLG only as required to pay immediate obligations.

Payment Procedures

Before the grantee can expend any funds, the grantee's budget must include appropriations for the grant. Additionally, the budget must be approved and enacted by the appropriate legislative body.

A Request for Payment (Attachment 3-2) may not be submitted until the grantee has received a Notice of Release of Funds. Grantees may request only the amount of funds needed to pay immediate obligations. Grantees must submit Requests for Payment to DLG by the 3rd and the 18th of the month. More information on Requests for Payment is provided in Section 3-D of this chapter.

Attachment 3-2:
Request for Payment Form

In order to safeguard the grant funds and ensure an effective system of internal controls, an individual apart from the person authorized to request funds should approve expenditures. Additionally, all invoices should be reviewed to determine that the costs are accurate, reasonable, and allowable. DLG is required to ensure that program income is expended before additional funds are drawn down. To allow DLG to track available program income, grantees are required to report all program income that has been received since the last draw of CDBG funds on the Request for Payment Form. Refer to Section 3-C for additional information on tracking and reporting program income.

Invoices and Vouchers

To assist in the planning for the Request for Payment, grantees should establish an internal deadline for submission of all invoices and vouchers.

Before providing full payment for a contractor’s invoice, grantees should verify that the work has been completed. This is a good time to ensure that all payments for expenditures are supported by source documentation (i.e., invoices or vouchers and kept on file). A list of disbursements to be made should be prepared and the cash requirements submitted to DLG on the Request for Payment form. Refer to Section 3-D of this chapter for more information on Requests for Payment.

Bank Accounts

In dealing with CDBG funds, the grantee is required to maintain a **non-interest bearing** bank account for the deposit of CDBG funds. The account must be FDIC insured or secured by bank-pledged collateral for the full amount of KCDBG funds held in the account. The bank must provide collateral to secure those funds that are in excess of \$100,000.

It is important that the grantee be able to reconcile all balances in the account. Grantees should reconcile bank statements as soon as bank statements are received.

Grantees may not earn interest on the deposit of federal funds pending disbursement. All federal funds on hand must be disbursed before requesting additional funds. If excessive amounts of cash (over \$5,000) are or will be on hand for an extended period of time (over five days), the grantee must return the excess to DLG.

Forms

After establishing the accounting system and bank account to be used, the grantee needs to complete two forms:

- ✓ **The Authorized Signature Form.** This form (Attachment 3-3) designates to DLG who has the authority to sign grant documents and reports. Only a person listed on this form may sign Request for Payment forms. The grantee’s CEO must sign the form and submit it to DLG. A copy of the form is provided as an attachment to this chapter.
- ✓ **Direct Electronic Transfer of Funds Form.** This form is used to designate the bank and the account number into which DLG will deposit the grantee’s KCDBG funds. The grantee should complete the community and project information section including providing the CDBG pass through number and CDBG project number. With the assistance of the designated bank, the grantee must complete the depository information. The grantee’s CEO should then sign the form. The grantee must include a voided check containing the grantee’s name, address, phone number and the name of the bank account. Attach the **voided check to the form** and submit it to DLG. A copy of the form is provided as Attachment 3-4 to this chapter.

Attachment 3-3:
Authorized Signature Form
Attachment 3-4:
Direct Electronic Transfer of Funds
Form

Common Mistakes to Avoid

- ✓ Failure to maintain records that track KCDBG expenditures by activity.
- ✓ Lack of source documentation for KCDBG expenditures.
- ✓ KCDBG funds drawn down being held in an interest bearing account.
- ✓ Bank statements not reconciled.
- ✓ Program income not reported.
- ✓ Inadequate documentation of local administrative costs.
- ✓ Lack of tracking of real or personal property purchased with CDBG funds.

Allowable Costs

Any cost incurred must be allowed as per 2 CFR 200.402 – 202.475. It is a grantee’s responsibility to ensure that CDBG funds are spent only on reasonable and necessary costs associated with grant activities.

The grantee must establish policies and procedures for determining cost reasonableness, allowability, and allocability of costs.

Administrative Costs

Administrative costs are the costs associated with implementation of the grant. These costs may include salaries for personnel who devote full or part time to the grant, supplies used for grant activities, and the cost of administrative services provided by other agencies. General administration costs are those costs **directly** related to the administration of grant requirements.

In charging administrative costs, grantees should note:

2 CFR 200.402 - .475

- ✓ All administrative costs charged to the project must be documented through timesheets, purchase orders, and invoices.
- ✓ For those projects directly administered by the grantee, employees paid in whole or in part from KCDBG funds should prepare timesheets indicating the hours worked for each pay period.
 - Timesheets must show the exact hours each individual worked on the project, the hours worked on non-KCDBG projects, the date on which the work was performed and a description of the work performed.
 - The employee and the employee’s supervisor must sign the timesheet.

Matching Funds

Grant records should account for all matching funds committed to the project. The receipt and expenditure of the matching funds should be carefully documented. If matching funds are derived from a source outside the local government, project records should identify the source and amount. Guidelines for appropriate matching contributions are contained in the Omni Circular (2 CFR 200) and the amount of match required is shown in the grant agreement.

Asset Management

Grantees who maintain real or personal property paid in whole or in part with KCDBG funds are required to properly manage these assets and to ensure that the assets continue to be used for their intended purposes in accordance with the CDBG regulations and 2 CFR 200.310-.316.

Grantees must maintain appropriate records of their assets, whether in their possession or in the possession of a subrecipient organization. Specifically:

24 CFR 570.489(j) and (k)
2 CFR 200.310-.316

- ✓ In the case of real property, meaning land and any improvements to structures on the land, grantees must maintain a current real property inventory, updated at least biannually. In cases where the grantee is maintaining land, grantees should also describe the intended reuse of the land and the timeframe for improving the land so that it meets a CDBG national objective.
- ✓ For personal property, grantees should maintain a fixed assets ledger that includes: a description of the property; any identifying information such as a serial number; the funding source (grant number); the acquisition date and cost; the federal share of the cost; and the location, use, and condition of the property; and disposition data. Grantees are required to conduct a physical inventory of personal property biannually to ensure that the property is being maintained in good condition and that there are procedures in place to prevent loss, damage, or theft of the property.

Grantees must maintain records that properly document the disposition of any CDBG-funded property. It should be noted that real property purchased with KCDBG funds in excess of \$100,000 must continue to meet the CDBG national objective approved for the project for at least five years after close-out of the grant that funded the property purchase or improvement. Should the recipient choose to change the use of property they must contact DLG to ensure that proper procedures are followed. Failure to do so can result in payback of the grant award.

Section 3-C. Program Income, Miscellaneous Revenue and LDA Proceeds

Overview

Any repayment of funds or proceeds generated from a KCDBG activity will fall into one of three categories; 1) program income, 2) miscellaneous revenue, or 3) LDA proceeds. Different rules apply for each of these three categories. The following section defines each of these types of funds and the rules that will apply.

Under the KCDBG Program, funds received back to the community as a result of a KCDBG-funded activity are generally referred to as program income. Program income funds retain their federal identify and are subject to all CDBG and other federal requirements. Program income is defined in detail below. Funds not considered program income, including miscellaneous revenue and local development authority (LDA) proceeds, will be covered in the next section.

It is important to note that accounting for program income is conducted on a jurisdictional basis rather than a project basis because a grantee has the ability to generate income from more than a single project or over more than one grant year.

TIP: The regulations and requirements discussed in this chapter apply to all types of income-generating activities, not just economic development.

What Is Program Income

Program income is defined as gross income received by a unit of general local government or a subrecipient of a unit of general local government that was generated from the repayment of KCDBG funds regardless of when the funds were appropriated and whether the activity has been closed out. Program income includes, but is not limited to, the following:

- ✓ Proceeds from the disposition by sale or long-term lease of real property purchased or improved with KCDBG funds;
- ✓ Proceeds from the disposition of equipment purchased with KCDBG funds; 24 CFR Part 570.489(e)(1)
- ✓ Gross income from the use or rental of real or personal property acquired by the unit of general local government or a subrecipient of a unit of general local government with KCDBG funds, less the costs incidental to the generation of the income;
- ✓ Gross income from the use or rental of real property owned by the unit of general local government or a subrecipient of a unit of general local government, that was constructed or improved with KCDBG funds, less the costs incidental to the generation of the income;
- ✓ Payments of principal and interest on loans made using KCDBG funds;
- ✓ Proceeds from the sale of loans made with KCDBG funds;
- ✓ Proceeds from the sale of obligations secured by loans made with KCDBG funds;
- ✓ Interest earned on funds held in a revolving fund (RF) account;
- ✓ Interest earned on program income pending disposition of the income;
- ✓ Funds collected through special assessments made against nonresidential properties and properties owned and occupied by households that are not low and moderate income if the special assessments are used to recover all or part of the KCDBG portion of public improvements; and
- ✓ Gross income paid to a unit of general local government or subrecipient from the ownership interest in a for-profit entity acquired in return for the provision of KCDBG assistance.

Program income does not include the following:

- ✓ The total amount of funds which does not exceed \$35,000 received in a single year from activities other than revolving funds that is retained by the unit of local government and its subrecipients; these funds are considered miscellaneous revenue;
- ✓ Amounts generated by activities eligible under Section 105(a)(15) of the Act and carried out by an entity under the authority of Section 105(a)(15) of the Act (non-profit organizations and local development organizations, such as LDAs, when undertaking community economic development, neighborhood revitalization, or energy conservation projects) (these funds are referred to as LDA proceeds); Payments of principal and interest made by a subrecipient carrying out an activity on

behalf of the unit of local government towards a loan from the local government to the subrecipient to the extent that program income is used for the repayment;

- ✓ Certain types of interest income as outlined in 24 CFR 570.489(e)(2)(iv);
- ✓ Proceeds from the sale of real property purchased or improved with CDBG funds if the proceeds are received more than five years after expiration of the grant agreement between the state and the unit of local government.

Funds not considered program income will be identified as either miscellaneous revenue or LDA proceeds. These funds do not retain their federal identity and the CDBG and other federal requirements such as environmental review, procurement, and labor standards do not apply to the reuse of these funds. However, DLG does require that grantees or subrecipients generating miscellaneous revenue adopt guidelines related to the reuse of and reporting on those funds.

Pro-Rating Program Income

When income is generated by an activity that is only partially assisted by KCDBG funds, the income shall be pro-rated to reflect the percentage of KCDBG funds used. For example, if a parcel of land were purchased with 50 percent KCDBG funds and 50 percent other funds, 50 percent of any program income from the sale or long-term lease of that property would be considered KCDBG program income subject to CDBG rules and requirements.

24 CFR Part 570.489(e)(1)(ix)

Program Income Funds and Close-Out

The State CDBG regulations as revised in April 2012 stipulate that program income received by the grantee or a subrecipient both before **and** after close-out of the grant that generated such income is treated as additional CDBG funds and is subject to all applicable Title I and other federal regulations and state policies governing the state CDBG program. Any program income received before full programmatic close-out must be substantially expended, to the extent practical, before drawing additional CDBG funds from the state for any activity in any CDBG project that the grantee has open. The only exception is when program income is placed in a Revolving Fund (RF) in accordance with the requirements outlined later in this chapter, in which case it is not required to be expended for non-revolving fund activities.

If the grant that generated the program income is closed, any program income permitted to be retained, will be considered part of the unit of local government's most recently awarded open grant

Use of Program Income

The accounting provisions and use of funds as described later in this chapter are applicable as long as funds are received or distributed. Appropriate documentation regarding the use of funds must be maintained along with the appropriate accounting documents (see "Accounting and Documenting Program Income and Miscellaneous Revenue" later in this chapter for more information).

Program income must be used for eligible CDBG activities as listed in Title I, Section 5305(a). Program income is subject to all of the rules and regulations governing KCDBG funds including, but not limited to, compliance with: national objective, procurement, equal opportunity, environmental, labor standards,

lead-based paint hazard treatment, etc. As stated previously, miscellaneous revenue and LDA proceeds are not subject to these rules.

The grantee can expend up to 20 percent of the total program income received for administration with approval from DLG. The 20 percent limitation is established by federal regulation and cannot be exceeded under any circumstances.

Approval for Use Request for Program Income and Miscellaneous Revenue

In order to expend program income, a grantee must request approval from the state. An Approval for Use Request (Attachment 3-5) and related certifications must be submitted prior to local approval of the project. DLG staff will review the request to determine conformance with eligibility and national objective requirements, if applicable. In most cases, a grantee must use program income on a new proposed project.

Attachment 3-5:
Approval for Use Request

Grantees looking to expend their miscellaneous revenue funds will need to establish that the funds qualify as miscellaneous revenue and are thus exempt from the program income use requirements. Further details are provided later in the section.

As a condition to grants currently being funded, DLG requires program income be used before requesting additional KCDBG dollars. If approved, the transaction is reported on the subsequent Semi-Annual Repayment—Program Income/Miscellaneous Revenue/LDA Proceeds Report (Semi-Annual Repayment Report).

Transfer of Program Income and Miscellaneous Revenue

Due to a statutory provision mandating that KCDBG funds benefit the eligible grantee that received the original funds, a grantee cannot transfer program income to another agency for use in other cities or counties.

Accounting Systems for Program Income and Miscellaneous Revenue

A program income/miscellaneous revenue accounting system should:

- ✓ Record program income/miscellaneous revenue appropriately in the grantee’s accounting records;
- ✓ Ensure that all program income/miscellaneous revenue is collected and properly classified; and
- ✓ Ensure that the handling of program income/miscellaneous revenue complies with applicable federal and state requirements.

The method of accounting to be used for tracking program income/miscellaneous revenue shall meet Generally Accepted Accounting Principles (GAAP). Any accounting system used must be detailed enough to provide the necessary information for completing DLG’s Semi-Annual Repayment Report(Attachment 3-6) and comply with the requirements of 24 CFR Part 85. A separate interest-bearing account must be maintained for a revolving fund.

Attachment 3-6:
Semi-Annual Repayment Report

The grantee must maintain files that accurately account for all funds received and disbursed. This documentation must include bank statements and canceled checks (copies are acceptable if both sides of canceled checks are copied).

The grantee must also maintain documentation that shows program income funds were spent in compliance with Title I requirements. This includes documentation that the funds were spent on eligible activities, that a national objective was met, and that all other requirements such as environmental review, fair housing, relocation and citizen participation were complied with. See also *Chapter 1: Administration* for more information on the records that must be kept to demonstrate compliance.

Revolving Funds

Revolving funds (RFs) are a special category of program income that allows the funds to be set aside for a designated use. A RF is a separate fund (with a separate set of accounts that are independent of other program accounts) established to carry out specific activities that, in turn, generate payments that fund future activities.

DLG may approve the use of KCDBG program income for the purpose of capitalizing a RF for specifically identified activities.

24 CFR Part 570.489(f)

- ✓ RFs are typically established to continue housing or economic development activities.
- ✓ The establishment of a RF must be in the evidentiary materials and approved by DLG.

Payments to the RF are considered program income and as such, must be substantially disbursed from the RF before additional grant funds are drawn from DLG. For example, if the grantee receives a loan payment on an RF economic development activity, the loan payment back to the RF is considered program income. The next draw request by the grantee for an economic development activity must substantially disburse the available economic development RF before grant funds can be drawn from DLG. If the grantee's next draw request is for a public service activity this would not require the use of the RF funds since the drawn request does not match the specified purpose of the RF. The grantee does not have to expend program income for non-revolving fund activities.

Attachment 3-2:
Request for Payment

If the RF is established to continue the activities of the grant that generated the program income, the RF is subject to all the requirements of program income (i.e., Title I, state policies, etc.), if the grant is open at the time the funds are received.

Development of Revolving Fund Guidelines

DLG requires that written guidelines be developed for the administration of the revolving fund. These guidelines must be prepared and submitted to DLG for approval prior to any program income being expended and prior to release of funds of the grant. Revolving funds may not be expended until the project national objective has been met.

The local governing body must approve the written RF guidelines. In addition, any substantive changes to local RF guidelines must be submitted to DLG prior to implementation. Failure to submit local RF guidelines in a timely manner could result in the recapture of program income by DLG.

Administration of a RF involves three primary areas of responsibility:

- ✓ Loan/project review, selection and approval;
- ✓ Maintaining a financial management system; and
- ✓ Loan servicing and monitoring.

At a minimum, the written RF guidelines should include the following elements that address these primary areas of responsibility:

- ✓ RF Goals and Objectives
- ✓ Eligibility Requirements
 - Eligible and Ineligible Activities
 - Eligible Applicants
 - Eligible Types of Loans
- ✓ Loan Review, Selection and Approval
 - Loan Review Committee
 - Members and Terms
 - Procedures and By-Laws
 - Application Requirements
 - Justification of Need
 - Beneficiaries
 - Necessary and Appropriate Documentation
 - Certifications
 - Loan Approval Procedures
- ✓ RF Operations and Management
- ✓ Accounting System
- ✓ Reporting and Record keeping
- ✓ Loan Documentation, Disbursement and Servicing
- ✓ Title I Compliance and Monitoring
- ✓ Administrative Staffing, Costs and Fees
- ✓ Audits
- ✓ Conflict of Interest

Sample RF Guidelines are provided at the end of this Chapter as Attachment 3-7 (Housing) and 3-8 (Economic Development).

Attachment 3-7:
Sample Housing Revolving Fund
Guidelines
Attachment 3-8:
Sample Economic Development

Subrecipients and Revolving Funds

If program income/miscellaneous revenue will be retained by a subrecipient, the RF guidelines must identify and describe the role of the subrecipient, as appropriate. The subrecipient's governing board must approve the RF and the subrecipient's participation prior to release of funds. Such approval must legally bind the subrecipient to perform in accordance with the provisions of the revolving fund guidelines and be submitted in writing to DLG. It is a federal requirement that a subrecipient be governed by the KCDBG regulations in the same manner and to the same extent as the grantee. In any case, the grantee remains responsible for ensuring compliance with the RF and is liable for any misuse of program income/miscellaneous revenue funds.

Waiver of Requirements

DLG may waive or modify the requirements of this chapter when it determines that, in so doing, it will promote the more efficient administration of the program and/or further the accomplishment of objectives. However, DLG cannot waive HUD or other federal regulatory requirements concerning the use of program income.

Monitoring of Revolving Funds

Revolving funds will be monitored periodically by DLG to insure compliance with all federal and state requirements. A grantee must agree to return all unexpended funds and collectable accounts to DLG in the event of fraud, waste, or mismanagement and/or substantial non-compliance with the local RF guidelines.

Reporting of Revolving Funds

HUD requires vigorous oversight of program income retained at the local level. Therefore, DLG must ensure the proper use of these funds is in a manner consistent with CDBG requirements. For this reason, the Semi-Annual Repayment Report is required (see Attachment 3-6).

Attachment 3-6:
Semi-Annual Repayment Report

A grantee generating program income must submit a report for the six-month period ending June 30th and December 31st of each year.

Subrecipients and Reporting

Since the grantee has ultimate responsibility for grant compliance, that entity is responsible for completion and submission of the report. Should the grantee utilize a subrecipient organization to manage a RF, the subrecipient organization entity is responsible for providing the necessary program and financial information required for the report to the grantee, and the grantee should then send the report to DLG.

Monitoring

Review of the Semi-Annual Repayment Report may be included as part of a normal project monitoring. Any deficiency that is noted and appears as a finding in the monitoring letter must be resolved as would any other finding. Refer to Chapter 12 for more information on monitoring.

LDA Proceeds

As defined earlier in the Chapter, Section 105(a)(15) of the Act allows DLG to designate non-profit organizations and local development organizations as Local Development Agencies (LDA). These organizations when undertaking community economic development, neighborhood revitalization, or energy conservation projects can generate income that will not be considered program income and not hold the federal requirements of its original source of funds. These funds will be referred to as LDA proceeds. LDA proceeds are generated when a grantee provides CDBG funds to a DLG designated LDA to implement a CDBG eligible activity, such as economic development. In this example, DLG would designate in the funding agreement with the grantee that the funds would be administered by the LDA and income generated from the activity would be considered LDA proceeds and exempt from program income requirements. This exception to the program income designation only applies to a designated LDA project and only covers generated income that is received back by the LDA. If payments such as principal and interest generated from an LDA funded project were paid to the Grantee or subrecipient, these funds would be program income, continue to hold their federal identify, and fall under all of the program income requirements listed in the earlier section of this chapter.

Use of LDA Proceeds

DLG will work with the LDA to establish a re-use plan for LDA proceeds. The LDA may choose to set up an RF to target and market the use of LDA proceeds to further the mission of the LDA. Because the LDA proceeds are not considered to retain their federal identity, their reuse does not trigger the CDBG requirements or other federal requirements such as environmental review and federal labor standards.

Transfer of LDA Proceeds

The exemption from the program income requirements only applies to funds generated from an LDA activity that are retained by the LDA. If LDA proceeds are transferred to or repaid to the CDBG grantee these funds would trigger all of the program income reporting and reuse requirements detailed in the earlier program income section of this chapter.

Monitoring of LDA Proceeds

LDA proceeds will be monitored periodically by DLG to insure compliance with KCDBG requirements. Monitoring may include verification of the information provided in the Semi-Annual Repayment Report.

Attachment 3-6:
Semi-Annual Repayment Report

Reporting of LDA Proceeds

DLG will track compliance with LDA proceeds requirements through the review of the Semi-Annual Repayment Report.

Section 3-D. Requests for Payment

Funds for approved KCDBG activities should be requested as close to the time of disbursement as is possible. To ensure continued public awareness and fiscal oversight of the project, the project

administrator should report project information to the city council/fiscal court monthly. This report should include project progress, anticipated completion date, and the use and availability of funding.

Procedures

Submit all requests for payment of KCDBG funds to DLG on the form provided. If possible, please hold the draw request until there is a fair amount of money to request (i.e., \$2,000). The request should outline the:

- ✓ Amount of federal funds previously requested;
- ✓ Amount of federal funds disbursed;
- ✓ Amount of program income; and
- ✓ Balance of federal funds on hand.

If a grantee has received more than one grant, a separate request should be completed for each grant. The number of requests for CDBG funds should be consolidated to the extent possible and timed to be in accord with the actual, immediate cash requirements of the grantee in carrying out the approved activities.

Program income will be disbursed by the grantee before additional funds are requested. Cash on hand will be subtracted from the amount of funds requested.

Request for Payment Form Completion

The following outlines the method for submitting the Request for Payment Form (see Attachment 3-2). Grantees may submit this form to DLG twice monthly, by the 3rd and the 18th of the month. A copy of the form is provided as an attachment to this chapter.

Attachment 3-2:
Request for Payment Form

General

The top portion of the Request for Payment form should be completed with the appropriate identifying information:

- ✓ **KCDBG Grant Number**—The number assigned to each grant as noted on the Grant Agreement.
- ✓ **Request Number**—Each Request for Payment will be consecutively numbered by the grantee. If a grantee has received more than one grant, a Request for Payment will be made separately and numbered consecutively for each grant.

On all forms, the grantee should round all dollar amounts to the nearest dollar.

Part I—Status of Funds

Part I of the Request for Payment provides the status of funds. Fill in the fields with the following information:

- ✓ **Line 1**—List all KCDBG funds received to date.
- ✓ **Line 2**—List the program income received from KCDBG activities since the last draw.
- ✓ **Line 3**—Add lines 1 and 2.

- ✓ **Line 4**—List the total of all disbursements of KCDBG funds to date.
- ✓ **Line 5**—Subtract line 4 from line 3. This gives the Federal funds on hand that have not been disbursed, a.k.a. the organization’s “cash on hand.”

Part II—Cash Requirements

Part II of the Request for Payment provides information on the funds the grantee is requesting. Part II is to be completed for all approved activities even if funds are not currently being requested for a particular activity.

- ✓ The first three lines give an overview of a grantee’s activities. Identify the activities by entering the activity code and a brief description above each column. The current approved budget amount for each activity should be included as well. Totals should be calculated at the far right as well as at the bottom.
- ✓ **Line 1**—Enter the total of all KCDBG cash requirements to date for each approved activity. This amount should be equal to all KCDBG expenditures paid to date plus cash needed to meet immediate needs.
- ✓ **Line 2**—Show the total amount of KCDBG funds requested on previous draw requests.
- ✓ **Line 3**—Subtract line 2 from line 1. This will result in the amount of KCDBG funds needed on this request for each activity.

If there are more than nine activities, use a second request form to include all activities. The second page should contain the total for both pages and the authorized signature.

Part III—Project Status

Part III describes in brief the status of the project. This section should include accomplishments achieved since the last request and if necessary discussion of any project delays.

After the narrative, indicate the amount of other funds drawn and expended on this project. Break these funds down using the classifications shown in the grant agreement.

Certification

After reviewing the form and verifying that all of the conditions listed in the certification have been complied with, the CEO or person authorized on the Authorized Signature Form should sign and date the form in the space provided.

Once the form is completed, the grantee must mail or email the signed form to DLG.

Common Mistakes to Avoid

- ✓ Unsigned or improperly signed Requests for Payment are submitted.
- ✓ All approved activities not shown on each Request for Payment.
- ✓ Disbursements to date are not correct.
- ✓ Amounts not rounded to nearest dollar.
- ✓ Mathematical errors.
- ✓ Budget Amendments have not been approved.
- ✓ **Status of project not included.**

Section 3-E. Audits

One of the primary financial management requirements implicit with the use of Federal funds is the annual audit. 2 CFR Part 200 Subpart F provides requirements for audits of governmental entities and nonprofit organizations.

Audits are a critical component of any financial management system and the Kentucky Revised Statutes (KRS) emphasize the significance of audits. Regardless of the type or size of the entity, an effective audit can improve management operations and yield significant dollar savings.

Audit Requirements

An audit is an official examination and verification of accounts and records. Audits are an important part of effective financial systems, as they produce useful financial reports and verify the reliability of a grantee's financial management systems. Only an independent CPA, with a current license to practice in Kentucky, or the Kentucky Auditor of Public Accounts can perform an audit.

There are both Federal and state requirements for audits. 2 CFR Part 200 Subpart F provides Federal requirements for audits of governmental entities and nonprofit organizations. The KRS detail the state audit requirements for both cities and counties. As noted below, there are differences between both the KRS and Federal requirements; however, cities and counties are required to follow both laws.

Failure to comply with the audit requirements can jeopardize the grantee's ability to draw grant funds and receive future grants.

Federal Requirements

The type and level of audit required by 2 CFR 200 Subpart F is based on the amount of Federal funds expended by an organization in a given fiscal year. Federal awards include financial assistance provided by the Federal government to the entire organization in the form of grants, loans, property, contracts, loans guarantees, etc.

- ✓ Organizations that have expended more than \$750,000 in a fiscal year are required to have a single audit. A single audit is an audit that includes both an entity's financial statements and its federal awards (from all applicable Federal programs).
- ✓ Organizations that have expended less than \$750,000 in federal funds in a fiscal year are exempt from the audit requirement; however, financial records must be made available if requested.

State Requirements for Cities

KRS 91A.040 outlines Kentucky Audit requirements for cities in the Commonwealth of Kentucky. Cities may be audited by the Auditor of Public Accounts or a certified public accountant (CPA). Generally, all cities must have an audit of their funds performed at the end of each fiscal year. All audits must be completed by March 10th immediately following the fiscal year being audited. There are two exceptions:

KRS 91A.040

- ✓ A city with a population of less than 2,000 (according to the most recent decennial census) shall every even year complete the KRS 424.220 financial statement by October 1, and every odd year complete a 2-year audit by March 1 following the close of the fiscal year.
- ✓ Any city that receives and expends less than \$75,000 and does not have long-term debt shall not be required to have an audit for that particular year but shall prepare the KRS 424.220 financial statement and send one electronic copy to the DLG Cities Branch by October 1 following the close of the fiscal year.

State Requirements for Counties

As per KRS 64.810, all counties must audit their funds at the end of each fiscal year. The Office of the State Auditor of Public Accounts or a CPA must conduct the annual audit of the funds in each county’s budget. Refer to KRS 64.810 for further information on county audits.

KRS 61.810

The Audit Process

In procuring audit services, grantees should follow the applicable procurement standards and KRS 91A.040. The grantee should ensure that the auditor is knowledgeable about specific accounting requirements that apply to local government.

All audits must be conducted in accordance with 2 CFR Part 200 and must be performed in accordance with Generally Accepted Government Auditing Standards (GAGAS) (refer to 2 CFR 200.514(a)). According to the GAGAS standards, a financial audit should determine whether:

2 CFR 200.514(a)

- ✓ Financial information is presented in accordance with established or stated criteria;
- ✓ The entity has adhered to specific financial compliance requirements; or
- ✓ The entity’s internal control structure over financial reporting and/or safeguarding assets is suitably designed and implemented to achieve control objectives.

In conducting an audit, the grantee **must** supply the following information to the auditor at the beginning of each audit:

- ✓ A copy of the Grant Information Sheet received with the Grant Agreement;
- ✓ A copy of the Grant Agreement;
- ✓ A copy of all draw sheets processed during the fiscal year;

- ✓ A copy of the monitoring letter, if one was issued during or affecting the fiscal year being audited;
- ✓ A copy of the community's most recent budget that includes the CDBG funds for the fiscal year; and
- ✓ The location of the records for the CDBG project and the person to contact along with their telephone number.

Tip: It is the responsibility of both the grantee and the grant administrator to ensure compliance with all audit requirements.

The Audit Report

KRS 91A.040 and 2 CFR Part 200 require that audit reports issued upon completion of an audit include:

- ✓ An opinion as to whether financial statements are presented fairly in all material respects in accordance with GAGAS.
- ✓ An opinion as to whether the schedule of expenditures is presented fairly in all material respects in relation to the financial statements taken as a whole.
- ✓ A report on internal controls related to financial statements and major programs.
- ✓ A report on compliance with laws, regulations, and the provisions of contracts or grant agreements.
- ✓ An opinion as to whether the auditee organization has complied with laws, regulations, and the provisions of contracts or grant agreements.
- ✓ A schedule of findings and questioned costs, which include a summary of the auditor's results and all "audit findings."
- ✓ The summary of audit results must include:
 - Type of report the auditor issued on financial statements;
 - A statement that reportable conditions in internal controls were disclosed by the audit (where applicable);
 - Statement on whether the audit disclosed any noncompliance which is material to the auditee financial statements;
 - Type of report the auditor issued on compliance for major programs;
 - Statement as to whether the audit disclosed any "audit findings";
 - Identification of major programs;
 - Dollar threshold used to distinguish between type A and type B programs; and
 - Statement as to whether the auditee qualifies as a low-risk organization.

Deadline and Submission

The submission of all audit information is the responsibility of the grantee. It is the administrator's responsibility to inform the grantee of all audit requirements and to ensure that **completed audit reports are submitted to DLG** and the appropriate offices, including the Federal Audit Clearinghouse, on a timely basis.

Federal Submission Requirements

Under OMB Circular A-133 and 2 CFR Part 200, audits must be completed within nine months from the end of the fiscal year.

Grantees have no later than 30 days after receipt of the auditor’s report or March 31st (whichever is earlier) to submit the final copies to the Federal Audit Clearinghouse (FAC). The grantee should also forward one copy to DLG, Office of Federal Grants.

According to 2 CFR 200 Subpart F, grantees must make copies of their audit available for public inspection, ensuring that protecting personally identifiable information is not included. This requirement will apply for FY2016 forward.

State Publication and Submission Requirements

All city audits must be performed by a CPA and completed by March 10 immediately following the close of the fiscal year. County audits done by a CPA must be completed by February 1 immediately following the end of the fiscal year. County audits performed by the State Auditor’s office are to be completed in a reasonable time as determined by the APA. (KRS 43.070).

In accordance with KRS Chapter 424 and 91A.040, cities must publish an advertisement regarding the audit within 30 days of the presentation of the audit to the City’s legislative body.

In addition, KRS requires cities to submit one electronic copy of the audit to the Cities and Special Districts Branch of DLG. **KCDBG**

grantees must also send an additional copy to the Office of Federal Grants in order to meet the CDBG-related requirements.

[DLG Audit Submission](#)
Office of Federal Grants
100 Airport Road, 3rd Floor
Frankfort, KY 40601 Frankfort, KY
40601-8204

For counties, the fiscal court or county official should submit the accountant's written report to the Governor, the General Assembly, the Attorney General, the State Librarian, and the county attorney. A copy must also be provided to DLG to comply with CDBG requirements.

Additionally, the fiscal court or county official must send the report to the newspaper having the largest paid circulation in the county. The letter of transmittal accompanying the report should be published in the newspaper in accordance with the provisions of KRS Chapter 424.

2 CFR Part 200 Audits must be submitted to:
Federal Audit Clearinghouse
1201 E 10th Street
Jeffersonville, IN 47132
<http://harvester.census.gov/facweb>

Department for Local Government

Direct Electronic Transfer of Funds

The _____ hereby authorizes the State Treasurer to transfer funds from the Kentucky Department for Local Government by electronic transfer. Such transfers shall only be made to the depository and account (as noted below) designated for the receipt of Community Development Block Grant funds for the project listed below.

Community and Project Information

City or County Name _____

Federal Tax ID Number _____

Project Title _____

CDBG Project Number _____

Depository Information

Name of Bank _____

Address _____

Phone Number () - _____

Contact Person at Depository Bank _____

ACH Routing and Transmit
Number of Depository Bank _____

Account Number in which CDBG
funds are to be deposited _____

Signed Finance Officer _____

Printed Name Finance Officer _____

Title _____

Date _____ Contact Number _____

Signed Mayor/Judge Executive _____

Printed Name Mayor/Judge Executive _____

Note: ALL fields *must* be completed *and* a voided check with all important information included attached

Sample Financial Management Checklist

Internal Controls

- ✓ Is there a chart showing the titles and lines of authority for all individuals involved in approving or recording financial transactions?
- ✓ Are there written position descriptions that describe the responsibilities of all key employees?
- ✓ Is there a written policy manual specifying approval authority for financial transactions and guidelines for controlling expenditures?
- ✓ Are there written procedures for the recording of transactions, as well as an accounting manual and a chart of accounts?
- ✓ Is there an adequate separation of duties to assure that no one individual has authority over an entire financial transaction?
- ✓ Do hiring policies ensure that staff qualifications are equal to job responsibilities and that individuals hired are competent to do the job?
- ✓ Is control over access to accounting records, assets, blank forms, and confidential records adequate, such that only authorized persons can get access to them?
- ✓ Did the most recent audit report indicate any deficiencies or material weaknesses in the system of internal controls?
- ✓ Have there been any changes in the system of internal control, or have there been any changes in the fiscal staff, since completion of the audit?

Accounting Records and Source Documentation

- ✓ Do the accounting records identify the source and use of all funds, including information on:
 - All grant awards received;
 - Authorizations or obligations of funds;
 - Unobligated balances;
 - Assets and liabilities;
 - Program income, miscellaneous revenue and revolving funds; and
 - Total actual outlays or expenditures to date?
- ✓ Are the accounting records supported by adequate source documentation? [Note: the combination of source documentation and accounting records should provide a complete “audit trail,” documenting when a purchase was requested and by whom, how it was formally approved, what funds were used to pay for it, when it was paid and for how much.]

Sample Financial Management Checklist

- ✓ Is there a clearly defined set of standards and procedures for determining the reasonableness, allowability, and allocability of costs incurred that is consistent with the rules in 2 CFR Part 200?
- ✓ If the organization charges indirect costs, does it have an approved indirect cost rate?

Budget Controls

- ✓ Is there a regular, on-going comparison of actual expenditures with the amounts budgeted?
- ✓ Is financial information related to performance or unit cost data, as appropriate?

Cash Management.

- ✓ Is the CDBG account a non-interest bearing account?
- ✓ Do payments for project costs occur within five days from the date of deposit of the grant funds? If not, were excessive amounts of cash (over \$5,000) returned to DLG?
- ✓ Is information on line of credit withdrawal vouchers accurate?

Procurement Rules

- ✓ Is a *written* "standard of conduct" maintained governing the performance of employees engaged in purchasing and/or the award or administration of contracts, in order to avoid real or apparent conflicts of interest?
- ✓ Are all purchases or procurements (no matter how small) conducted in a manner to provide, to the extent practical, free and open competition?
- ✓ Are *written* procedures for procurement transactions maintained that specify the steps taken to:
 - Avoid the purchase of unnecessary items;
 - Examine lease versus purchase alternatives; and
 - Ensure that solicitations for goods and services contain clear and accurate descriptions of the technical requirements being sought?
- ✓ Are small, women-owned, and minority-owned businesses used to the fullest extent possible?
- ✓ Is some form of cost or price analysis performed for each procurement, and documented in the procurement files?
- ✓ Is a system of contract administration maintained to ensure contractor conformance with terms and conditions of contracts that are awarded?

Sample Financial Management Checklist

Property Controls

- ✓ Is a system maintained for tracking property and other assets bought or leased with grant funds?
- ✓ As part of this system, does the organization conduct a periodic (at least annual) physical inventory or inspection of property bought or leased with grant funds?
- ✓ Are procedures in place to keep the property safe (such as adequate locks, engraving of portable equipment, and/or storage of such equipment in locations that are reasonably secure)?
- ✓ Are systems in place to ensure that the equipment leased or purchased with grant funds is used solely for authorized purposes (e.g., leased vehicles for transporting persons with disabilities are not employed for personal use)?

Financial Reporting

- ✓ Is necessary data available from the accounting system for the preparation of reports?
- ✓ Do financial reports and statements present a clear picture of financial results and conditions?
- ✓ Are required reports submitted on time?
- ✓ Did the organization expend more than \$500,000 in federal funds within its fiscal year (FY) prior to FY16, or \$750,000 for FY16 and forward, regardless of whether such funds were received directly from federal agencies or indirectly through another agency? [If “no” skip to the last question under Audits below. If yes, proceed to audits.]

Audits

- ✓ Was the annual audit conducted consistent with the standards of OMB Circular A-133 (pre-FY2016) or 2 CFR Part 200 (FY2016 forward)? Specifically, did the audit provide the following:
- ✓ An opinion as to whether financial statements are presented fairly in all material respects in accordance with Generally Accepted Government Accounting Standards (GAGAS).
- ✓ An opinion as to whether the schedule of expenditures is presented fairly in all material respects in relation to the financial statements taken as a whole.
- ✓ A report on internal controls related to financial statements and major programs.
- ✓ A report on compliance with laws, regulations, and the provisions of contracts or grant agreements.
- ✓ An opinion as to whether the auditee organization has complied with laws, regulations, and the provisions of contracts or grant agreements.

Sample Financial Management Checklist

- ✓ A schedule of findings and questioned costs, which include a summary of the auditor's results and all "audit findings."
- ✓ The summary of audit results must include:
 - Type of report the auditor issued on financial statements;
 - A statement that reportable conditions in internal controls were disclosed by the audit (where applicable);
 - Statement on whether the audit disclosed any noncompliance which is material to the auditee financial statements;
 - Type of report the auditor issued on compliance for major programs;
 - Statement as to whether the audit disclosed any "audit findings";
 - Identification of major programs;
 - Dollar threshold used to distinguish between type A and type B programs; and
 - Statement as to whether the auditee qualifies as a low-risk organization.
- ✓ Did the organization submit the audit package to the Federal Audit Clearinghouse?
- ✓ Did the organization submit the audit package to DLG?
- ✓ Did the organization submit the appropriate financial statement or public financial statement according to state requirements?
- ✓ Did the organization follow all state requirements for their city or county?
- ✓ Did the audit report contain any findings regarding deficiencies or material weaknesses, compliance findings, questioned costs, or recommendations for improvements in the organization's financial systems?
- ✓ Has the organization taken steps to ensure timely resolution of any audit findings, questioned costs, and/or recommendations?

**Kentucky Department for Local Government
Community Development Block Grant
Request for Payment**

Name	Project Administrator	Date
Address	DLG Project Advisor	Grant #
		Request #

PART I - Status of Funds

1. Grant funds received to date		IMPORTANT
2. Add program income received since last draw		
3. Subtotal		
4. Less CDBG funds disbursed to date		
5. Cash on Hand		

1) Round all figures to the nearest dollar
2) Complete Part II for all approved activities even if funds are not requested.

PART II - Cash Requirements

	Activity Code																		TOTAL
	Description																		
	Current Budget																		
1. CDBG funds required to date																			
2. CDBG funds previously requested																			
3. CDBG funds requested																			
IDIS Activity Number																			

PART III - Project Status

Briefly describe the project's status

Source of other funds																				TOTAL
Total other funds expended																				

I certify that this request for federal funds has been prepared in accordance with the terms and conditions of the Grant Agreement, and that the amount requested is for eligible expenditures as per the federal regulations cited in the Statement of Assurances of the grant application. I also certify that all the data reported above is correct and that the amount of the request for federal funds is not in excess of current needs.

Authorized Signature	Title	Date
----------------------	-------	------

For DLG Use Only	
Authorized Signature	Date

**Kentucky Department for Local Government
 HUD Disaster Recovery Initiative
 Request for Payment**

Name	Date
Address	November 5, 2021
	Grant Number #
	Request Number #

Draw Request

	Description	Public Assistance	Hazard Mitigation*	Special Projects							TOTAL
	Current Budget										
1.	CDBG funds required to date										
2.	CDBG funds previously requested										
3.	CDBG funds requested										

* Housing Buyout

Project Status

Briefly describe the project's status

I certify that this request for federal funds has been prepared in accordance with the terms and conditions of the Grant Agreement, and that the amount requested is for eligible expenditures as per the federal regulations cited in the Statement of Assurances of the grant application. I also certify that all the data reported above is correct and that the amount of the request for federal funds is not in excess of current needs.

Authorized Signature	Title	Date
----------------------	-------	------

For DLG Use Only		
Authorized Signature	Title	Date

KENTUCKY COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

AUTHORIZED SIGNATURE FORM (Sample)

Name/Address of Recipient	Grant Agreement Number
---------------------------	------------------------

AUTHORIZED SIGNATURES FOR REQUEST FOR PAYMENT

Typed Name and Signature	Typed Name and Signature
Date and Signature of Chief Executive Officer	<u>For State Use Only</u> APPROVED: Date and Signature Department for Local Government

AUTHORIZED SIGNATURE FORM

Instructions

1. Insert name of community and complete mailing address of recipient; include zip code.
2. Enter Grant Agreement Number assigned by the Department for Local Government (DLG).
3. Enter the typed name and signature of the individuals who are authorized to sign the community's Request for Payment. Two signatures are required on this form.
4. Provide signature and date of the Chief Executive Officer to certify that signatories are authorized to request payment of CDBG funds.

APPROVAL FOR USE REQUEST
I. Program Income Project Summary

1.	Jurisdiction		
2.	Project Type	<input type="checkbox"/> H <input type="checkbox"/> PF <input type="checkbox"/> ED	
3.	Project Title		
4.	Local Project Number		
5.	Applicant	Applicant Name	
		Street/P.O. Box	
		City, Zip Code	
		County	
6.	Joint Applicant (if applicable)	Joint Applicant Name	
		Street/P.O. Box	
		City, Zip Code	
		County	
7.	RLF Administering Agent (i.e. LDC, Industrial Authority, etc)	Name	
		Street/P.O. Box	
		City, Zip Code	
		Telephone	
8.	Application Preparer	Name	
		Street/P.O. Box	
		City, Zip Code	
		County	

9. Financing

Source(s)	Amount	Project %	Type Loan/Grant/Other	Rate %	Term (Months)	Security Position	Collateral
Program Income	\$	%		%			
	\$	%		%			
	\$	%		%			
	\$	%		%			
	\$	%		%			
Misc. Revenue	\$	%		%			
	\$	%		%			
	\$	%		%			
	\$	%		%			
	\$	%		%			
Total	\$	100%		%			

APPROVAL FOR USE REQUEST
I. Program Income Project Summary

10. Project Description

Provide a thorough description including dimensions of any construction to be financed and jobs to be created/retained. Continue on attachments if necessary.

APPROVAL FOR USE REQUEST

III. Certifications

1. Project meets one of the following national objectives:
 - a. Benefit to low and moderate income persons.
 - b. Prevention or elimination of slums of blight, and/or
 - c. Meeting community development needs having a particular urgency.
(Attach evidence to indicate how the national objective will be met)

2. Verification of 51% benefit to low and moderate income persons as required by Title I of the Housing and Community Development Act (HCDA) shall be obtained by:
 - a. Job Survey
 - b. Residential Survey
 - c. Census Data
 - d. Other

3. Project meets eligibility requirements under Title I, HCDA Section 105(a) paragraph.
(This eligibility criteria is found in Appendix A of the CDBG Program Guidelines)

4. Penalties for failure to achieve 51% LMI benefit shall be assessed in accordance with Title I, HCDA and State CDBG Program Guidelines as applicable to the funding year.

5. Citizen participation requirements as mandated by Title I, HCDA, Section 104(a) have been met.

6. State Clearinghouse comments as required by Executive Order 12372 shall be considered.

7. Environmental review requirements as mandated by 24 CFR Part 58 and State CDBG Program Guidelines have been met and the project determined to be environmentally eligible.

8. Special action has been or shall be taken by the applicant and community to meet all civil rights requirements as described by the State CDBG Handbook for the applicable funding year and as mandated by federal laws and Executive Orders, including but not limited to:
 - Civil Rights Act of 1964, Title VI
 - Civil Rights Act of 1968, Title VIII
 - Housing and Community Development Act of 1968, Section 3
 - Housing and Community Development Act of 1974, Section 109
 - Rehabilitation Act of 1973, Section 504
 - Age Discrimination Act of 1975
 - Executive Order 11063: Equal Opportunity in Housing
 - Executive Order 11246: Equal Employment Opportunity

9. Financial records for the community, local RLF and this project shall be maintained in compliance with 24 CFR Part 570 and Part 85.

10. Federal and State Labor provisions will be enforced for the project as applicable.
 - Check if Federal wages apply.
 - Check if State wages apply.

APPROVAL FOR USE REQUEST

III. Certifications

11. Procurement procedures for securing contractor services, professional services, materials and supplies shall conform to requirements of 24 CFR 85.36 and the CDBG Handbook for the applicable funding year.
12. Project Loan Administration Applicable Not Applicable
- Loan Agreement between the community and applicant shall be executed on the day of the first disbursement of loan funds.
 - Security documents shall be executed on the first day secured property can be firmly identified by deed, serial number, or any other means and lodged for the record in the _____ County Clerk's office.
13. All necessary and required steps shall be taken to assure compliance with all federal and state laws, regulations and guidelines applicable to CDBG projects and records of same shall be maintained and readily accessible at all times to state and federal officials.
14. Project eligible under:
Section _____ of local Revolving Loan Fund
Adopted by _____ on (date) _____.

To the best of my knowledge and belief, data in this Request are true and accurate. Certifications are offered in good faith and the Request and accompanying certifications are duly authorized by the governing body of the community.

Signature of Chief Executive Officer

Name (type or print)

Title

Date

Approved: _____

Date: _____

**Kentucky Community Development Block Grant
SEMI ANNUAL REPAYMENT REPORT
PROGRAM INCOME/MISCELLANEOUS REVENUE/LDA PROCEEDS REPORT**

**Period Ending
Submission date**

**00/00/0000
00/00/0000**

Grantee Name	Address	
Non-Profit	Address	
Name of person preparing report	Phone Number	Fax Number
Address:	()	()
Email Address:		
<p>The Chief Executive Officer certifies that:</p> <p style="margin-left: 40px;">a) To the best of his/her knowledge and belief, the information in this report was true and correct as of the date of the report.</p> <p style="margin-left: 40px;">b) The records as required by the Commonwealth are being maintained and will be made available upon request</p>		
Typed Name of CEO	Title	
Signature of CEO	Date	

For State Use Only		
Reviewed By	Approved By	Date

SAMPLE
(Community/Organization)

Housing Revolving Fund Guidelines

I. Goals and Objectives

Goals of the Community/Organization are to: 1) increase affordable housing opportunities for residents in the Community; 2) eliminate blighting conditions within the Community; and 3) improve the (city's/county's) infrastructure which benefits LMI families. The Community Housing Revolving Fund represents one effort to achieve these goals.

Objectives of the Community/Organization are to: 1) promote the provision of decent, safe, sanitary and affordable housing to Community residents; 2) acquire and clear blighted housing structures and encourage rehabilitation of substandard housing in the (city/county); and 3) improve the water/sewer needs of LMI households and make sidewalk, street and drainage repairs/improvements in neighborhood areas.

Since all or a portion of the funds in this program were made available through the Kentucky Community Development Block Grant Program (KCDBG), close adherence to requirements of that program and specific grant agreement(s) with the Commonwealth of Kentucky as required. Special attention must be given when funds to be used were received by the Community/Organization prior to closeout. Such federal requirements as Davis-Bacon, Uniform Relocation Act (URA), LMI provisions including one-for-one LMI replacement housing, may apply.

The following policies and procedures are adopted to ensure a consistent and thorough review of all proposals in order to achieve the above objectives.

II. Organization

A. Establishment of Revolving Fund Board

The Community will establish a Revolving Fund Board composed of (____) members. The Revolving Fund Board will be selected to include area leaders and community representatives. Members will be appointed by the Mayor/County Judge Executive with the approval of the Council/Fiscal Court. One member of the Board is to consist of a Council/Fiscal Court member.

The Revolving Fund Board will establish, evaluate and carry out policy, establish conditions and recommend disposition of funds under the Revolving Fund. The Revolving Fund Board shall meet on an as needed basis. At least (____) member(s) and the Mayor/County Judge Executive or the Council/Fiscal Court member must be present to make funding decisions or recommendations regarding requests.

The Mayor/County Judge Executive shall serve as "Fund Manager" and will act as liaison between potential borrowers and the Revolving Fund Board. The Mayor/County Judge Executive may delegate (his/her) authority or request assistance as is needed.

- B. Technical and Managerial Assistance
Due to their involvement with and knowledge of CDBG procedures, the Area Development District/Consultant may provide technical and managerial assistance and administrative support to the Revolving Fund Board and potential applicants. Technical assistance shall consist of working with applicants and other participants to develop a feasible project, seeking additional revenue sources that may be available, and reviewing proposals and advising the Revolving Fund Board and Manager.
- C. Monitoring of Projects
The Revolving Fund/Manager and/or a member of the Revolving Fund Board will conduct monitoring visits of each project to determine if there are any problems that jeopardize the project. The Revolving Fund Manager will inform the Revolving Fund Board about project status and to ensure that proper monitoring visits were conducted and documented.

III Eligibility Requirement

- A. Eligible Applicant
The applicant must live within the Community and have housing needs that are consistent with the goals and objectives of the Housing Revolving Fund.
- B. Eligible Activities/Projects
Activities that promote decent, safe, sanitary and affordable housing for the Community.
 - a. Acquisition and/or clearance of deteriorated housing stock
 - b. Disposition of acquired properties
 - c. Property acquisition for the development of new housing
 - d. Reconstruction of replacement housing
 - e. Rehabilitation of sub-standard housing
 - f. Energy efficiency improvements
 - g. Handicapped accessibility improvements
 - h. Water and sewer service lines
 - i. Septic system and well upgrades/installments
 - j. Sidewalk, street and drainage repairs/improvements
- C. Ineligible Project Activities
 - a. Non-housing activities
 - b. Activities outside of the (city/county) limits
 - c. Activities that are not in conformance with the Conflict of Interest requirements of the Community
- D. Eligible Costs
Loans and grants made under the Housing Revolving Fund can be used to finance all costs associated with the provision of Eligible Project Activities.

- E. Ineligible Costs
General Government expenses not related to the Housing Revolving Fund

III. Selection and Approval of Projects

- A. Application Review and Evaluation
Upon completion of the Revolving Fund full application, a member of the Revolving Fund Board will conduct an on-site inspection of the project area to determine if the needs are consistent with the goals and objectives of the Community Housing Revolving Fund. The Board member will submit his/her recommendation for approval or disapproval and the basis for such recommendation to the full Board. The Revolving Fund Board shall then make its written recommendations to the City Council/Fiscal Court to approve or deny the project.

- B. Fund Board Approval
The Revolving Fund Board Manager shall submit a copy of the Approval for Use Request to the Kentucky Department of Local Government for all projects in which "program income" funds are being utilized. DLG will assure project eligibility and national objective criteria and will respond within fifteen (15) days of receipt.

Upon final approval, the Revolving Fund Board Manager can request to draw down funds from the Revolving Fund's bank to assist the applicant.

- C. Other
Statement of Assurances
All assurances as specified in Community Development Block Grant regulations shall be agreed to, by the user, in order to receive funds. No application shall be approved unless the Statement of Assurances is properly signed.

National Objective Criteria

Since the funds that help fund this Housing Revolving Fund come from repayment of loans made from grants received from the Community Development Block Grant (CDBG) program, each project activity funded under the Revolving Fund program may be required to meet at least one of the three National Objectives identified in Title 42, Chapter 69 of the Housing and Community Development Act, hereafter referred to as the Act (Section 5305(a)(2)).

The three objectives are:

1. Benefit to low- and moderate-income persons.
2. Prevent or eliminate slums or blight.
3. Meet community development needs having a particular urgency.

Administrative Fees

Up to 20% of the repayment may be used for administrative purposes related to administration of the Revolving Fund.

This Document being formally adopted this _____ day of _____, 20____.

(Community/Organization)

(Title)

Commonwealth of Kentucky

County of _____

Subscribed; sworn to and acknowledged before me by _____

(Title) by and through its resolution on this the ____ day of _____, 20____.

My Commission expires: _____

Notary Public

Sample Economic Development Revolving Fund Guidelines

(COMMUNITY/ORGANIZATION) REVOLVING FUND

I. Goals and Objectives

A goal of the (Community/Organization) is job creation and retention. The (Community) Revolving Fund represents one effort to achieve this goal.

Objectives of the (Community/Organization) are to (1) approve projects that are sound and capable of repaying their loan, and (2) to maximize earnings through investment. These objectives will help maintain and ensure the growth of the fund for use by future prospective businesses.

Since all or a portion of the funds in this program were made available through the Kentucky Community Development Block Grant, close adherence to requirements of that program and specific grant agreement(s) with the Commonwealth is required. Special attention must be given when funds to be used were received by the (Community/Organization) prior to closeout. Such federal requirements as Davis-Bacon and LMI provisions may apply.

The following policies and procedures are adopted to ensure a consistent and thorough review of all proposals in order to achieve the above objectives.

II. Organization

A. **Establishment of Revolving Fund Board**

The (Community/Organization) will establish a revolving Fund Board composed of (____) members. The RF Board will be selected to include members representative of a cross section of area leaders with experience and expertise in business finance and economic development. Members will be appointed by the (Chairman/CEO) with approval by the Council/Fiscal Court. One member of the Board is to consist of a member of the Council/Fiscal Court.

The RF Board will establish, evaluate and carry out policy, establish conditions and recommend disposition of loans under the RF.

The (Chairman/CEO) shall serve as Fund Manager and will act as liaison between potential borrowers and the RF Board of Directors. The (Chairman/CEO) may delegate his authority or request assistance as is needed.

In addition, three members of the Board will serve as a Review Committee. This Review Committee will, with the assistance of the RF Manager, review all requests and make recommendations to the full Board regarding the various requests.

Sample Economic Development Revolving Fund Guidelines

B. Processing Fees

A fee of \$250 shall be charged to cover the costs of processing a loan application. This fee shall be levied only on those applicants desiring to submit an application for consideration. No charge shall be made for initial contact or preliminary discussions required for the development of a possible application; nor for non-loan related projects.

C. Technical and Managerial Assistance

Due to their involvement with and knowledge of CDBG procedures, the (Area Development District/Consultant) may provide technical and managerial assistance and secretarial support to the RF Board and potential applicants. Technical assistance shall consist of: working with applicants and other participants to develop a feasible project, seeking additional revenue sources which may be available, and reviewing proposals and advising the RF Board and Manager on merits of the loan.

D. Servicing of Loans

The (Community) Revolving Fund will not directly engage in the servicing of its portfolio. The Board will negotiate with _____, which possess the necessary skills to service the loans.

E. Monitoring of Projects

The RF Manager will conduct a monitoring visit of each project at least twice a year to determine if there are any problems that jeopardize the project. The RF and servicing agency will keep each other informed about problems they encounter. If they so desire, the Board may request periodic financial reports from the company as a condition of project approval.

F. Solicitation of Projects

The (Community) Revolving Fund will recruit potential borrowers through several methods. The RF Manager will actively solicit participation through private lenders, referrals from the Kentucky Development Finance Authority, Community Development Block Grant Program, _____ Development Council, and other sources as appropriate. These development agencies will be in the position of making RF program information available to various enterprises with which they have contact.

Sample Economic Development Revolving Fund Guidelines

Eligibility Requirements

A. Eligible Applicants

- a. The applicant must be a registered sole proprietorship, partnership, or corporation (profit or non-profit) established for the purpose of doing business in (Community).
- b. The applicant must possess good character and reputation. Character references will be required. References may include creditors, past employers or others who possess knowledge of the applicant.

B. Eligible Projects

- a. Loans/grants for acquisition and assembly of land for industrial or commercial use
- b. Loans/grants for acquisition of properties with redevelopment potential for industrial or commercial use
- c. Loans for the start-up and/or expansion of industries
- d. Loans for the rehabilitation and renovation of usable vacant buildings for specific industrial or commercial use
- e. Microenterprise loan pool and technical assistance
- f. Grants for off-site development to assist industries or commercial businesses
- g. Speculative development including building acquisition and construction
- h. Collateral for other eligible activities
- i. Eligible activities not directly related to job creation

C. Ineligible Projects

- a. Businesses serving alcoholic beverages
- b. Rolling stock, i.e., trucks, forklifts, automobiles
- c. Loans to retire existing debt
- d. Working capital
- e. Business activity located outside the boundaries of (Community)
- f. Any other projects determined not to be in the best interests of the citizens of (Community)

D. Eligible Costs

Loans and grants made under the RF can be used to finance:

- a. Land costs – all costs related to the acquisition and development of land for industrial or commercial use.

Sample Economic Development Revolving Fund Guidelines

- b. Building costs – all costs associated with acquisition, construction and/or rehabilitation of buildings for industrial or commercial use, including leasehold improvements.
- c. Machinery and equipment costs – all related costs associated with the acquisition and installation of machinery and equipment.
- d. Facility development costs – costs for facility development, necessary for project completion (i.e., water lines, sewer lines, access roads).
- e. Microenterprise

III. Loan Review Factors

The following factors will be considered in the loan review process for all RF loan applications:

- A. Highest priority will be given to projects creating at least one job per every \$_____ of RF monies. Except under exceptional circumstances, the RF will not consider projects where the ratio exceeds \$20,000 per new long-term job created. Jobs used for purposes of this ratio are those existing at the end of two years after start-up. Construction jobs in the building of a facility are not included.
- B. Highest priority will be given to projects in which RF funds do not exceed thirty-three percent (33%) of total project cost. Except under exceptional circumstances, the RF will not consider projects which exceed fifty percent (50%) of total project cost.
- C. No RF loans shall be made if funding is otherwise available from private lenders on terms that would allow for the successful completion of the project.

IV. Terms and Conditions

The RF shall exercise flexibility in negotiating terms with the participating financial institutions. The following conditions, however, are set as minimum guidelines.

- A. All rates and terms for the RF funds will be based upon a financial analysis conducted under the Community Development Block Grant appropriate criteria.
- B. The RF reserves the right to sell their interest in a loan package where the Board deems advisable.
- C. The RF would accept convertible subordinated debt, with or without deferral provisions for either principle and/or interest.

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- D. Liens will be taken covering all assets. A subordinated position will not be accepted where an inordinate amount of risk is evident.
- E. Personal guarantees may be required of owners who control at least 20% of the company.
- F. The RF will impose the following maximum term requirements and restrictions on loans:

Maximum length of terms:

- 1. Real Estate – 20 years.
 - 2. Machinery and equipment – 10 years or the usable life of the equipment.
 - 3. Inventory/Other – 5 years.
- G. Rates will be negotiated by the RF Board, but in no case shall it be less than ____%.
 - H. In negotiating terms for potential borrowers, terms will not be made that cannot feasibly be met. A thorough credit analysis will be undertaken prior to negotiating loan terms.

V. Application Procedures

NOTE: Application not required for Public Infrastructure and Non-Profit Development.

A. **Initial Meeting**

The initial meeting that the RF Manager will conduct with a potential borrower will be to determine eligibility, generally discuss the project, and explain the application process and needed information. At this point, projects which are ineligible or which do not look strong should be referred to proper funding sources or discouraged from applying. The Loan Manager will indicate that the following items will be required from the applicant prior to the next meeting:

- a. A brief description of the request, including total project cost, amount of loan requested, purpose of loan and terms requested.
- b. Three-year historic financial statements, if applicable.
- c. Financial data – five year pro forma projections.
- d. An economic impact statement, including the number and type of jobs to be retained and/or created at the end of two years.

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- e. A market/business plan delineating past performance and assumptions used as the basis for sales projections.
- f. Personal financial statements of principals in a privately held company.
- g. Any other items requested of applicant by the RF Manager of Board.

B. Loan Application Process

The Loan Manager and the potential borrower will structure the loan package. The borrower will be issued full information on the loan selection criteria and full information regarding standard conditions and federally required assistance and conditions.

Upon determination of applicant eligibility, the borrower will complete the Application form. In conjunction with these cited standard forms, the RF Board of Directors shall request the following information, much of which will be included as part of the applicant's business plan. Note: The standard DLG Approval For Use Request, Exhibit _____ (excluding certifications) can be used in this procedure.

- a. Financial information, which shall include:
 - 1. Current financial statement, including balance sheets, income statements with footnotes, and supporting statement for the applicant's three most recent fiscal years, where applicable, and consolidated financial and income statements, with footnotes, of any parent company for the three most recent fiscal years, where applicable.
 - 2. Most recent interim financial statements of the applicant, and, if applicable, of its parent company, certified by officers of the respective companies and maintained current during the loan application process.
 - 3. Project pro forma balance sheets, income statements, cash flow, and supporting statements of the applicant. Such statements and balance sheets should reflect the applicant's ability to repay debt from earnings.
- b. Such non-financial information as the RF Board of Directors deems is necessary to substantiate the pro forma projections. These may include, but not be limited to:
 - 1. Estimates, quotations, receipts, contracts, orders, invoices, leases or equivalent documentation from architects, engineers, contractors, subcontractors, material suppliers, lessor, or others involved in the sale, lease, or construction

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- of fixed assets, if any, for applicant's project, including schedules or implementation.
- 2. Any backup information regarding the applicant's operating costs, including projected employment by job category and applicable wage rate, cost and availability of raw materials and energy.
- c. General information about company management capabilities, including resumes of top management and detailed marketing strategies.
- d. Such additional information as the RF Board of Directors may require regarding collateral, appraisals, valuations of assets and guarantees.
- e. Completed applications.

VI. Selection and Approval of Projects

A. Application Review and Evaluation

Upon completion of the RF full application, the RF Loan Review Committee will carry out a review and submit its recommendation for approval or disapproval and the basis for such recommendation to the full Board. The RF will then consider the recommendation made by the RF Review Committee. The Board may solicit or allow additional comment or advisement if it so desires. The Board shall then make its recommendations to the City Council/Fiscal Court to approve or deny the project. The RF Board of Directors will utilize and fully consider all loan selection criteria to ascertain whether the proposed project is consistent with the economic development strategy for (Community). The RF Board will determine whether all project requirements can be met and shall apply their financial experience and judgement to the project having considered all available information.

B. Fund Board Approval

The RF Loan Review Committee shall submit a copy of the Approval for Use Request to DLG (Including certifications) for all projects in which program income funds are being utilized. DLG will assure project eligibility and national objective criteria and will respond within fifteen (15) days of receipt.

Upon final approval, the RF Board Chairman will forward the entire package to the RF's bank, with a request to draw down funds to the borrower.

VII. Loan Closing Procedure

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The RF will closely coordinate all loan closing activity with the first participation lender to avoid duplication and to hold closing costs to a minimum. The RF, working with the participating lender, will make all necessary preparations for the closing. After scheduling the date of closing, the RF or participating lender will prepare the information and documentation for closing, including:

- a. RF Agreement
- b. Participation Agreement between RF and the first position lender
- c. Promissory, Mortgage Notes of other loan agreement
- d. Security Documents to be executed and recorded
- e. Check from the RF

All closing costs incurred will be paid by the borrower at the time of closing.

VIII. **Other**

A. **RF Loan Application Form**

The RF full Loan Application form is attached as Appendix 1.

B. **Evaluation Mechanism**

Every six months the RF Manager will monitor the projects in the RF portfolio, evaluate the loans made, and determine progress made in obtaining goals and objectives cited in the RF Administration Plan. Factors such as jobs created, types of jobs created, minority and/or women's businesses assisted, and the ratio of RF dollars to jobs retained/created will be considered in this evaluation process. Results of all project evaluations will be presented to the RF Board and the City Council/Fiscal Court in a semiannual report of RF activity.

All assurances as specified in Community Development Block Grant regulations shall be agreed to by the user in order to receive funds. No application shall be approved unless the Statement of Assurances is properly signed.

Investment of idle funds shall be in conformance with Kentucky Revised Statutes as they relate to investment practices of local governments.

- C. Since the funds that help fund this revolving fund come from repayment of loans/leases made from grants received from the Community Development Block Grant Program, each activity funded under the RF program may be required to meet at least one of the three National Objectives identified in Title 1 of the Housing and Community

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Development Act of 1974 as amended in 1983, hereinafter referred to as the Act (Section 104(b)(3)). The three objectives are:

- 1. Benefit to low and moderate income persons
- 2. Prevention of elimination of slums or blight
- 3. Meeting community development needs which have a particular urgency

D. Up to 20% of the repayment may be used for administrative purposes related to administration of the RF. An administrative plan is attached by reference.

This Document being formally adopted this _____ day of _____, 20__.

(Community/Organization)

(Title)

State of Kentucky
County of _____

Subscribed, sworn to and acknowledged before me by _____,
(Title) by and through its resolution, on this _____ day of _____, 20__

My Commission expires:

Notary Public

(Community)

(Mayor/County Judge)

State of Kentucky
County of _____

Subscribed, sworn to and acknowledged before me by _____,
(Title) by and through its resolution, on this _____ day of _____, 20__.

Sample Economic Development Revolving Fund Guidelines

My Commission Expires:

Notary Public

Chapter 4: Procurement

Introduction

This chapter describes the policies and procedures that must be followed when entering into contractual agreements with other entities. Services often procured by grantees to complete KCDBG projects include certified professional grant administrators, engineers, architects and construction contractors.

Section 4-A. KCDBG Procurement Code

All procurements funded in whole or in part with KCDBG funds must comply with the applicable federal requirements found in 2 CFR Part 200 (referred to as the Super or Omni Circular). The goal in using these procurement procedures is to achieve maximum open and free competition.

2 CFR Part 200.318

Each grantee (and nonprofit subrecipient) shall adopt and abide by the KCDBG Procurement Code (Attachment 4-1), which shall apply only to procurements funded with KCDBG dollars, as authorized in 2 CFR 200.318. The KCDBG Procurement Code follows the Kentucky Model Procurement Code (KRS Chapter 45A), except where the Model Procurement Code conflicts with federal procurement standards and where DLG has stricter requirements. The KCDBG Procurement Code includes:

Attachment 4-1:
KCDBG Procurement Code

- ✓ A code of conduct to govern the performance of the grantee's officers, employees or agents in contracting with KCDBG funds and to ensure adherence to the conflict of interest and disclosure requirements (outlined in Chapter 1: Project Administration); and
- ✓ A requirement that positive efforts be made to use small, minority, female, low-income and/or locally-owned businesses; and
- ✓ A requirement that contracts be awarded, to the greatest extent feasible, to businesses that provide economic opportunities for low and very low-income persons residing in the project area.

Chapter 1: Program Administration

Section 4-B. Overall Procurement Requirements

Environmental Review and Bidding

As stated in Chapter 2: Environmental Review, it is HUD policy as of April 2011 that the environmental review process be completed prior to bidding to allow for an unprejudiced decision about the action and to allow for any modifications or project cancellation based upon the environmental review.

Chapter 2: Environmental Review

Minority Business Enterprises/Women Business Enterprises (MBE/WBE)

Background

The regulations at 2 CFR Part 200.318 requires grantees to take affirmative action to contract with small and minority-owned firms and women business enterprises. DLG does not require set asides or participation quotas, but grantees are expected to make special efforts to award contracts to MBE and WBE firms. Goals for minority participation in construction (by county) are provided in Chapter 6 as Attachment 6-3.

2 CFR 200.318
Attachment 6-3:
Goals for Minority Participation
in the Construction Industry

Requirements

Grantees are required to notify MBE/WBE firms of the opportunity to bid on KCDBG funded contracts. Each grantee must ensure appropriate outreach has been completed to ensure MBE/WBE firms have the opportunity to participate in the KCDBG program. The Kentucky Procurement Technical Assistance Center (PTAC) has been reinstated and may be available to post bid notifications or provide bid matching services with MBE/WBE businesses for KCDBG grantees. A form is provided as Attachment 4-2 for this purpose. Refer to www.kyptac.com or contact their office at (859) 251.6019. Grantees will also need to establish additional outreach steps to comply with the MBE/WBE requirements (see below).

Attachment 4-2:
PTAC Bid Match Form

Suggested Outreach

It is the grantee's job to ensure the MBE/WBE firms are notified of any contracts ready for bid. Specific measures a grantee may take to meet M/WBE goals include:

- ✓ Assuring that small businesses and MBE/WBEs are solicited whenever they are potential sources.
- ✓ Maintain a list of qualified small, minority, and female owned businesses.
- ✓ Use the services and assistance of the Small Business Administration, the Office of Minority Business Enterprise of the U. S. Department of Commerce and the Community Services Administration as required.
- ✓ Including MBE and WBE firms on solicitation lists and sending them an Invitation to Bid.
- ✓ When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum participation by small businesses and MBE/WBEs.
- ✓ Where the requirements permit, establishing delivery schedules which will encourage participation by small businesses and MBE/WBEs.
- ✓ If any subcontracts are to be let, requiring the prime contractor to take the above affirmative steps.
- ✓ Setting aside a percentage of KCDBG funds to be awarded to MBE/WBEs.
- ✓ Including MBE/WBE criteria with additional points in selection criteria for professional services procurement.

Resources for Identifying MWE/WBE Contacts

- ✓ Kentucky Procurement Technical Assistance Center (KYPTAC) for bid match services. www.kyptac.com or (859) 251.6019.
- ✓ Associated General Contractors of Western Kentucky maintains a list of DBE, MBE and WBE contractors. <https://www.agcwky.org/members?mbe>
- ✓ Associated General Contractors of Kentucky maintains a listing and will share if you contact them at (502) 537-5243 or email jmckibben@agcky.org.
- ✓ Kentucky Department of Transportation Small Business & Civil Rights section has a link for Disadvantaged Business Enterprises which includes minority, disadvantaged, and women business enterprises.
 - More information on their programs are available at <https://transportation.ky.gov/Civil-Rights-and-Small-Business-Development/Pages/Small-Business-Development.aspx>. Tony Youseffi is the contact at (502)782.4810.
 - Certified DBE directory: <http://transportation.ky.gov/Civil-Rights-and-Small-Business-Development/Pages/Certified-DBE-Directory.aspx>

Section 3**Background**

Section 3 is a provision of the Housing and Urban Development Act of 1968. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by certain HUD investments, to the greatest extent feasible, are directed to low- and very low-income persons and to business concerns which provide economic opportunities to low- and very low-income persons. The goal is to keep dollars local and help foster local economic development, neighborhood economic improvement, and individual self-sufficiency. Section 3 focuses on opportunities for jobs, training and business ownership opportunities, via contracts. Opportunities such as these can help to lift individuals out of poverty and encourage self-sufficiency.

Section 3 of Housing and Urban
Development Act of 1968
24 CFR Part 75

The new Final Rule 24 CFR Part 75 became effective on November 20, 2020. The obligations to meet the Section 3 rule can be challenging; the key is to have a plan for efforts to meet the rule requirements and to maintain good documentation to demonstrate compliance.

Section 3 Key Points

-
- ✓ Section 3 applies to recipients of \$200,000 or more in KCDBG assistance. The types of projects that are covered by Section 3 are housing construction, demolition, rehabilitation, or other public construction (e.g., infrastructure or community facilities).
 - ✓ Section 3 applies to the entire project even when the KCDBG funds are only a portion of the total funding
 - ✓ Compliance can be met in two ways:
 - Quantitative goals:
 - **25%** or more of all labor hours must be worked by Section 3 workers
 - **5%** or more of all labor hours must be worked by Targeted Section 3 workers
 - OR**
 - Qualitative Goals
 - If a grantee has not met the quantitative goals, they can still be considered to in compliance if they can provide evidence of a number of qualitative efforts to assist low and very low-income persons with employment and training opportunities
 - KCDBG Section 3 Guide provides a list of qualitative efforts KCDBG recipients may undertake to document the project made qualitative efforts to assist low and very low-income persons with employment and training opportunities

Defining Section 3 Workers

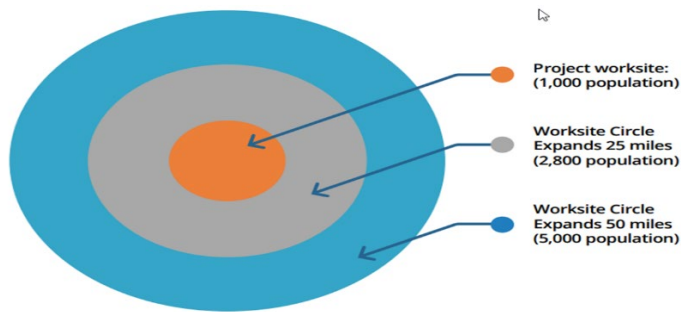
A Section 3 worker is any worked who currently fits, or when hired within the past five years fit, at least one of the following categories as documents:

- ✓ A low or very low-income worker
- ✓ Employed by a Section 3 business concern
- ✓ A Youthbuild participant

Defining Targeted Section 3 Worker

- ✓ Employed by a Section 3 business concern
- ✓ Currently fits or when hired fit at least one of the following categories as documented within the past five years:
 - Living within the service area or the neighborhood of the project, as defined in 24 CFR 75.5 **and** qualifies as a low or very low-income worker
 - A YouthBuild participant

Service Area as Defined in 24 CFR 75.5



OR

- ✓ If > 5,000 people live within one mile of Section 3 project, then, Service Area = an area within a circle centered around the Section 3 project site that encompasses 5,000 people.

To ensure grantees have an adequate plan to satisfy the Section 3 requirements, a grantee must develop and implement a Section 3 Action Plan that outlines how it will achieve these goals. The plan must state the grantee's commitment to Section 3 and outline steps to implement it. The DLG Section 3 Guide Attachment 4-3 provide a step-by-step plan to implement the Section 3 requirements and establish the needed files to document compliance. KCDBG recipients will need to maintain records of Section 3 compliance and will report their Section 3 efforts and accomplishments at the closeout of their grant utilizing the KCDBG Project Completion Report Attachment 13-2a.

Requirements

Contractors or subcontractors for housing construction, demolition, rehabilitation or other public construction triggering Section 3 are required to comply with the Section 3 regulations. Refer to the Section 3 Guide available on DLG's website along with Chapter 5 and the Contracts Document Guide for additional information on Section 3. The Contracts Document Guide provides not only language to include in construction contracts, but also a Contractor Section 3 Plan Format, which is required to be completed by the contractor/subcontractor to demonstrate compliance with Section 3.

Note: In cases where a grantee receives KCDBG assistance of over \$200,000 for a program but no individual project or activity exceeds the \$200,000 threshold, the Section 3 requirements do not apply.

Reporting Requirements

It is important to document efforts made to comply with Section 3. For the qualitative efforts, each project that triggers the Section 3 requirements will be required to report the total labor hours for the project, labor hours completed by Section 3 qualified workers, and labor hours for Targeted Section 3 workers. Documentation of the quantitative efforts should contain memoranda, correspondence, advertisements, etc., illustrating attempts to meet Section 3 goals (e.g., to reach out to eligible persons regarding employment or training and/or business concerns). Documentation will show the steps taken to implement the plan, and will most likely cross-reference information in other files, such as procurement and construction

Attachment 4-3:
Grantee Section 3 Action Plan

contracting. The mere existence of a Section 3 Action Plan is not sufficient. Affirmative attempts to reach Section 3 goals must be made.

Finally, grantees are required to report on both quantitative outcomes and qualitative efforts at the completion of the project on the KCDBG Project Completion Report 13-2a. Contact DLG for guidance on completing the report, if necessary.

[Attachment 13-2a:
KCDBG Project Completion Report](#)

Caution: Compliance with Section 3 does not supersede other applicable laws and regulations. The 1992 amendments specifically state that Section 3 requirements will be consistent with federal, state, and local laws and regulations. Therefore, the Omni Circular procurement standards cannot be violated to comply with Section 3.

Conflicts of Interest

Background

The procurement process must be fair to all those seeking to do business with a Grantee or subrecipient. Nothing is more detrimental to a successful procurement operation than to have the relationship between the Grantee and the contractor questioned regarding real or apparent conflicts of interest. Conflict-of-interest issues deal with the relationship between the parties and financial gain. Essentially, those that are in positions of trust, such as local officials, employees, consultants, family members, and business partners, cannot personally gain from procurement transactions. Furthermore, Grantees should not overlook the fact that this rule applies to both actual conflicts of interest and “apparent” conflicts. Too often, staff members mistakenly believe that indirect or noncash benefits would not be considered a conflict of interest. However, vendor or contractor donations to employee fund-raising drives, event tickets, meals, or gifts of any kind could potentially be considered conflicts of interest. For more information on conflicts of interest, see Chapter 1: Project Administration.

[Chapter 1: Project Administration](#)

Requirements

Grantees should be thoroughly familiar with the conflict of interest requirements in 2 CFR Part 200, Kentucky Revised Statutes and the CDBG regulations. Any possible conflict of interest issues must be brought to the attention of DLG immediately. The sooner a real or apparent conflict of interest is identified the better. If any potential conflict is known at the time of application, it must be brought to the attention of DLG staff.

Separation of Duties

Grantees must be vigilant to eliminate the possibility of fraud in the procurement process. One of the most important checks and balances to limit fraud is through the separation of duties of staff. The person tasked with ordering the goods or managing the procurement process should be different from the person receiving and accepting the goods and the person paying for the order. When this is not possible due to the limited size of staff, grantees should have additional rules in place, such as limiting dollar authorizations and periodic reviews by an independent individual. Grantees should ensure that only designated individuals have the authority to make binding contracts. If the grantee has a small staff, there should be some procedure in place to provide for independent oversight. The grantee’s procurement procedures should outline the positions involved in the procurement process and the responsibilities of each person, a formal system of authorization and review, and separation of duties.

The rule of thumb should be that if an employee touches the money, mail, or goods purchased, he or she should not touch the books.

Open Competition

KCDBG procurement must be conducted in a manner that ensures full and open competition consistent with the standard set forth in 2 CFR Part 200 and the KCDBG Procurement Code. **All** services to be provided must be procured in accordance with 2 CFR Part 200 and the KCDBG Procurement Code. Actions that might restrict competition would include:

- ✓ Placing unreasonable requirements on firms in order for them to qualify to do business.
- ✓ Requiring unnecessary experience.

Section 4-C. Methods of Procurement

Grantees must select from one of four methods of procurement based on the type of products and/or services being procured and their cost.

Small Purchase Procedures

For purchases of less than \$50, efforts must be made to get the lowest and best price. The grantee is not required to maintain written records for these purchases.

Otherwise, small purchase procedures entail a relatively simple and informal process that can be used when goods *and* services, in the aggregate, cost no more than \$30,000. Under this process, the grantee should:

- ✓ Obtain price or rate quotations either by phone or in writing from an adequate number of qualified sources (at least three sources).
- ✓ Maintain documentation regarding the businesses contacted and the prices quoted.
- ✓ Make the award to the lowest responsive and responsible source.
- ✓ Prepare and sign a contract formalizing the scope of work and the terms of compensation.

Competitive Sealed Bids

The Competitive Sealed Bids method of procurement is used when clearly detailed specifications for the goods or services to be procured can be prepared, and the principle basis for award is cost. The sealed bid method is the preferred method for procuring KCDBG-funded construction work with estimated costs in excess of \$30,000. (See Chapter 6: Labor Standards and Construction Management for detailed information on preparing construction bid documents.) The following requirements apply to the competitive sealed bid procurement process:

- ✓ Competitive sealed bids are initiated by publishing an Invitation for Bids (IFB) (sample provided as Attachment 4-4).
- ✓ The IFB must be advertised in the newspaper of largest circulation in the jurisdiction at least one time for not less than seven days or more than 21 days before the date set for the opening of bids.

KRS 45A.365

Chapter 6: Labor Standards and
Construction Management

KRS 424.120

Attachment 4-4:
Advertisement for Bids

- ✓ The IFB must also be publicized by distributing the IFB to a list of qualified contractors.
 - Remember, the grantee must include MBE /WBE and Section 3 firms on solicitation lists and send them an Invitation for Bid.
- ✓ The IFB will include specifications that define the services or items required in order for the bidder to properly respond.
- ✓ 2 CFR Part 200 requires a bid guarantee from each bidder equal to five percent of the bid price. This guarantee serves as an assurance that the chosen contractor will execute the contract within the time specified.
- ✓ All bids must be publicly opened at the time and place stated in the Invitation for Bids.
- ✓ The bids must be tabulated and reviewed.
- ✓ Preparation and signing of a contract formalizing a scope of work and the terms of compensation is required.
 - The contract awarded must be a firm-fixed-price contract (lump sum or unit price with a maximum amount identified).
- ✓ If alternates (additives or deducts) will be taken, the bid documents must be clear as to what order those alternates will be applied.

Competitive Negotiation

This method of procurement is used if the selection can be based on factors other than cost, such as experience and capacity. Procurement of architectural, engineering, planning and administrative services may fall under this category. Grantees shall seek permission from DLG prior to using competitive negotiation for contracts other than architectural, engineering, planning or administrative services. Only fixed-price contracts or hourly contracts with a not-to-exceed figure may be awarded.

Caution: Cost plus a percentage of cost contracts is not acceptable. This means that standard architectural and engineering contracts cannot be used without changing the fee structure that is based on a percentage of costs.

Competitive negotiations are initiated by publishing a Request for Proposals (RFP) or Request for Qualifications (RFQ). The RFP is used when price is a factor in selection; the RFQ is used when price is considered after selections (generally only for engineering services). In both the RFP and RFQ, all significant evaluation factors and their relative importance should be clearly stated. In addition, the grantee should provide or make available any materials such as reports, maps, and site plans to assist interested firms in preparing responsible submissions. A sample RFQ is provided as Attachment 4-5 and a sample RFP is provided as Attachment 4-6 to this Chapter.

Attachment 4-5:
Sample Request for Qualifications
(RFQ)

Attachment 4-6:
Request for Proposal (RFP)

The following requirements apply to the competitive negotiations procurement process:

KRS 424.120

- ✓ The RFP or RFQ must be advertised in the newspaper of largest circulation in the jurisdiction at least one time for not less than seven days or more than 21 days before the date set for the opening of proposals.

- The grantee must include MBE and WBE firms on solicitation lists and send them the RFP or RFQ.
- If an RFP is used, it should specify the scope of services to be provided and the type of contract to be used, which should be either fixed price or an hourly rate with a not to exceed figure.
- An RFP should also:
 - Specify that cost and pricing data is required to support the proposed cost;
 - State anticipated start and completion dates; and
 - List evaluation criteria that will be used in ranking proposals.
- ✓ The RFP or RFQ must also be distributed to a list of qualified firms.
- ✓ All proposals received must be reviewed and ranked according to the selection criteria, and the review must be documented in writing. Attachment 4-7 provides a sample Professional Services Evaluation. Attachment 4-8 provides a sample Review Panel Selection Summary.
 - There must be at least two proposals from qualified sources to permit reasonable competition.
- ✓ For both RFPs and RFQs, selection is made on the basis of the most responsible offer or price with consideration given to the factors identified in the RFQ or RFP.
 - For RFQs, an invitation is then made to one or more respondents to negotiate a price or fee. Document the reason the firm is chosen and that the price established is reasonable.
- ✓ The grantee must maintain documentation of cost reasonableness for all services and reasons for selection.
- ✓ The grantee must prepare and sign a contract formalizing a scope of work and the terms of compensation.
- ✓ The grantee should promptly notify unsuccessful offerors.

Attachment 4-7:
Sample Professional Services
Evaluation
Attachment 4-8:
Sample Review Panel Selection
Summary

Non-Competitive Negotiations

Non-competitive negotiation is procurement through solicitation of a proposal from one source, and is often referred to as sole source procurement. A contract may be awarded by noncompetitive negotiation *only* when the award is infeasible under small purchase procedures, competitive sealed bids, or competitive negotiations and one of the following circumstances applies:

- ✓ There is some public emergency that will not permit delay resulting from competitive solicitation (the grantee must declare an emergency as authorized by law); or
- ✓ The results of the competitive negotiations are inadequate; or
- ✓ The product or service is available only from a single source.

Caution: The use of the non-competitive negotiations procurement method must be authorized in writing by DLG prior to utilizing this method.

The following requirements apply to the non-competitive negotiations procurement process:

-
- ✓ Negotiations must be conducted with the selected company regarding a scope of work and price; and
 - ✓ Preparation and signing of a contract formalizing a scope of work and the terms of compensation is required.

Section 4-D. Other Procurement Issues

Bid Overages

Overview

2 CFR 200.318 requires grantees to perform a cost or price analysis in connection with every procurement action, including competitive sealed bids. Too often, inadequate or incorrect cost analyses result in cost estimates that are too low and, consequently, low bids coming in over budget. Such bid overages can unnecessarily delay time-sensitive projects, and rectifying the overage is often costly and time consuming. Grantees shall carefully conduct and review their cost estimates and to utilize safeguards such as deductible alternates in order to minimize the risk of overages that will require a re-bid. Despite careful cost analyses and safeguards, there are occasions when all bids will exceed available project funds. This section governs the process for dealing with such a situation.

Options

The following options are available for awarding a bid following an overage:

1. Obtaining additional funds from another source and continuing with the original IFB.
2. Rejecting all bids, revising project scope and bid specifications, and issuing a revised IFB (competitive sealed bid) open to the entire public; or
3. Conducting competitive negotiations with **all** bidders. (**Grantees must seek pre-approval from DLG for this option**).

Competitive negotiations under option (3) must take place under the following criteria:

1. If discussions pertaining to the revision of the specifications or quantities are held with any bidder, all of the bidders shall be afforded an opportunity to take part in such discussions.
2. After discussions with all bidders, the grantee shall revise the scope of work accordingly and issue an IFB open to all bidders, providing for expedited proposals. No advertisement is required, but the grantee shall allow **at least seven days** for all bidders to submit proposals.
3. The IFB shall be awarded on the basis of **lowest bid price**.

Deductible Alternates

Grantees **shall use** deductible alternates unless doing so is not practical or not feasible. When deductible alternates are requested, the bid document issued by the grantee must specify the method and order in which alternates will be applied in determining the low bid. Drawings must also clearly show the alternates.

For example, a project might involve the construction of a new community center that includes a portico and a small out-building to accommodate future expansion. The bidding instructions would indicate which items are to be bid as deductible alternates and the order of priority in which they are to be deducted. In

this example, assume the portico and out-building are to be bid as deductible alternates, and the order of priority for deducting is first, the out-building, and second, the portico. The grantee would go back through each bid (not just the lowest one) and first subtract the amount each bidder estimated for the out-building from the total amount she/he bid for the project. The grantee would then check to see if any of the adjusted bids are within budget. If so, the grantee can award the bid to the bidder with the lowest adjusted bid. If not, the grantee would repeat the process, this time deducting the cost of the portico from the adjusted bid of each bidder. Depending on the number of deductible alternates specified, the process can be repeated until one of the adjusted bids is within budget.

It is imperative that the grantee's IFB or the information for the bidders packet explicitly states the method of award, including use of any deductible alternates. Failure to be clear and precise on the procedures that will be utilized can cause confusion or disputes among bidders that could, at the very least, cause project delays. DLG recommends that the grantee's attorney be consulted in these cases.

Grant Administration Services

To assist with administering a grant, grantees may consider procuring the services of a certified professional grant administrator. As set forth in Section 1-A, above, the Commonwealth of Kentucky requires that any person administering CDBG funds be certified by first participating in the CDBG Administrator Certification training and passing the subsequent exam (see Chapter 1). It is important to note that the services of the professional grant administrator must be obtained by following the procurement requirements set forth in this Chapter. DLG maintains an updated list of certified CDBG administrators, which might be helpful for procurement.

[Chapter 1: Program Administration](#)

An agreement must be signed and executed, formalizing the scope of work and the terms of compensation. Documentation verifying reasonability of cost must also be maintained.

[Chapter 5: Contracting](#)

A grantee may instead choose to perform some or all of these services with their own staff member that is a certified administrator, and can be reimbursed for the time an employee spends working on the KCDBG project. It is important to note that time sheets must demonstrate the time spent on the KCDBG project and only time associated with the KCDBG project may be charged to the KCDBG project.

Front-end Costs

Front-end costs are those incurred by the applicant community before funding is obtained. Examples of front-end costs include the preparation of the application, preliminary engineering, and services necessary to prepare the application. A grantee often will contract with consulting and engineering firms to perform specific planning and design functions prior to a project being funded. Federal procurement procedures do not apply if non-KCDBG funds are used to pay for these up-front professional services. All services to be provided must be procured in accordance with 2 CFR 200 and the KCDBG Procurement Code. The grantee is, of course, still bound by local procurement codes when procuring any goods and services.

Private Sector Entities

In economic development projects, it is common for a private sector participating party to procure assets or services. Private sector entities, even when financed with federal funds, are not subject to the

provisions of the Omni Circular. Therefore, most participating party procurements will not be monitored. However, cost reasonableness, as required by the Omni Circular, does apply to the grantee and its expenditures. In the absence of procurement, the grantee will be required to evaluate costs to determine if they are reasonable. Private sector entities may be required to provide some comparative cost information to assist the grantee in this evaluation process and the grantee should maintain this documentation in its files.

Sales Tax on CDBG Projects

Kentucky law prohibits contractors from claiming that a project is exempt from sales tax merely because the project is being constructed or purchased by a governmental entity. See KRS 139.470 and 103 KAR 26:070. A contractor may not “borrow” a Grantee’s tax-exempt status when purchasing equipment, materials or supplies for use on a CDBG project.

Grantees are strongly cautioned against purchasing supplies and equipment directly for CDBG projects in order to save sales tax. A variety of legal and contractual issues, including invalid warranty claims, may arise from such transactions. Grantees should contact DLG to discuss these issues.

If, despite these concerns, a grantee still desires to purchase equipment, materials or supplies for a CDBG project, they may do so *only* if the grantee procures all of those materials according to the KCDBG Procurement Code. Federal and state laws require all city and county purchases to be competitively procured. Purchasing these items directly from the contractor’s preferred vendors, even when the contractor itself has been properly procured, *does not* satisfy this requirement. Grantees that purchase equipment, materials or supplies must provide proof that the purchases were competitively procured by the Grantee. Failure to provide such documentation may result in the purchases being deemed ineligible for reimbursement with CDBG funds and/or may require repayment of improperly withheld sales tax.

Section 4-E. Procurement of Professional Services

This section describes steps that are required to help ensure grantees comply with federal and state procurement requirements in the procurement of professional services. The grantee cannot turn these steps over to their existing contractor to complete as this would violate the goal of maintaining open competition. All services to be provided must be procured in accordance with 2 CFR 200 and the KCDBG Procurement Code.

Step 1: Establish a Contract Procurement File

The grantee should create and maintain a procurement file in order to document compliance with procurement requirements. At the end of the process, the procurement file must contain the following items:

- ✓ Tear sheets of advertisements requesting proposals or qualifications;
- ✓ A listing of firms that were sent the RFP/RFQ directly;
- ✓ A copy of the RFP/RFQ, including a description of the method used to select professional services;
- ✓ RFQ qualification statements received or RFP responses received;
- ✓ Written evaluation of statements/responses received;
- ✓ Written statement explaining the basis for selection; and

- ✓ Written evidence that proposals/costs were determined to be reasonable.

Step 2: Solicit Proposals

The first step in preparing a solicitation is determining the scope of work. The grantee must clearly define the services requested and the factors to be used in the evaluation and selection process.

Attachment 4-6:
Sample Request for Proposals

The competitive negotiation method is generally used to procure professional services in excess of \$30,000 for which the grantee will issue either an RFP or RFQ. Attachment 4-6 provides a sample Request for Proposals.

Step 3: Review Submissions

After the qualifications from the RFQ or proposals in response to the RFP have been received, the grantee should start the review process according to the established selection criteria. Attachment 4-6 provides a sample Professional Services Evaluation form for use by the grantee. The process should be thorough, uniform, and well documented. The review should be conducted by a committee composed of at least three people who have technical knowledge of the type of project being considered. However, these reviewers should have no potential conflicts of interest with any of the firms or individuals under review.

Evaluation criteria should include:

- ✓ Specialized experience or technical expertise of the firm and its personnel in connection with the type of services to be provided and the complexity of the project.
- ✓ Past record of performance on contracts with the locality and other clients, including quality of work, timeliness and cost control.
- ✓ Capacity of firm to perform the work within time limitations, taking into consideration the current and planned workload of the firm.
- ✓ Familiarity of the firm with the type of problems applicable to the project.
- ✓ An evaluation consideration to small, local, minority or female owned firms. These firms may be awarded extra points in order to promote the employment of these firms.

The relative importance of each of these factors should be determined beforehand by assigning values to each (e.g., experience may be assigned 30 points out of a possible 100 points).

Chapter 1: Program Administration
KRS 45A.455

Caution: Be aware of potential conflicts of interest. Some firms have the capacity to administer projects and design buildings or public facilities systems. It is considered a conflict of interest for the firm in charge of administration to also be in the position to oversee the engineering for a project. There can also be conflicts in the areas of rehab inspection, lead based paint testing, surveying, etc.

Step 4: Prepare a Contract

Once a firm is chosen and the basis of selection is documented along with the reasonability of cost, it is time to start the preparation of a contract with the successful individual or firm. See Chapter 5: Contracting for information on contract requirements.

Chapter 5: Contracting

Note: A project using Rural Development (RD) contracts must amend the contracts by addendum to ensure the contract includes all standard CDBG general and supplemental conditions.

Section 4-F. Procurement of Construction Services

This section describes certain key steps that are required to help ensure grantees comply with federal and state procurement requirements when procuring construction services:

Step 1: Establish a Contract Procurement File

The grantee should create and maintain a procurement file in order to document compliance with procurement requirements. At the end of the process, the procurement file must contain the following items:

- ✓ Copies of the IFB;
- ✓ Newspaper tear sheets advertising the IFB;
- ✓ A listing of firms contacted directly;
- ✓ Copies of all addenda;
- ✓ Evidence all bidders received notice of any addenda;
- ✓ Copies of all bids received;
- ✓ Bid tabulations and evaluation of bids; and
- ✓ Signed minutes of the bid opening.

Step 2: Bid the Contract

The bid package should be prepared with the correct wage decisions and labor requirements included. (See Chapter 6: Labor Standards and Construction Management) for information on preparing bid packages with labor requirements and wage decisions.) Bids must be solicited by public advertising, and must conform to the Omni Circular, State law, and local ordinance with respect to number of times advertised and scheduled. Attachment 4-4 provides a sample Advertisement for Bids.

Chapter 6: Labor Standards and
Construction Management
KRS 424.130

Attachment 4-4:
Sample Advertisement for Bids

All construction contracts in excess of \$30,000 must be advertised at least once, seven to 21 days before bids are opened. The advertisement must also call the bidder's attention to the requirement for prevailing wages as well as Section 3, equal opportunity, and other related requirements. In order to give maximum opportunity to small and minority firms, bid advertisements must also be sent to the MBE/WBE firms.

State law also requires that all construction contracts estimated by the grantee to exceed \$100,000 include bidder security. Bidder security protects against contractors bidding low and then, prior to contract execution, requesting a price adjustment due to “unforeseen” events. Acceptable forms of bidder security are “bid bonds” in an amount equal to five percent of the amount of the bid, or the equivalent in cash. Grantees also have discretion to require bid bonds on contracts under \$100,000 if the circumstances warrant such security.

KRS 45A.430

Step 3: Issue Addenda

If the bid document is amended during the advertisement period, addenda must be sent to all bidders who have received bid documents. However, addenda may be issued only up to 72 hours of bid opening. If an addendum is necessary within the 72-hour period before the scheduled bid opening, the bid opening date must be extended at least one week. All bidders must be sent copies of each addendum and evidence of notification must be maintained in the bid files. (Any applicable revision to the wage determination must also be distributed as an addendum.)

Step 4: Confirm Wage Rates

Nine days before bid opening, the grantee must contact DLG to determine if there have been any modifications or revisions to the Davis-Bacon wage rate decision. The grantee should document the “Nine-Day Call” with a memorandum to the Labor Standards File. This “Nine-Day Call” is important because, if modifications have been made before the scheduled bid opening, the grantee is liable for the difference between the original and any recently modified rates. If it is determined during the “nine day call” that there has been a modification, DLG will send the most recent modification to the grantee, The grantee will then send it as an addendum to all contractors who received the original bid package no later than 72 hours prior to bid opening.

Step 5: Open Bids

All bids received should be logged in with the time/date of receipt, name of bidder, and assigned a number. All bids received must remain sealed and in a safe place until the bid opening. At the date scheduled, the public bid opening should be conducted in a businesslike manner. Prior to opening bids, the grantee should state the engineer’s estimate on each contract to be awarded. The bids should be read aloud during the bid-opening meeting and the apparent low bidder should be determined during the bid opening.

- ✓ The bids must also be reviewed for both technical and legal responsiveness of bids.
- ✓ In addition, the bidders must be evaluated as having the capacity to furnish products and/or services required.

Minutes of the opening must denote the apparent low bidder, include a bid tabulation, and be signed and placed in the contract file.

Step 6: Award the Contract

After review of the bids, the grantee must award the contract to the lowest responsible and responsive bidder if his/her bid is within the budgeted amount, preferably within 30 days of the opening. (A contract

is awarded by official action of the local governing body.) More than 30 days may be required if the project is bond financed, financed with federal funds not available at the time bids are received, the Kentucky legislature must act before funds are available, or other extenuating circumstances exist. If the grantee expects to require more than 30 days to award, the advertisement and bid document should so state.

Caution: Contracts are to be *awarded within a 90-day period*. If contracts are not awarded within 90 days of bid opening, any wage rate modifications that occurred within that 90-day period will apply to the contract. If bids are held longer than 90 days, the grantee must make a “90-Day Call” to DLG to determine if any modifications have occurred.

If the contract is awarded to a bidder other than the low bidder, the grantee must prepare a written statement explaining why each lower bidder was deemed non-responsible or non-responsive.

- ✓ To be responsive, the bidder must have submitted all required documentation. However, the responsiveness criteria must be uniformly applied to all bidders. If one bidder is rejected for failing to submit a particular document, for example, all bidders failing to submit that documentation must be rejected.
- ✓ The grantee must check the contractor and all subcontractors’ names against the Federal Excluded Parties List System (EPLS) available at <https://www.sam.gov/portal/SAM/##11>. The grantee must document that the contractors and subcontractors are not on this list.
- ✓ The bidder may also be determined non-responsible if, in the grantee’s judgment and the judgment of the consulting professional, the bid is so unreasonably low that the project cannot be constructed for the amount bid. This is often a problem with inexperienced contractors. The grantee should always contact its attorney and its DLG Program Advisor if the grantee must award to other than the low bidder.

Step 7: Notify DLG and Execute the Contract

Once the bidder is accepted and the reasonability of cost is established, the grantee must send a Notice of Contract Award and Preconstruction Conference within 10 days to DLG and the Kentucky Department of Labor Regional Office of Federal Contract Compliance. Attachment 4-9 provides this notice and relevant contact information.

Attachment 4-9:
Notice of Contract Award and
Preconstruction Conference

Following award of the contract, the contract documents and applicable bonding and insurance must be completed and executed. Contract documents include all the items contained in the bid package, bid proposal, executed contract, notice to proceed, contractor certifications, and bond and insurance forms. See Chapter 5: Contracting and Chapter 6: Labor Standards and Construction Management for information on contract and construction oversight requirements.

Attachment 6-10:
Notice to Proceed

Chapter 5: Contracting and
Chapter 6: Labor Standards and
Construction Management

KCDBG PROCUREMENT CODE

All procurements made by _____ (hereafter referred to as "Grantee/ Subrecipient") involving the expenditure of local, state and federal funds on CDBG Project _____ shall be made in accordance with the following procurement standards.

Procurement transactions, regardless of method or dollar value, will maximize open and free competition. The Grantee/Subrecipient shall not engage in procurement practices that may be considered restrictive in trade.

Purchases will be reviewed by the Treasurer to prevent duplication and to insure that costs are reasonable.

1. Methods for Procurement

Procurements shall be made by one of the following methods: (a) small purchase procedures, (b) competitive sealed bids, (c) competitive negotiation, (d) non-competitive negotiation.

A. SMALL PURCHASES

For purchases of less than \$50, efforts will be made to get the lowest and best price, but written records of such efforts are not necessary.

Purchases that cost more than \$50 but less than \$30,000 require quotations of rate, price, etc., but no legal advertisement is required. The **Grantee/Subrecipient** will solicit responses from at least three vendors. If written responses are not available, a statement explaining the procurement will be prepared and filed. If quotations are obtained via telephone, a memorandum will be prepared setting forth the date the calls were made, parties contacted, and prices obtained.

The **Grantee/Subrecipient** will make the award to the lowest responsive and responsible source, and enter into a contract formalizing the scope of work and terms of compensation.

B. COMPETITIVE SEALED BIDS

Bidding will be employed when detailed specifications for the goods or services to be procured can be prepared and the primary basis for award is cost. When the cost of a contract, lease or other agreement for materials, supplies, equipment or contractual services other than those personal or professional exceeds \$30,000, an Invitation for Bids (IFB) notice will generally be prepared. Per KRS 424.120, this notice will be published at least once in a qualifying official newspaper

of general circulation within the community. This newspaper notice will appear not less than seven (7) days and not more than twenty-one (21) days before the due date for bid proposals. In addition, the Grantee/Subrecipient must solicit sealed bids from responsible prospective suppliers by distributing a copy of such notice to them.

The IFB will include a general description of the goods or services to be procured, the bid deposit and bond performance required (if applicable), the location where bid forms and specifications may be secured, the time and place for opening bids, and whether the bid award will be made on the basis of the lowest bid price or the lowest evaluated price. If the lowest evaluated price is used, the measurable criteria to be utilized must be stated in the IFB. The newspaper notice must also contain language that calls to the attention of bidders all applicable requirements that must be complied with such as Section 3 of the 1968 Housing Act, Section 109 of the 1974 Housing and Community Development Act, the Civil Rights Act of 1964, Executive Order 11246 and the Davis-Bacon Act.

Sealed bids will be opened in public at the time and place stated in the IFBs. The Grantee/Subrecipient will tabulate the bids at the time of bid opening. The results of the tabulation and the bid documents will be evaluated by the review committee, which will make recommendations to the Grantee/Subrecipient. The Grantee/Subrecipient will make a firm fixed-price contract award in writing to the lowest responsive and responsible bidder. After the Grantee/Subrecipient makes the bid award, a contract will be prepared for execution by the successful bidder. After the contract is signed, all bid deposits will be returned to all unsuccessful bidders.

The Grantee/Subrecipient may cancel an Invitation for Bid or reject all bids if it is determined in writing that such is in the best interests of the Grantee/Subrecipient. The Grantee/Subrecipient may allow a vendor to withdraw a bid if requested at any time prior to the bid opening. Bids received after the time set for bid opening shall be returned to the vendor unopened.

Bid Overages:

The following options are available for awarding a bid following an overage:

- 1) Obtaining additional funds from another source and continuing with the original IFB.

- 2) Rejecting all bids, revising project scope and bid specifications, and issuing a revised IFB (competitive sealed bid) open to the entire public; or
- 3) Conducting competitive negotiations with **all** bidders. **(Grantees must seek pre-approval from DLG for this option).**

Competitive negotiations under option (3) must take place under the following criteria:

1. If discussions pertaining to the revision of the specifications or quantities are held with any bidder, all of the bidders shall be afforded an opportunity to take part in such discussions.
2. After discussions with the bidders, the grantee shall revise the scope of work accordingly and issue an RFP open to all bidders, providing for expedited proposals. No advertisement is required, but the grantee shall allow **at least seven days** for bidders to submit proposals.
3. The RFP shall be awarded on the basis of **lowest bid price**.

C. COMPETITIVE NEGOTIATION

The Grantee/Subrecipient may utilize competitive negotiations, regardless of contract amount, upon a written determination that:

1. Specifications cannot be made specific enough to permit the award of a bid on the basis of either the lowest bid price or the lowest evaluated bid price (in other words, bidding is not feasible).
2. The services to be procured are professional or personal in nature.

The use of the competitive negotiations procurement method for contracts other than architectural, engineering, planning or administrative services must be pre-authorized by DLG. With the exception of procurement of certain professional services (principally engineering services), competitive negotiations will proceed as follows:

1. Proposals will be solicited through a qualifying official newspaper advertisement; additionally, a Request for

Proposal (RFP) may be prepared and mailed to qualified vendors. The newspaper advertisement must be published at least seven (7) days and not more than twenty-one (21) days before the date for receipt of the proposals. The RFP will describe services needed and identify the factors to be considered in the evaluation of proposals and the relative weights assigned to each selection factor. The RFP will also state where further details regarding the RFP may be obtained. The RFP will call attention to the same regulations discussed in the bidding process. Requests for proposals will always include cost as a selection factor except for engineering services.

2. Award must be made to the offeror whose proposal is determined by the review committee to be most advantageous to the program, with price and other factors considered. Evaluations must be based on the factors set forth in the Request for Proposal and a written evaluation of each response prepared. The review committee may contact the firms regarding their proposals for the purpose of clarification and record in writing the nature of the clarification. If it is determined that no acceptable proposal has been submitted, all proposals may be rejected. New proposals may be solicited on the same or revised terms or the procurement may be abandoned.

For the procurement of architectural/engineering (A/E) professional services, an alternative to RFPs may be used. The Grantee/Subrecipient may publish a Request for Qualifications. RFQs are handled in a similar method to RFPs with the exception that cost is not a factor in the initial evaluation. A review committee will evaluate the responses and rank them by comparative qualifications. The highest scoring person or firm will be contacted and the selection committee will negotiate cost. If the committee is unable to negotiate a satisfactory cost arrangement, the second highest scoring person or firm will be invited to negotiate. The committee will maintain a written record of all such negotiations.

D. NON-COMPETITIVE NEGOTIATIONS

Non-competitive negotiation is procurement through solicitation of a proposal from one source, and is often referred to as sole source procurement. A contract may be awarded by noncompetitive negotiation only when the award is infeasible under small purchase procedures, competitive sealed bids, or competitive negotiations and one of the following circumstances applies:

1. There is some public emergency that will not permit delay resulting from competitive solicitation (the grantee must declare an emergency as authorized by law); or
2. The results of the competitive negotiations are inadequate; or
3. The product or service is available only from a single source.

Caution: The use of the non-competitive negotiations procurement method must be authorized by DLG.

The following requirements apply to the non-competitive negotiations procurement process:

1. Negotiations must be conducted with the selected company regarding a scope of work and price; and
2. Preparation and signing of a contract formalizing a scope of work and the terms of compensation is required.

II. CONTRACTS

Generally, all procurement in excess of \$500 will be memorialized and supported by a written contract. Where it is infeasible or impractical to prepare a contract, a written finding to this effect will be prepared and a purchase order regarding the transaction will also be prepared. The contractual provisions required by "The Common Rule" will be included in all contracts and purchase orders.

III. DOCUMENTATION

All source documents supporting any given transaction (receipts, purchase orders, invoices, RFP/RFQ data, and bid materials) will be retained and filed in an appropriate manner. Where feasible, source documents pertinent to each individual procurement shall be separately filed and maintained. Where it is infeasible to maintain individual procurement files, source documents will be filed and maintained in a reasonable manner (examples include chronologically, by vendor, by type of procurement, etc.). Whatever form of documentation and filing is employed, the purpose of this section is to insure that a clear and consistent audit trail is established. At a minimum, source document data must be sufficient to establish the basis for selection, basis for cost (including the issue of reasonableness of cost) and basis for payment.

IV. LOCALLY OWNED, MINORITY OWNED, FEMALE OWNED AND SMALL BUSINESSES

The Grantee/Subrecipient shall make and document efforts to solicit participation of locally owned, minority owned, female owned and small businesses. Where

feasible, evaluation criteria will include a factor with an appropriate weight for these firms. A list of locally owned, minority owned, female owned and small businesses and also minority businesses located within the trade region shall be maintained and utilized when issuing IFBs, RFPs and RFQs. The Grantee/Subrecipient shall also consult this list when making small purchases.

VI. SECTION 3

Grantee/Subrecipient shall abide by its Section 3 action plan and shall, to the maximum extent feasible, as required by 24 CFR Part 75, award contracts to businesses that provide economic opportunities for low and very low-income persons residing in the project area.

VII. CODE OF CONDUCT

A. CONFLICTS OF INTEREST

In addition to the prohibitions set forth in 24 CFR 570.489(h) and 24 CFR 85.36(b)(3), the following prohibitions shall apply:

It shall be a breach of ethical standards for any employee with procurement authority to participate directly in any proceeding or application; request for ruling or other determination; claim or controversy; or other particular matter pertaining to any contract, or subcontract, and any solicitation or proposal therefor, in which to his knowledge:

(a) He, or any member of his immediate family has a financial interest therein; or

(b) A business or organization in which he or any member of his immediate family has a financial interest as an officer, director, trustee, partner, or employee, is a party; or

(c) Any other person, business, or organization with whom he or any member of his immediate family is negotiating or has an arrangement concerning prospective employment is a party. Direct or indirect participation shall include but not be limited to involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing, or in any other advisory capacity.

(2) It shall be a breach of ethical standards for any person to offer, give, or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment, in connection with any decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard,

rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling or other determination, claim or controversy, or other particular matter, pertaining to any contract or subcontract and any solicitation or proposal therefor.

(3) It is a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

(4) The prohibition against conflicts of interest and gratuities and kickbacks shall be conspicuously set forth in every local public agency written contract and solicitation therefor.

(5) It shall be a breach of ethical standards for any public employee or former employee knowingly to use confidential information for his actual or anticipated personal gain, or the actual or anticipated personal gain of any other person.

B. PENALTIES

Any elected official, employee or designated agent of the **Grantee/Subrecipient** who knowingly and deliberately violates the provisions of this code will be open to civil suit without the legal protection of the **Grantee/Subrecipient**. Furthermore, such a violation of these procurement standards is grounds for dismissal by the **Grantee/Subrecipient**.

Any contractor or potential contractor who knowingly and deliberately violates the provisions of these procurement standards will be barred from future transactions with the Grantee/Subrecipient.

ADOPTED THIS ___ DAY OF _____, _____.

(Mayor/Judge Executive)

or

(Authorized Official of Subrecipient)

SAMPLE

BID Notification/Solicitation For the Kentucky Procurement Technical Assistance Center (PTAC)

General title of work: *(i.e., RFP for fencing and landscaping)*

Section: USABID or SMALL *(Choose USABID if you are entering a bid opportunity for a state, county or city government organization. Choose SMALL if you are entering a bid opportunity for a federal agency. This classification of your bid will place the opportunity in the appropriate database for the Bid Match search process.)*

Today's Date: [Month, Day, Year]
Agency Name: [Your company goes here]
Agency Address: [Your Company address goes here]
City: [City, State, Zip]

BID DUE DATE: [Month, Day, Year]
BID DUE TIME: [Time to include AM or PM]

"[**Your Company Name Goes Here.**]" is inviting quotes on the following.

Project:
Solicitation number (i.e., RFP-132-17)
Solicitation title (i.e., Town Water Plant Sediment Basin)

Performance State: *(Sometimes an agency will issue a bid that needs to be performed in a state other than where the agency is located. Use this field to identify where the work will be performed or where the goods will be delivered.)*

Text: *(The more details you include in the text field the better the responses will be from your clients. Include any mandatory pre-bid meetings or on-site inspections that might be important to your clients and also identify how they may obtain more information such as the complete bid package, if possible. You can enter up to 2 Gigabytes of data, although we don't recommend quite this much information! Unfortunately, you cannot include any attachments and the text entered in this field should not include any special formatting such as bolding or color.)*

NAICS/SIC/FSC: *(These fields are optional and many agencies don't use them, however, if you happen to know one or all of the codes that best describe this bid opportunity, please include the information.)*

FSG: *(Choose the appropriate Federal Supply Group that best describes the bid opportunity. You may only choose one code per bid.)*

Contact Information:
Name: **Opie Taylor**
Phone: **888.888.8888**
Email: **Opie@mayberry.gov**

SAMPLE GRANTEE SECTION 3 ACTION PLAN*

The City/County of _____ agrees to implement the following specific affirmative action steps directed at increasing opportunities for training and employment for lower income residents of the project area, **and increasing the utilization of business concerns within the Section 3 covered area or owned by Section 3 area residents.

Quantitative Efforts

A. Grantee will implement and report efforts to meet the qualitative benchmarks for projects that trigger Section 3. These include all housing rehabilitation, housing construction, and other public construction that have HUD funds in excess of \$200,000.

B. The goals of Section 3 are as follows:

- 25% or more of all labor hours must be worked by Section 3 workers
- 5% or more of all labor hours must be worked by Targeted Section 3 workers

C. The City/County agrees to track and report the following:

- Total labor hours for the project
- Labor hours completed by Section 3 workers
- Labor hours completed by Targeted Section 3 workers

D. The grantee agrees to follow the Section 3 of Housing and Urban Development Act of 1968 24 CFR Part 75 requirements as outlined in the

A. To identify projected work force needs for all phases of the program by occupation, trade, skill level, and number of positions and to develop utilization goals for the employment of lower income project area residents for each.

B. To attempt to recruit from within the city the requisite number of project area residents through: local advertising media; posted signs; and community organizations and public and private institutions operating within or serving the project area.

C. To identify eligible business concerns for CDBG-assisted contracts through: the Chamber of Commerce, the Urban League, local advertising media including public signage; project area committees, citizen advisory boards; lists available through CDBG program officials; regional planning agencies, and all other appropriate referral sources.

D. To maintain a list of eligible business concerns for utilization in CDBG-funded procurements, to insure that all appropriate project area business concerns are notified of pending contractual opportunities, and to make available this list for general city procurement needs.

* For CDBG grant awards of \$200,000 or more.

** The project area is coextensive with jurisdiction _____'s boundaries.

- E. ***To require all bidders on contracts to submit a written Section 3 Plan including utilization goals and the specific steps planned to accomplish these goals.
- F. *** To insure that contracts which are typically let on a negotiated rather than a bid basis in areas other than Section 3 covered project areas are also let on a negotiated basis, whenever feasible, when let in a Section 3 covered project area.
- G. To maintain records, including copies of correspondence, memoranda, etc., which document that all of the above affirmative action steps have been taken.
- H. To appoint or recruit an executive official of the city as Equal Opportunity Officer to coordinate the implementation of this Section 3 Plan.

*** Loans, grants, contracts, and subsidies which do not exceed \$100,000 will be exempt.

As officers and representatives of the City/County of _____, we the undersigned have read and fully agree to this Affirmative Action Plan, and become a party to the full implementation of this program.

Signature

Title

Date

Signature

Title

Date

SAMPLE ADVERTISEMENT FOR BIDS

Project No. _____

(Owner)

Separate sealed bids for _____ for _____
will be received by _____ at the
office of _____
until _____ o'clock (A.M. – P.M., _____ S.T. _____ D.S.T.) _____, 20____, and
then at said office publicly opened and read aloud.

The information for Bidders, Form of Bid, Form of Contract, Plans, Specifications, and
Forms of Bid Bond, Performance and Payment Bond, and other contract documents
may be examined at the following:

Copies may be obtained at the office of _____ located at _____
_____, upon payment of \$ _____ for each set. Any
unsuccessful bidder, upon returning such set promptly and in good condition, will be
refunded his payment, and any non-bidder upon so returning such a set will be refunded
\$ _____.

The owner reserves the right to waive any informalities or to reject any or all bids.

Each bidder must deposit with his bid, security in the amount, form and subject to the
conditions provided in the Information for Bidders.

Attention of bidders is particularly called to the requirements as to conditions of
employment to be observed and minimum wage rates to be paid under the contract,
Section 3, Section 109 and E.O. 11246 and Title VI and other requirements. Minority
bidders are encouraged to bid.

No bidder may withdraw his bid within _____ days after the actual date of the opening
thereof.

(Date)

“EQUAL EMPLOYMENT OPPORTUNITY”

SAMPLE REQUEST FOR QUALIFICATIONS (RFQ)

The city of West Linn, Kentucky, and/or its designated representative, (agency)_____, is seeking proposals for services relating to the _____Project. Qualifications will be taken for engineering services.

Minimum requirements include previous experience in engineering design and inspection on similar projects.

All interested persons and firms should contact (person) between the hours of 9:30 a.m. and 4:00 p.m., Monday through Friday, to obtain an informational packet. Qualifications must be received at the Office of the Mayor, (address) by (deadline date). The city of West Linn reserves the right to reject any and all Qualifications not meeting the requirements of this Request for Qualifications for Consulting Engineers.

Kentucky Relay Service for the hearing and speech impaired: 1-800-648-6056.

Attention is particularly called to the requirements as to conditions of employment to be observed under the contract, Section 3, Segregated Facility, Section 109, Title VI, and EO 11246. Local, minority and female-owned firms are encouraged to respond.

SAMPLE REQUEST FOR QUALIFICATIONS FROM CONSULTING ENGINEERS

The city of West Linn is applying for federal funding for the Westside Water and Sewer Project. Engineering services will include:

Engineering Design and Inspection

1. Design and prepare cost estimate for infrastructure improvements including:
 - Waterlines
 - Sanitary sewer
 - Curb and Gutter
 - Sidewalks
 - Street Construction
 - Storm Sewers
 - Sewage Lift Station
2. Construction drawings, specifications, plans, permits, etc. as well as bid procedures and recommendations of a construction contractor.
3. Construction inspection of the infrastructure improvements after contract award.

The engineer will be required to provide professional services, which will include: review of environmental assessment material, preparation of bidding and contract documents, and engineering inspection/reporting during actual construction.

Final plans, specifications and bid documents will be completed within (days) of Notice to Proceed. Procurement of said services shall be in accordance with "The Common Rule." All engineers interested in being considered for this project must submit a proposal detailing qualifications, technical expertise, management and staff capabilities, and related prior experience. The objective of the competitive process is to objectively select the firm that will provide the highest quality of service. Selected respondents will be interviewed and the firm(s) judged most qualified will be asked to prepare a final proposal which would include fees for said services.

Exhibit I, attached to this Request for Qualifications, is the minimum qualifications for the consulting engineer. These minimum qualifications have been established to assure the Community of professional expertise with adequate experience to assure successful completion of the proposed project within the allocated time constraints.

Exhibit II, attached hereto, is a rating system that will be utilized for selection of the consulting engineer. This rating system will be employed by the community in determining which proposal best meets the needs as outlined in this "Request for Qualifications".

All work to be undertaken as part of this proposed program must be undertaken in accordance with 24 CFR, Part 570; 24 CFR, Part 58; and other applicable State and Federal requirements.

Responses to this Request for Qualifications must be submitted to (person) prior to (deadline date) . Any response not meeting the minimum requirements for consulting engineer's prior experience as outlined in this request will be rejected.

Attention is particularly called to the requirements as to conditions of employment to be observed under the contract, Section 3, Segregated Facility, Section 109, Title VI, and EO 11246.

As stated previously, city of West Linn and (agency) reserves the right to reject any and all responses submitted. If you have any questions regarding this Request for Qualifications, please contact (person and phone number) .

EXHIBIT I
SAMPLE ENGINEER'S QUALIFICATIONS

I. Consulting Engineer's Minimum Qualifications

- A. The principal responsible for project coordination must have a minimum of three (3) years experience with the Kentucky CDBG Program or other federal/state programs.
- B. The engineering firm must have successfully provided engineering services for a minimum of three (3) similar type projects. The engineering firm will not be accepted if there have been any unresolved audit exceptions relative to engineering services.
- C. The engineering firm must submit references as to the firm's professional qualifications from a minimum of three (3) previous clients for which the engineering firm has performed work (include address and telephone number).

II. Format for Professional Qualifications

Technical qualifications for the consulting engineer shall as a minimum include the following:

- A. The criteria and design approach to be used in the performance of required work.
- B. The personnel to be assigned to the project and resumes of qualifications and experience.
- C. The engineer's experience in the development, design and construction of similar projects.

III. Final Selection

Final selection of the engineer will be based upon the maximum total points scored as set forth in the "Rating System" in Exhibit II.

The city of West Linn and (agency) reserves the right to negotiate a contract with the engineer deemed the most qualified to perform the professional services required.

Sealed proposals must be submitted to the Office of the Mayor, and received by (deadline date). Any proposal not meeting the qualifications set forth in this Request for Qualifications will be rejected.

EXHIBIT II
SAMPLE ENGINEERING SERVICES
SELECTION RATING SYSTEM

- | | |
|---|--------------------------|
| 1. <u>Project Engineer's Experience</u> | <u>Maximum 20 Points</u> |
| A. 5 or more years experience with CDBG or other federal/state programs | 20 Points |
| B. 3 or more years experience | 15 Points |
| C. 1-2 years experience | 10 Points |
| D. No experience | 0 Points |
| 2. <u>Firm's Project Completion Background</u> | <u>Maximum 20 Points</u> |
| A. Completion of 5 previous, similar type projects within proposed time frame & budget | 20 Points |
| B. Completion of 3 projects | 10 Points |
| C. No projects were completed | 0 Points |
| 3. <u>References from Similar Projects</u> | <u>Maximum 20 Points</u> |
| A. Respondent lists 3 previous clients with similar projects and all references give excellent response on quality of service | 20 Points |
| B. Respondent lists 2 previous clients | 15 Points |
| C. Respondent lists 1 previous client | 10 Points |
| D. Respondent lists no previous references | 0 Points |
| 4. <u>Firm's Familiarity with Community's Needs</u> | <u>Maximum 20 Points</u> |
| A. Firm is thoroughly familiar with City | 20 Points |
| B. Firm is somewhat familiar with City | 10 Points |
| C. Firm is unfamiliar with City | 0 Points |
| 5. <u>Minority or Female-Owned Firm</u> | <u>Maximum 5 Points</u> |
| A. Firm is minority or female-owned | 5 Points |
| B. Firm is not minority or female-owned | 0 Points |
| 6. <u>Small Business Firm</u> | <u>Maximum 5 Points</u> |
| A. Firm is a small business | 5 Points |
| B. Firm is not a small business | 0 Points |

MAXIMUM TOTAL POINTS

90 POINTS

Statement of Qualifications submittals should be organized to address each evaluation criteria as listed above and provide references where appropriate. Brochures and similar generalized background materials may be included, but are not required.

ENGINEER SELECTION

_____ PROJECT

CITY/COUNTY OF _____

CRITERIA		POINTS AWARDED			
1.	Engineer's Experience				
2.	Firm's Project Completion Background				
3.	References from Similar Projects				
4.	Firm's Familiarity with Community's Needs				
5.	Minority or Female-Owned Firm				
6.	Small Business				
TOTAL POINTS					

Certification: I hereby certify that the city held interviews with the most qualified firms that responded based on the information available prior to the interviews. The selection committee evaluated and ranked all persons or firms interviewed based on the criteria set forth above.

Signed _____

Date _____

Title _____

SAMPLE REQUEST FOR PROPOSALS (RFP)

Introduction

The City of _____ is accepting proposals from consultants for management and administrative services for a Community Development Block Grant from the State of Kentucky, under the 20_____ program. The scope of services are expected to be required from _____ to _____, or project closeout.

Part One: Management and Administration

The level and scope of services to be provided under Part One will be determined by the city. A lump sum, fixed price fee will also be required for services subsequently included in an agreement under Part One. Examples of services which the consultant must be prepared and qualified to provide under Part One are as follows:

1. Assist the city in meeting equal opportunity, citizen participation, and fair housing requirements for participation in the CDBG program, including preparation of Section 3 Plan.
2. Prepare an environmental assessment of the program, including consideration of historic preservation concerns and assist the city in meeting all environmental clearance procedures required by the State.
3. Assist the city in meeting financial, administration and bookkeeping requirements of the program, including preparation of requests for payment.
4. Assist the city in meeting record keeping requirements of the program, including the establishment and maintenance of a filing system.
5. Assist the city in contract administration and monitoring requirements of the program, including enforcement of labor standards and conducting preconstruction conferences as required.
6. Prepare a final report as required by the State upon completion of the program.
7. Furnish the city with forms required for implementation of the project activities included in the application.
8. Furnish staff training to carry out project activities.
9. Prepare any reports required by the state to complete the program.
10. Assist the city in administering housing rehabilitation, property acquisition, and relocation activities if required in program.
11. Prepare an Employee Affirmative Action Plan for the city.

Part Two: Proposal

Proposals will be considered by the city at a meeting to be held at 7:30 p.m. on the 28th day of July, 20_____. In order to be considered, proposals must be submitted to the city secretary prior to 3:00 p.m. on the 28th day of July, 20_____. The city reserves the right to reject any or all proposals. All proposals should be sealed and marked on the outside, "CDBG ADMINISTRATION PROPOSAL."

Proposals will be evaluated and ranked on the basis of the following considerations:

Technical Approach/Understanding for problem	40
Work Management Plan	10
Experience of Proposed Personnel	20
Corporate Experience	20
Familiarity with Local Context	15
Cost	20
	<hr/>
	125 pts

Proposals will be reviewed by the Task Force and city Staff. No on-site interviews will be conducted. Telephone interviews may be conducted.

Questions concerning the RFP should be addressed to Mary Simmons at 111/445-7891.

Proposals will be evaluated on the basis of written materials. It is not necessary that the consultant attend the meeting at which proposals are considered. Only one copy of the proposal and required supplemental information is requested to be provided.

Proposals should be received at our offices by 3:00 p.m. on July 14, 20_____.

Attention of bidders is particularly called to the requirements as to conditions of employment to be observed under the contract, Section 3, Segregated Facility, Section 109, Title VI and EO 11246.

Proposals should be addressed to:

- (Contact Name)
- (Title)
- (Address)
- (City), Kentucky (Zip)

"EQUAL HOUSING OPPORTUNITY"

SAMPLE PROFESSIONAL SERVICES EVALUATION

OWNER: _____
 (NAME)

PROJECT: _____
 (NUMBER) (NAME)

EVALUATION CRITERIA (For additional criteria add sheets)	RANKING RANGE	FIRMS					
		A	B	C	D	E	F
a) Past Performance							
b) Ability of Professional Personnel							
c) Willingness to Meet Time and Budget Requirements							
d) Location							
e) Recent, Current, and Projected Work Load of the Firm							
f) Creativity and Insight Related to the Project							
g) Related Experience on Similar Projects							
TOTAL							
RANKING OF FIRMS (1,2,3...) (Transfer to Summary Form)							
NOTES:	FIRM NAMES:						
	A -						
	B -						
	C -						
	D -						
	E -						
	F -						

CERTIFICATION:

I hereby certify that the agency selection committee held interviews with all or at least five (5) persons or firms who responded and were deemed most qualified based on information available prior to interviews. The agency selection committee evaluated and ranked all persons or firms interviewed based on their (a) past performance; (b) the ability of professional personnel; (c) willingness to meet time and budget requirements; (d) location; (e) recent, current and projected work loads of the firms; (f) creativity and insight related to the project; and (g) related experience on similar projects; and no other criteria was used.

 (PRINT OR TYPE NAME)

 (DATE)

 (SIGNATURE)

SAMPLE REVIEW PANEL SELECTION SUMMARY

OWNER: _____
 (NAME)

PROJECT: _____
 (NUMBER) (NAME)

EVALUATION CRITERIA	RANKING RANGE	RANKING OF FIRMS (From the Evaluation Form)					
		A	B	C	D	E	F
a) Past Performance							
b) Ability of Professional Personnel							
c) Willingness to Meet Time and Budget Requirements							
d) Location							
e) Recent, Current, and Projected Work Load of the Firm							
f) Creativity and Insight Related to the Project							
g) Related Experience on Similar Projects							
TOTAL							
RANKING OF FIRMS (1,2,3...)							
NOTES:	FIRM NAMES:						
	A -						
	B -						
	C -						
	D -						
	E -						
	F -						

CERTIFICATION:

I hereby certify that the agency selection committee held interviews with all or at least five (5) persons or firms who responded and were deemed most qualified based on information available prior to interviews. The agency selection committee evaluated and ranked all persons or firms interviewed based on their (a) past performance; (b) the ability of professional personnel; (c) willingness to meet time and budget requirements; (d) location; (e) recent, current and projected work loads of the firms; (f) creativity and insight related to the project; and (g) related experience on similar projects; and no other criteria was used.

 (PRINT OR TYPE NAME)

 (DATE)

 (SIGNATURE)

NOTICE OF CONTRACT AWARD AND PRECONSTRUCTION CONFERENCE

TO: Department for Local Government
100 Airport Road, 3rd Floor
Frankfort, KY 40601

Office of Federal Contract Compliance Programs
U. S. Department of Labor
600 Dr. Martin Luther King Jr. Place
Romano Mazzoli Federal Building, Room 352
Louisville, Kentucky 40202

FROM: City of _____

DATE:

SUBJECT: Award of Contract/Preconstruction Conference

This is to inform you that (name of company) , (federal withholding number) at (address) , (phone number) , has been awarded a contract (number*) on (date) to brief description of (work) in the City/County of (City/County name) . The contract document was signed (date) . The number of the applicable wage decision is (number) . The contract is for \$ (amount) . The estimated start of construction is (date) . Contract completion is estimated to be (date) . A Preconstruction Conference will be held concerning this project at (time) on (date) at (address) .

* You may use grant number and then your own sequence.

Chapter 5: Contracting

Introduction

Once goods and services have been properly procured, it is time to develop the legal instruments necessary to establish contractual obligations and rights. This chapter provides general guidance concerning the compliance aspects of contract administration as well as sample contract language.

Section 5-A. General Contract Requirements

As with all contractual obligations, the grantee is advised to seek the advice of legal counsel regarding rights, duties, obligations and liabilities arising from legal arrangements. DLG is also available to provide general, non-legal advice concerning contracting requirements.

Tip: Grantees are not required to obtain advance approval of contracts from DLG. However, grantees must send the Notice of Contract Award included in Chapter 4. In addition, DLG will review contracts during scheduled monitoring and compliance assistance visits to ensure compliance with CDBG and other federal and state requirements.

Attachment 4-10:
Notice of Contract Award

General Contract Contents

Contracts involving the use of KCDBG funds must include the following provisions to ensure compliance:

- ✓ **General Administrative Provisions** including effective date of the contract, names and addresses of the parties to the contract, reference to the authority of the local unit of government to enter into the contract, conditions and terms for violation or breach of the contract, and procedures for contract amendment.
- ✓ **A Scope of Services** including a detailed description of the work to be performed and/or products to be delivered, the schedule for performance, and specification of materials.
- ✓ **Method of Compensation** including fee or payment schedules, retainage, rates and maximum amounts payable. All contracts using KCDBG funds must have a not-to-exceed clause.
- ✓ **Terms and Conditions** - Consistency of the contract with the requirements of the grant agreement between DLG and the grantee. This is particularly true of those terms and conditions that involve the scope of project, implementation schedules, and method and amount of payments. In other words, the relevant terms and conditions of the grant agreement between DLG and the grantee should be reflected in subsequent contracts between the grantee and the entities they hire to provide services for the project.
- ✓ **Special Conditions/Specific Provisions** - Inclusion of specific contract provisions may be required by state and federal law. These provisions are dependent on a combination of:
 - Whether the contract is for construction or non-construction services (e.g., professional services such as administration, surveying, legal, etc.),
 - The dollar value of the contract, and

-
- Statutory mandates.

Section 5-B. Contract Provisions

Tip: DLG has provided documents for construction and non-construction documents along with the Contract Documents Guide. These documents have been provided to help grantees to adopt documents that will provide the required elements as described in this chapter. DLG encourages grantees to utilize the samples and guide to maintain compliance with the Contracting requirements.

Non-Construction Contracts

The Contract for Professional Services (Attachments 5-1 and 5-2) should be used when contracting for non-construction (professional) services paid for with KCDBG funds. The grantee should carefully review the citations included in Part II to determine specifically which provisions are appropriate for its non-construction contracts.

Attachment 5-1:
Contract for Professional
Services—Part I

Attachment 5-2:
Contract for Professional
Services—Part II (required non-
construction language)

Construction Contracts

A construction contract must include all items included in the bid package as well as the standard contract terms and conditions, contractor certifications, and bond and insurance forms. Because this is a legal document, the grantee is required to consult legal counsel and obtain a signed letter certifying that the counsel has reviewed and approved the documents.

Note: Neither the cost-plus-a-percentage nor percentage-of-construction cost methods of contracting are allowed.

The grantee should be concerned with both the body of the contract as well as the compliance requirements that are frequently included as exhibits to the base contract. The following must be included in the contract text:

- ✓ Parties to the agreement;
- ✓ Project location;
- ✓ Scope of services;
- ✓ Financial commitments;
- ✓ Starting and ending dates;
- ✓ Performance schedule and milestones;
- ✓ Contract representatives (grantee, contractor, subcontractor(s));
- ✓ Conflict of interest;
- ✓ Reporting requirements;
- ✓ Suspension clause;
- ✓ Incorporation of attached requirements;
- ✓ Payment schedule and contract cost;

- ✓ Signatures; and
- ✓ CDBG General Conditions and any other General Conditions pertinent to the contract.

Additional clauses required by the federal government (e.g., labor standards, Section 3, etc.) must also be incorporated in the contract. They require specific language, which must be inserted verbatim into the contract. The **KCDBG Contract Documents Guide**, which is available on DLG’s website, provides the relevant clauses and information on the dollar value of the contracts to which they apply. These paragraphs generally advise contractors that they must comply with specific federal laws pertaining to the environment, fair housing, labor, and other laws attached to the KCDBG legislation.

KCDBG Contract Documents Guide:
https://kydlgweb.ky.gov/Documents/CDBG_handbook/KY%20CDBG%20Contract%20Documents%20Guide%20Final%202017.pdf, listed under Chapter 5: Contracting

Tip: Grantees must have a full, bound copy of each executed contract in its files for review by DLG. All conditions must be contained within the contract document.

Subcontracting

An important labor standards component is proper subcontracting. Prime contractors are required to hire only eligible subcontractors (i.e., that are not on the Excluded Parties List; refer to Chapter 4). Prime contractors must also execute a subcontract document with each subcontractor containing all CDBG provisions such as labor standards and other required provisions, such as equal opportunity and general conditions. This subcontract agreement is required for all subcontractors wishing to participate in a KCDBG project.

A sample subcontract agreement with the required language is provided in Attachment 5-3. A copy of the executed subcontract agreement should be obtained and filed prior to or upon receipt of the first subcontractor payroll for that respective subcontractor.

Attachment 5-3:
Subcontract Form

Note: The executed subcontract document must be on file before subcontractor pay requests can be processed. Work closely with the prime contractor to track the subcontractors and ensure that copies of the fully executed subcontracts, containing all required CDBG provisions are obtained and filed in project files.

Section 5-C. Bonding Requirements

Bonds are negotiable instruments required by federal and state law from construction contractors as a form of insurance. The bonds are available to contractors from surety companies, which are then turned over to the grantee to protect against situations that may arise. Some of these situations include:

KRS 45A.430 and 2 CFR 200.325

- ✓ Work not completed as specified and/or the contractor refuses to finish the work without a change order or price escalation;
- ✓ Laborers or subcontractors are not being paid for work and are suing the grantee to recover their loss; or
- ✓ Payment of liquidated damages is required, arising from labor standards violations.

State law requires that, for project contracts over \$100,000, contractors must secure a performance bond for 100 percent of the contract price as it may be increased and a payment bond for 100 percent of the original contract price. Federal bonding requirements are also triggered when contracts exceed \$100,000 in value, per 2 CFR 200.325.

The circumstances that dictate the specific assurances, certifications, or other provisions in any given contract can be complex. Grantees should consider contacting DLG or legal counsel for guidance in this area.

Section 5-D. Subrecipient Agreements

It is not uncommon for grantees to carry out project activities through a subrecipient. A subrecipient is defined as a public or private nonprofit agency, authority, or organization, or other eligible entity, that is provided CDBG funds to carry out eligible activities on behalf of the grantee.

The most likely scenario under which a grantee would opt to utilize a subrecipient is when the grantee wishes to “support” certain eligible activities that are either being carried out or are the primary responsibility of some agency outside of the grantee. In effect, the grantee’s goals coincide with the subrecipient’s, and it makes more sense to utilize the capacities of an existing organization rather than create the apparatus necessary to carry out project activities and/or duplicate services.

It is crucial to stress the importance of the grantee-subrecipient relationship. The grantee is not absolved of its responsibilities by utilizing a subrecipient to carry out project activities; in fact, many of these responsibilities cannot be undertaken by anyone other than the grantee, such as environmental determinations and requesting funds from DLG. Further, all KCDBG requirements are applicable to subrecipients in terms of how they carry out project activities (procurement, financial management, labor compliance, acquisition, etc.).

When is an Entity not Considered a Subrecipient?

An organization or individual is not considered a subrecipient if the entity is:

- ✓ A contractor procured according to the requirements described in Chapter 4: Procurement; Chapter 4: Procurement
- ✓ A homeowner or landlord of an apartment building receiving a rehabilitation loan or grant;
- ✓ A nonprofit or for-profit entity receiving relocation payments and other relocation assistance;
- ✓ A for-profit business receiving a loan for a special economic development project; or
- ✓ A public agency of the grantee, designated by the grantee, to administer a CDBG project.

There may be additional nonprofit organizations that are not considered subrecipients. These are certain types of nonprofits authorized under section 5305(a)(15) of the CDBG statute that carry out community economic development, neighborhood revitalization or energy conservation projects. A grantee should contact DLG if they are uncertain regarding the status of a particular organization.

Written Agreements with Subrecipients

In order to protect the grantee, and to ensure the subrecipient’s compliance with all relevant requirements, the relationship between the two entities must be formally defined through a written agreement (or contract). Such an agreement’s purposes are to clearly establish the terms and

Attachment 5-4:
Legally Binding Agreement

conditions under which the KCDBG funding is provided and establish a legal basis for action if those terms and conditions are not met. A sample agreement that can be used as the basis for a subrecipient agreement is provided as Attachment 5-4.

This agreement must contain the following minimum provisions (like the contract provisions discussed in Section 5-B above, these require specific language, and simple reference is not sufficient):

- ✓ **Scope of Work** – In sufficient detail to provide a sound basis for evaluating performance, a schedule and a budget.
- ✓ **Records and Reporting** – Specifying the records that must be maintained and reports which must be submitted in order for the grantee to meet its own record keeping and reporting responsibilities.
- ✓ **Program Income** (if applicable) – Subrecipients may be allowed to retain program income for use in specified eligible activities during the life of the agreement. If the grantee allows the subrecipient to retain program income, the agreement must specify which activities may be undertaken with those funds.
- ✓ **Administrative Requirements** – Specifically requiring compliance with all applicable uniform administrative mandates.
- ✓ **Program Requirements** – Specifying compliance with KCDBG requirements and other state and Federal overlay requirements (labor standards, nondiscrimination and equal opportunity, etc.), except that the subrecipient may not assume the grantee’s environmental responsibilities.
- ✓ **Conditions for Religious Organizations** – Where applicable, the conditions prescribed by HUD for the use of KCDBG funds by religious organizations.
- ✓ **Suspension and Termination** – Specifying the conditions for convenience and cause.
- ✓ **Reversion of Assets** – Stipulating that, on the expiration of the agreement, the subrecipient must transfer to the grantee any KCDBG funds on hand and any accounts receivable attributable to KCDBG funds. This must also include provisions designed to ensure that any real property acquired or improved in whole or in part with KCDBG funds in excess of \$25,000 is either:
 - Used to meet one of the three national objectives for at least five (5) years after the expiration of the agreement, or longer if stipulated by the grantee; or
 - Disposed of in a manner those results in the grantee being reimbursed in the amount of the current fair market value of the property, less any portion of the value attributable to non-KCDBG expenditures. (Reimbursement is not required after five years from closeout.)
- ✓ **Cessation of the Subrecipient** – Providing remedies and procedures in the event of the subrecipient ceases to exist.
- ✓ **Standard Provisions** – Required of all contracts (such as equal opportunity, Section 3, Section 504, labor, etc.). See Section B of this chapter.

Section 5-B: Specific Contract Provisions

Section 5-E. Public Agency Contracts

Grantees are permitted under Title I to designate public agencies to assist in carrying out eligible activities on behalf of the grantee. Such designation is a non-procurement action by which the grantee may obtain services

Chapter 4: Procurement

through non-competitive negotiations with another public agency (e.g., water/ sewer or industrial authority that is a separate legal and financial entity from the grantee). (Note that this does not apply to administration by Area Development Districts.) See Chapter 4: Procurement for applicable procurement requirements.

Once the negotiations are complete, a contractual agreement must be executed. This agreement designates the scope of services, roles and responsibilities of each party, the time of performance and cost for such services. The contract must also contain the specific contract provisions found in the KCDBG Contracts Document Guide available on DLG’s website.

A summary of the direct and indirect charges to be reimbursed under the contract, and the basis on which these charges are calculated, should be provided to the grantee with each payment request. Time sheets documenting staff time spent on the project should also be maintained.

Section 5-F. Intergovernmental and Cooperative Agreements

Intergovernmental and cooperative agreements can be used by local jurisdictions to assist in the development, operation, and/or management of KCDBG projects.

- ✓ An intergovernmental agreement typically involves two or more units of local governments who enter into an agreement to apply jointly for KCDBG funding.
- ✓ A cooperative agreement is often used when a local governmental entity applies for a grant to construct public facilities or improvements and decides to have another government entity own, operate, and/or maintain the improvements once they are completed.
- ✓ At a minimum, intergovernmental agreements and cooperative agreements should:
 - State that the parties have agreed to cooperate in undertaking the project;
 - Delineate the responsibilities and authorities of each party with respect to the administration of the grant and continuing ownership, operation and maintenance of facilities if applicable; and
 - Authorize one of the parties to be the recipient of the funds and have primary administrative responsibility.

Section 5-G. Reporting Requirements

HUD Form 2516 Contract and Subcontract Activity Report (Attachment 5-5) must be completed by the grantee and submitted to DLG by September 15 of each year. (DLG is then required to submit these reports to HUD by October 1.) The form is also available for downloading from DLG’s website at https://kydlgweb.ky.gov/FederalGrants/CDBG_cities.cfm.

Attachment 5-5:
Contract and Subcontract Activity
Report

Grantees should only report on contracts executed during the report period, including both professional and construction contracts. Once all contracts have been reported, the grantee should write “No additional contracts to be awarded” on the activity report.

~~ATTACHMENT 5-3~~

CONTRACT DOCUMENTS GUIDE
FOR
KCDBG FUNDED CONSTRUCTION PROJECTS

CONTRACT DOCUMENTS GUIDE*

Table of Contents

1. Specifications
2. Advertisement for Bids
3. Information for Bidders
4. Bid Bond Form
5. Bid for Unit Price Contracts
6. Bid for Lump Sum Contracts
7. Certification of Bidder Regarding Equal Employment Opportunity, including Prohibition on Non-segregated Facilities
8. Certification of Bidder Regarding Section 3
9. Contractor Section 3 Plan Format
10. Certification by Proposed Subcontractor Regarding Equal Employment Opportunity, including Prohibition on Non-segregated Facilities
11. Certification of Proposed Subcontractor Regarding Section 3
12. Contractor's Certification Concerning Labor Standards and Prevailing Wage Requirements
13. Contract Form
14. Bonding and Insurance Requirements
15. Certificate of Owner's Attorney
16. General Conditions Table of Contents
17. General Conditions Including Federal Labor Standards
18. Supplemental General Conditions Including Equal Opportunity Provisions

The contract document must include all the items contained in the bid package as well as an executed contract, bid proposal, executed contractor certifications and executed bond and insurance forms.

1.

SPECIFICATIONS

Description of Project

Location (Recipient)

List of Contracts

| Grant No.

Name and Address of Consultant, or if Prepared by Recipient Staff, the name of the Office to be Contacted for Information Pertaining to the Project.

2.

**ADVERTISEMENT FOR BIDS
(Sample Format)**

Project No. _____

(Owner)

Separate sealed bids for _____
for _____

Will be received by _____ at the
office of _____

Until _____ o'clock (A.M. – P.M., _____ S.T. _____ D.S.T.) _____, 20____, and
then at said office publicly opened and read aloud.

The Information for Bidders, Form of Bid, Form of Contract, Plans, Specifications and
Forms of Bid Bond, Performance and Payment Bond, and other contract documents may be
examined at the following:

Copies may be obtained at the office of _____ located at _____
_____, upon payment of \$ _____ for each set. Any unsuccessful bidder, upon
returning such set promptly and in good condition, will be refunded his payment, and any non-
bidder upon so returning such a set will be refunded \$____.

The owner reserves the right to waive any informalities or to reject any or all bids.

Each bidder must deposit his bid, security in the amount, form and subject to the
conditions provided in the Information for Bidders.

Attention of bidders is particularly called to the requirements as to conditions of
employment to be observed and minimum wage rates to be paid under the contract, Section 3,
Segregated Facility, Section 109 and E.O. 11246 and Title VI Minority bidders are encouraged to
bid.

No bidder may withdraw his bid within __ days after the actual date of the opening thereof.

(Date)

“EQUAL EMPLOYMENT OPPORTUNITY”

3.

INFORMATION FOR BIDDERS

1. Receipt and Opening of Bids

The _____ (herein called the "Owner"), invites bids on the form attached hereto, all blanks of which must be appropriately filled in. Bids will be received by the Owner at the office of _____ until _____ o'clock a.m./p.m., EST/EDT/CST/CDT, _____, 20____, and then at said office publicly opened and read aloud. The envelopes containing the bids must be sealed, addressed to _____ at _____ and designated as bid for _____.

The Owner may consider informal any bid not prepared and submitted in accordance with the provisions hereof and may waive any informalities or reject any and all bids. Any bid may be withdrawn prior to the above scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the time and date specified shall not be considered. No bidder may withdraw a bid within _____ days after the date of the opening thereof.

2. Preparation of Bid: Each bid must be submitted on the prescribed form and accompanied by Certification of Bidder Regarding Equal Employment Opportunity, Form 950.1; Certification of Bidder (Contractor) Concerning Labor Standards and Prevailing Wage Requirements, Form 1421; Certification of Bidder Regarding Section 3 and Segregated Facilities; and Contractor Eligibility Certification Regarding Debarment, Suspension and Other Responsibilities. All blank spaces for bid prices must be filled in, in ink or typewritten, in both words and figures, and the foregoing Certifications must be fully completed and executed when submitted.

Each bid must be submitted in a sealed envelope bearing on the outside the name of the bidder, his/her address, and the name of the project for which the bid is submitted. If forwarded by mail, the sealed envelope containing the bid must be enclosed in another envelope addressed as specified in the bid form.

3. Subcontracts: The bidder is specifically advised that any person, for, or other party to whom it is proposed to award a subcontract under this contract:

- a. Must be acceptable to the Owner and have current eligibility status for federal programs; and
- b. Must submit Form 950.2, Certification by Proposed Subcontractor Regarding Equal Employment Opportunity, Certification of Proposed Subcontractor Regarding Section 3 and Segregated Facilities, and Subcontractor Eligibility Certification Regarding Debarment, Suspension and Other Responsibilities. Approval of the proposed subcontract award cannot be given by the Owner unless and until the proposed subcontractor has submitted the Certifications and/or other evidence showing that it has fully complied with any reporting requirements to which it is or was subject. Although the bidder is not required to attach such Certifications by proposed subcontractors to his/her bid, the bidder is here advised of this requirement so that appropriate action can be taken to prevent subsequent delay in subcontract awards.

10. 4. Telegraphic/Facsimile Modification: Any bidder may modify his/her bid by telegraphic or facsimile communication at any time prior to the scheduled closing time for receipt of bids, provided such communication is received by the Owner prior to the closing time, and provided further, the Owner is satisfied that a written confirmation of the telegraphic/facsimile modification over the signature of the bidder was mailed prior to the closing time. The communication should not reveal the bid price but should provide the addition or subtraction or other modification so that
11. the final prices or terms will not be known by the Owner until the sealed bid is opened. If written confirmation is received within two days from the closing time, no consideration will be given to the telegraphic/facsimile modification.

5. Method of Bidding: The Owner invites the following bid(s):

(General Description of Work)

6. Qualifications of Bidder: The Owner may make such investigations as s/he deems necessary to determine the ability of the bidder to perform the work, and the bidder shall furnish to the Owner all such information and data for this purpose as the Owner may request. The Owner reserves the right to reject any bid if the evidence submitted by, or investigation of, such bidder fails to satisfy the Owner that such bidder is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein. Conditional bids will not be accepted.
- 12.
7. Bid Security: Each bid must be accompanied by cash, certified check of the bidder, or a bid bond prepared on the Bid Bond Form attached hereto, duly executed by the bidder as principal and having as surety thereon a surety company approved by the Owner, in the amount of 5% of the bid. Such cash, checks or bid bonds will be returned promptly after the Owner and the accepted bidder have executed the contract, or if no award has been made within 30 days after the date of the opening of bids, upon demand of the bidder at any time thereafter, so long as he/she has not been notified of the acceptance of his/her bid.
- 13.
- 14.
8. Liquidated Damages for Failure to Enter into Contract: The successful bidder, upon his/her failure or refusal to execute and deliver the contract and bonds required within 10 days after s/he has received notice of the acceptance of his/her bid, shall forfeit to the Owner, as liquidated damages for such failure or refusal, the security deposited with his/her bid.
15. 9. Time of Completion and Liquidated Damages: Bidder must agree to commence work on or before a date to be specified in a written "Notice to Proceed" of the Owner and to fully complete- the project within _____ consecutive calendar days thereafter. Bidder must agree also to pay as liquidated damages, the sum of \$ _____ for each consecutive calendar day thereafter as hereinafter provided in the
16. General Conditions.

Conditions of Work: Each bidder must inform him/herself fully of the conditions relating to the construction of the project and the employment of labor thereon. Failure to do so will not relieve a successful bidder of his/her obligation to furnish all material and labor necessary to carry out the provisions of his/her contract. Insofar as possible, the contractor, in carrying out the work, must employ such methods or means as will not cause any interruption of or interference with the work of any other contractor.

Addenda and Interpretations: No interpretation of the meaning of the plans, specifications or other pre-bid documents will be made to any bidder orally.

Every request for such interpretation should be in writing addressed to

_____ at _____

and to be given consideration must be received at least five days prior to the date fixed for the opening of bids. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications which, if issued, will be mailed by certified mail with return receipt requested to all prospective bidders (at the respective addresses furnished for such purposes), not later than three days prior to the date fixed for the opening of bids. Failure of any bidder to receive any such addendum or interpretation shall not relieve such bidder from any obligation under his/her bid as submitted. All addenda so issued shall become part of the contract documents.

Security for Faithful Performance: Simultaneously with his/her delivery of the executed contract, the contractor shall furnish a surety bond or bonds as security for faithful performance of this contract and for the payment of all persons performing labor on the project under this contract and furnishing materials in connection with this contract, as specified in the General Conditions included herein. The surety on such bond or bonds shall be a duly authorized surety company satisfactory to the Owner.

Power of Attorney: Attorneys-in-fact who sign bid bonds or contract bonds must file with each bond a certified and effectively dated copy of their power of attorney.

Notice of Special Conditions: Attention is particularly called to those parts of the contract documents and specifications which deal with the following:

- a. Inspection and testing of materials.
- b. Insurance requirements.
- c. Wage rates.
- d. Stated allowances.

Laws and Regulations: The bidder's attention is directed to the fact that all applicable State laws, municipal ordinances and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the contract throughout, and they will be deemed to be included in the contract the same as though herein written in full.

Method of Award - Lowest Qualified Bidder: If at the time this contract is to be awarded, the lowest base bid submitted by a responsible bidder does not exceed the amount of funds then estimated by the Owner as available to finance the contract, the contract will be awarded on the base bid only. If such bid exceeds such amount, the Owner may reject all bids or may award the contract on the base bid combined with such deductible alternates applied in numerical order in which they are listed in the Form of Bid, as produces a net amount which is within the available funds. If all bids exceed funds available to finance the contract once all deductive alternatives have been applied, the

owner may enter into negotiations with the three (3) lowest bidders. The only factor subject to negotiation, however, is price.

17. Obligation of Bidder: At the time of the opening of bids each bidder will be presumed to have inspected the site and to have read and to be thoroughly familiar with the plans and contract documents (including all addenda). The failure or omission of any bidder to examine any form, instrument or document shall in no way relieve any bidder from any obligation in respect of his/her bid.
18. Safety Standards and Accident Prevention: With respect to all work performed under this contract, the contractor shall:
 - a. Comply with the safety standards provisions of applicable Laws, building and construction codes and the "Manual of Accident Prevention in Construction" published by the Associated General Contractors of America, the requirements of the Occupational Safety and Health Act of 1970 (Public Law 91-596), and the requirements of Title 29 of the Code of Federal Regulations, Section 1518 as published in the "Federal Register", Volume 36, No.75, Saturday, April 17, 1971.
 - b. Exercise every precaution at all times for the prevention of accidents and the protection of persons (including employees) and property.
 - c. Maintain at his/her office or other well known place at the job site, all articles necessary for giving first aid to the injured, and shall make standing arrangements for the immediate removal to a hospital or a doctor's care of persons (including employees), who may be injured on the job site before the employer has made a standing arrangement for removal of injured persons to a hospital or a doctor's care.

4.

BID BOND FORM

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, _____
_____ as Principal, and _____
as Surety, are hereby held and firmly bound unto _____ as
owner in the penal sum of _____ for the payment of which,
well and truly to be made, we hereby jointly and severally bind ourselves, our heirs,
executors, administrators, successors and assigns. Signed this _____ day of
_____, 20____.

The Condition of the above obligation is such that whereas the Principal has submitted
to _____ a certain Bid, attached hereto and hereby made a
part hereof to enter into a contract in writing, for the _____

Now, THEREFOR,

- (a.) If said Bid shall be rejected, or in the alternate.
- (b.) If said Bid shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract attached hereto (properly completed in accordance with said Bid) and shall furnish a bond for his faithful performance of said contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said Bid

Then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety, and its bond shall be in no way impaired or affected by any extension of the time within which the Owner may accept such Bid; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

Principal

Surety

SEAL

By: _____

5.

BID FOR UNIT PRICE CONTRACTS

Place _____

Date _____

Project No. _____

Proposal of _____ (hereinafter called "Bidder")* a corporation organized and existing under the laws of state of _____* a partnership, or an individual doing business as _____

To the _____ (hereinafter called "Owner")

Gentlemen:

The Bidder, in compliance with your invitation for bids for the construction of a _____

Having examined the plans and specifications with related documents and the site of the proposed work, and being familiar with all of the conditions surrounding the construction of the proposal project including the availability of materials and labor, hereby processes to furnish all labor, materials, and supplies, and to construct the project in accordance with the contract documents, within the time set forth therein, and at the prices stated below. These prices are to cover all expenses incurred in performing the work required under the contract documents of which this proposal is a part.

Bidder hereby agrees to commence work under this contract on or before a date to be specified in written "Notice to Proceed" of the Owner and to fully complete the project within _____ consecutive calendar day thereafter as stipulated in the specifications. Bidder further agrees to pay as liquidated damages, the sum of \$_____ for each consecutive calendar day thereafter as hereinafter provided in Paragraph 19 of the General Conditions.

Bidder acknowledges receipt of the following addendum:

*Insert corporation, partnership or individual as applicable.

Bidder agrees to perform all the _____ work describe in the specifications and shown on the plans, for the following unit prices:

Item No.	Est. Qty	Description	Unit Price (Each)	Total
1			Dollars and Cents	Dollars and Cents
			(\$ _____)	(\$ _____)
2			Dollars and Cents	Dollars and Cents
			(\$ _____)	(\$ _____)
3			Dollars and Cents	Dollars and Cents
			(\$ _____)	(\$ _____)
			TOTAL OF BID	(\$ _____)

(Amounts are to be shown in both words and figures. In case of discrepancy, the amount shown in words will govern.)

The above unit prices shall include all labor, materials, bailing, shoring, removal, overhead, profit, insurance, etc., to cover the finished work of the several kinds called for.

Bidder understands that the Owner reserves the right to reject any or all bids and to waive any informalities in the bidding.

The bidder agrees that this bid shall be good and may not be withdrawn for a period of 30 calendar days after the scheduled closing time for receiving bids.

Upon receipt of written notice of the acceptance of this bid, bidder will execute the formal contract attached within 10 days and deliver a Surety Bond or Bonds as required by Paragraph 29 of the General Conditions. The bid security attached in the sum of _____ (\$ _____) is to become the property of the Owner in the event the contract and bond are not executed within the time above set forth, as liquidated damages for the delay and additional expense to the Owner caused thereby.

Respectfully submitted:

By _____
(Title)

(SEAL – if bid is by a corporation)

(Business Address and Zip Code)

6.

BID FOR LUMP SUM CONTRACTS

Place _____

Date _____

Project No. _____

Proposal of _____ (hereinafter called "Bidder")
(a _____ corporation/ a partnership/ an individual doing business as
(State) (STRIKE OUT INAPPLICABLE TERMS)
_____)

To the _____
_____ (hereinafter called "Owner")

Gentlemen:

The Bidder, in compliance with your invitation for bids for the construction of a _____

Having examined the plans and specifications with related documents and the site of the proposed work, and being familiar with all of the conditions surrounding the construction of the proposal project including the availability of materials and labor, hereby processes to furnish all labor, materials, and supplies, and to construct the project in accordance with the contract documents, within the time set forth therein, and at the prices stated below. These prices are to cover all expenses incurred in performing the work required under the contract documents of which this proposal is a part.

Bidder hereby agrees to commence work under this contract on or before a date to be specified in written "Notice to Proceed" of the Owner and to fully complete the project within _____ consecutive calendar day thereafter as stipulated in the specifications. Bidder further agrees to pay as liquidated damages, the sum of \$ _____ for each consecutive calendar day thereafter as hereinafter provided in Paragraph 19 of the General Conditions.

Bidder acknowledges receipt of the following addendum:

BASE PROPOSAL: Bidder agrees to perform all of the _____ work described in the specifications and shown on the plans for the sum of _____ (\$ _____) (Amount shall be shown in both words and figures.) In case of discrepancy, the amount shown in words will govern.

ALTERNATE PROPOSALS:

Alternate No. 1: _____

Deduct the sum of _____ (\$ _____)

Alternate No. 2: _____

Deduct the sum of _____ (\$ _____)

Alternate No. 1: _____

Deduct the sum of _____ (\$ _____)

Alternate No. 1: _____

Deduct the sum of _____ (\$ _____)

UNIT PRICES:

For changed quantities of work items from those indicated by the contract drawings upon written instructions from the architect/engineer, the following unit prices shall prevail:

- 1. _____ \$ _____
- 2. _____ \$ _____
- 3. _____ \$ _____

The above unit prices shall include labor, materials, bailing, shoring, removal, overhead, profit, insurance, etc., to cover the finished work of the several kinds called for. Changes shall be processed in accordance with paragraph 17 (a) of the General Conditions.

Bidder understands that the Owner reserves the right to reject any or all bids and to waive any informalities in the bidding.

The bidder agrees that this bid shall be good and may not be withdrawn for a period of 30 calendar days after the scheduled closing time for receiving bids.

Upon receipt of written notice of the acceptance of this bid, bidder will execute the formal contract attached within 10 days and deliver a Surety Bond or Bonds as required by Paragraph 29 of the General Conditions. The bid security attached in the sum of _____ (\$ _____) is to become the property of the Owner in the event the contract and bond are not executed within the time above set forth, as liquidated damages for the delay and additional expense to the Owner caused thereby.

Respectfully submitted:

(SEAL – if bid is by a corporation)

By _____
(Signature)

(Title)

(Business Address and Zip Code)

7.

CERTIFICATION OF BIDDER REGARDING EQUAL EMPLOYMENT OPPORTUNITY

<p>CERTIFICATION OF BIDDER REGARDING EQUAL EMPLOYMENT OPPORTUNITY</p>		
<p>Instructions</p>		
<p>This certification is required pursuant to Executive Order 11246 (30 F.R. 12319-25). The Implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause, and if so, whether it has filed all compliance reports due under applicable instructions.</p> <p>Where the certification indicates that the bidder has not filed a compliance report due under applicable instructions, such bidder shall be required to submit a compliance report within seven calendar days after bid opening. No contract shall be awarded unless such report is submitted.</p> <p>For contracts over \$10,000, the Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. "Segregated facilities," as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes. The Contractor agrees that a breach of this clause is a violation of the Equal Opportunity clause in this contract. The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.</p>		
<p>Certification by Bidder</p>		
<p>Name and Address of Bidder (include zip code)</p>		
<p>1. Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause.</p>	<p style="text-align: center;">Yes No</p>	
<p>2. Compliance reports were required to be filled in connection with such contract or subcontract.</p>	<p style="text-align: center;">Yes No</p>	
<p>3. Bidder has filed all compliance reports due under applicable instructions, including Monthly Employment Utilization Report (257)</p>	<p style="text-align: center;">Yes No None Required</p>	
<p>4. Have you ever been or are you being considered for sanction due to violation of Executive</p>		

Order 11246, as amended?	
Yes	No
5. Bidder certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained.	
Name and Title of Signer (please type)	
Signature	Date

8.

**CERTIFICATION OF BIDDER REGARDING SECTION 3
(Sample)**

Name of Prime Contractor

Project Name

Project Number

The undersigned hereby certifies that:

- a) Section 3 provisions are included in the Contract.
- b) A Contractor Section 3 Plan was prepared and submitted as part of the bid proceedings (if bid exceeds \$100,000).

Name & Title of Signer (print or type)

Signature

Date

9.

**CONTRACTOR SECTION 3 PLAN
(If bid exceeds \$100,000)**

_____ (Name of Contractor) _____ agrees to implement the following specific affirmative action steps directed at increasing the utilization of lower income residents and businesses within the Town/City/County of _____.

- A. To ascertain from the locality's CDBG program official the exact boundaries of the Section 3 covered project area and where advantageous, seek the assistance of local officials in preparing and implementing the Section 3 Plan.
- B. To attempt to recruit from within the city the necessary number of lower income residents through: Local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within or serving the project area such as Service Employment and Redevelopment (SER), Opportunities Industrialization Center (OIC), Urban League, Concentrated Employment Program, Hometown Plan, or the U.S. Employment Service.
- C. To maintain a list of all lower-income residents who have applied either on their own or on referral from any source, and to employ such persons, if otherwise eligible and if a vacancy exists.
- D. To insert this Section 3 plan in all bid documents, and to require all bidders on subcontracts to submit a Section 3 plan including utilization goals and the specific steps planned to accomplish these goals. *
- E. To insure that subcontract which are typically let on a negotiated rather than a bid basis in areas other than Section 3 covered project areas, are also let on a negotiated basis, whenever feasible, when let in a Section 3 covered project area. *
- F. To formally contact unions, subcontractors and trade associations to secure their cooperation for this program.
- G. To insure that all appropriate project area business concerns are notified of pending subcontractual opportunities.
- H. To maintain records, including copies of correspondence, memoranda, etc., which document that all of the above affirmative action steps have been taken.
- I. To appoint or recruit an executive official of the company or agency as Equal Opportunity Officer to coordinate the implementation of this Section 3 plan.
- J. To list on Table A, information related to subcontracts to be awarded.
- K. To list on Table B, all projected workforce needs for all phases of this project by occupation, trade, skill level and number of positions.

* Loans, grants, contracts and subsidies for \$100,000 or less are exempt.

As officers and representatives of _____
(Name of Contractor)

We the undersigned have read and fully agree to this Section 3 Plan, and become a party to the full implementation of this program.

Signature

Title

Date

Signature

Title

Date

CONTRACTOR SECTION 3 PLAN (continued)

TABLE A
 PROPOSED SUBCONTRACTS BREAKDOWN
 FOR THE PERIOD COVERING _____ through _____
 (Duration of the CDBG-Assisted Project)

Column 1	Column 2	Column 3	Column 4	Column 5
TYPE OF CONTRACT (BUSINESS OR PROFESSION)	TOTAL NUMBER OF CONTRACTS	TOTAL APPROXIMATE DOLLAR AMT.	ESTIMATED NO. OF CONTRACTS TO SECTION 3 BUSINESSES*	ESTIMATE DOLLAR AMT. TO SECTION 3 BUSINESSES

* A Section 3 business is: one that is owned by Section 3 residents (low and very low income residents of the project area, public housing residents or persons with disabilities); one that employs Section 3 residents; or one that subcontracts to businesses that provide opportunities for low and very low income residents.

The Project Area is coextensive with the City/County of _____'s boundaries.

 Company

 Project Name

 Project Number

 EEO Officer-Signature

 Date

CONTRACTOR SECTION 3 PLAN (continued)

TABLE B
ESTIMATED PROJECT WORKFORCE BREAKDOWN

Column 1	Column 2	Column 3	Column 4	Column 5
JOB CATEGORY	TOTAL ESTIMATED POSITIONS	NO. POSITIONS CURRENTLY OCCUPIED BY PERMANENT EMPLOYEES	NO. POSITIONS NOT CURRENTLY OCCUPIED BY PERMANENT EMPLOYEES	NO. POSITIONS TO BE FILLED WITH SECTION 3 RESIDENTS*
OFFICERS SUPERVISORS				
PROFESSIONALS				
TECHNICIANS				
HOUSING SALES RENTAL/MANAGEMENT				
OFFICE CLERICAL				
SERVICE WORKERS				
OTHERS				

TRADE:

JOURNEYMEN				
HELPERS				
APPRENTICES				
MAXIMUM NO. TRAINEES				
OTHERS				

TRADE:

JOURNEYMEN				
HELPERS				
APPRENTICES				
MAXIMUM NO. TRAINEES				
OTHERS				

TRADE:

JOURNEYMEN				
HELPERS				
APPRENTICES				
MAXIMUM NO. TRAINEES				
OTHERS				

* Section 3 residents include low and very low income persons who live in the project area, public housing residents and persons with disabilities.

Company

Project Name

Project Number

EEO Officer-Signature

Date

10.

**CERTIFICATION BY PROPOSED SUBCONTRACTOR
REGARDING EQUAL EMPLOYMENT OPPORTUNITY**

CERTIFICATION BY PROPOSED SUBCONTRACTOR REGARDING EQUAL EMPLOYMENT OPPORTUNITY	
Name of Prime Contractor	Project Number
Instructions	
<p>This certification is required pursuant to Executive Order 11246 (30 F.R. 12319-25). The Implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause, and if so, whether it has filed all compliance reports due under applicable instructions.</p> <p>Where the certification indicates that the subcontractor has not filed a compliance report due under applicable instructions, such subcontractor shall be required to submit a compliance report before the owner approves the subcontract or permits work to begin under the subcontract.</p> <p>For subcontracts over \$10,000, the Subcontractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. "Segregated facilities," as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes. The Subcontractor agrees that a breach of this clause is a violation of the Equal Opportunity clause in this contract. The Subcontractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.</p>	
Subcontractor's Certification	
Name and Address of Subcontractor (include zip code)	
<p>1. Subcontractor has participated in a previous contract or subcontract subject to the Equal Opportunity Clause. Yes ___ No ___</p>	
<p>2. Compliance reports were required to be filled in connection with such contract or subcontract. Yes ___ No ___</p>	
<p>3. Subcontractor has filed all compliance reports due under applicable instructions, including Monthly Employment Utilization Report (257) Yes ___ No ___ None Required ___</p>	

<p>4. Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended?</p> <p style="text-align: center;">Yes _____ No _____</p>	
<p>5. Bidder certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained.</p>	
<p>Name and Title of Signer (please type)</p>	
<p>Signature</p>	<p>Date</p>

11.

**CERTIFICATION OF PROPOSED SUBCONTRACTOR REGARDING
SECTION 3 (Sample)**

Name of Subcontractor

Project Name

Project Number

The undersigned hereby certifies that:

- (a) Section 3 provisions are included in the Contract.
- (b) A written Section 3 plan was prepared and submitted as part of the bid proceedings (if bid exceeds \$100,000).

Name & Title of Signer (print or type)

Signature

Date

12.

**CONTRACTOR'S CERTIFICATION CONCERNING
LABOR STANDARDS AND PREVAILING WAGE REQUIREMENTS**

CONTRACTOR'S CERTIFICATION CONCERNING
LABOR STANDARDS AND PREVAILING WAGE REQUIREMENTS

TO (Appropriate Recipient):	DATE
C/O	PROJECT NUMBER (if any)
	PROJECT NAME

1. The undersigned, having executed a contract with _____ for the construction of the above identified project, acknowledges that:

- (a) The Labor Standards provisions are included in the aforesaid contract;
- (b) Prevailing wage requirements are followed, including paying the higher of the Federal or State wage rate by labor classification.
- (c) Correction of any infractions of the aforesaid conditions, including infractions by any of his subcontractors and any lower tier subcontractors, is his responsibility.

2. He certifies that:

- (a) Neither he nor any firm, partnership or association in which he has substantial interest is designated as an ineligible contractor by the Comptroller of the United States pursuant to Section 5.6(b) of the Regulations of the Secretary of Labor., Part 5 (29 CFR, Part 5) or pursuant to Section 3(a) of the Davis-Bacon Act, as amended (40 U.S. C. 276a-2(a)).
- (b) No part of the aforementioned contract has been or will be subcontracted to any subcontractor if such subcontractor or any firm, corporation, partnership or association in which such subcontractor has a substantial interest is designed as an ineligible contractor pursuant to any of the aforementioned regulatory or statutory provisions.

3. He agrees to obtain and forward to the aforementioned recipient within ten days after the execution of any subcontract, including those executed by his subcontractors and any lower tier subcontractors, a Subcontractor's Certification Concerning Labor Standards and Prevailing Wage Requirements executed by the subcontractors.

4. He certifies that:

- (a) The legal name and the business address of the undersigned are:

(b) The undersigned is:

(1) A SINGLE PROPRIETORSHIP	(3) A CORPORATION ORGANIZED IN THE STATE OF:
(2) A PARTNERSHIP	(4) OTHER ORGANIZATION (Describe)

(c) The name, title and address of the owner, partners, or officers of the undersigned are:

NAME	TITLE	ADDRESS

(d) The names and addresses of all other persons, both natural and corporate, having a substantial interest in the undersigned, and the nature of the interest are (if none, so state)

NAME	ADDRESS	NATURE OF INTENT

(e) The names, addresses and trade classifications of all other building construction contractors in which undersigned ha a substantial interest (if none, so state):

NAME	ADDRESS	TRADE CLASSIFICATION

Date _____ (Contractor)

By: _____

WARNING

U.S. Criminal Code, Section 1010, Title 18, U.S. C., provides in part: "Whoever makes, passes, utters, or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

13.

CONTRACT FORM

THIS AGREEMENT, made this _____ day of _____, 20____, by and between _____
_____, Herein called "Owner,"
(Corporate Name of Owner

herein through its _____, and

STRIKE OUT (a corporation) (a partnership)
INAPPLICABLE (an individual doing business as _____
TERMS _____

of _____, County of _____, and State of _____
hereinafter called "Contractor"

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the OWNER, the CONTRACTOR hereby agrees with the OWNER to commence and complete the construction as described as follows:

hereinafter called the project, for the sum of _____ Dollars (\$ _____) and all extra work in connection therewith, under the terms as stated in the General and Special Conditions of the Contract; and at his (its or their) own proper cost and expense to furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said project in accordance with the conditions and prices stated in the Proposal, the General Conditions, Supplemental General Conditions and Special Conditions of the Contract, the plans, which include all maps, plats, blue prints and other drawings and printed or written explanatory matter thereof, the specifications and contract documents therefore as prepared by _____, herein entitled the Architect/Engineer, and as enumerated in Paragraph 1 of the Supplemental General Conditions, all of which are made a part hereof and collectively evidence and constitute the contract.

The Contractor hereby agrees to commence work under this contract on or before a date to be specified in written "Notice to Proceed" of the OWNER and to fully complete the project within _____ consecutive calendar days thereafter. The Contractor further agrees to pay, as liquidated damages, the sum of \$ _____ for each consecutive calendar day thereafter as hereinafter provided in Paragraph 19 of the General Conditions.

The OWNER agrees to pay the CONTRACTOR in current funds for the performance of the contract, subject to additions and deductions, as provided in the General Conditions of the Contract, and to make payments on account thereof as provided in Paragraph 25, "Payments to Contractor," of the General Conditions.

IN WITNESS WHEREOF, the parties to these presents have executed this contract in six (6) counterparts, each of which shall be deemed an original, in the year and day first above mentioned.

(Seal)
ATTEST

(Owner)

(Secretary)

By

(Witness)

(Title)

(Seal)

(Contractor)

(Secretary)

By

(Witness)

(Title)

(Address and Zip Code)

NOTE: Secretary of the Owner should attest. If Contractor is a corporation, Secretary should attest.

14.

BONDING REQUIREMENTS

Construction project bids estimated to exceed \$25,000 must include bidder security. An acceptable form of bidder security is a bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his/her bid, execute such contractual documents as may be required within the time specified.

Construction contracts or subcontracts exceeding \$25,000 must include:

- a. A performance bond on the part of the contractor for 100 percent of the contract price as it may be increased. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- b. A payment bond on part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

15.

CERTIFICATE OF OWNER'S ATTORNEY

I, the undersigned, _____, the duly authorized and acting legal representative of _____, do hereby certify as follows:

I have examined the attached contract(s) and surety bonds and the manner of execution thereof, and I am of the opinion that each of the aforesaid agreements has been duly executed by the proper parties thereto acting through their duly authorized representatives; that said representatives have full power and authority to execute said agreements on behalf of the respective parties named thereon; and that the foregoing agreements constitute valid and legally binding obligations upon the parties executing the same in accordance with terms, conditions and provisions thereof.

Signature

Date

16.

**GENERAL CONDITIONS
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17.

**GENERAL CONDITIONS
Including Federal Labor Standards Provisions**

1. Contract and Contractor Documents

The project to be constructed and pursuant to this Contract will be financed with assistance from the Kentucky Community Development Block Grant Program and is subject to all applicable Federal laws and regulations.

The plans, specifications and addenda, hereinafter enumerated in Paragraph 1 of the Supplemental General Conditions on page 30, shall form part of this Contract and the provisions thereof shall be as binding upon the parties hereto as if they were herein fully set forth. The table of contents, titles, headings, running headlines and marginal notes contained herein and in said documents are solely to facilitate reference to various provisions of the Contract Documents and in no way affect, limit or cast light on the interpretation of the provisions to which they refer.

2. Definitions

The following terms as used in this contract are respectively defined as follows:

- (a) "Contractor": A person, firm or corporation with whom the contract is made by the Owner.
- (b) "Subcontractor": A person, firm or corporation supplying labor and materials or only labor for work at the site of the project for, and under separate contract or agreement with, the Contractor.
- (c) "Work on (at) the project": Work to be performed at the location of the project, including the transportation of materials and supplies to or from the location of the project by employees of the Prime Contractor and any Subcontractor.

3. Additional Instructions and Detail Drawings

The Contractor will be furnished additional instructions and detail drawings as necessary to carry out the work included in the contract. The additional drawings and instructions thus supplied to the Contractor will coordinate with the Contract Documents and will be so prepared that they can be reasonably interpreted as part thereof. The Contractor shall carry out the work in accordance with the additional detail drawings and instructions. The Contractor and the Architect/Engineer will prepare jointly (a) a schedule, fixing the dates at which special detail drawings will be required, such drawings, if any, to be furnished by the Architect/Engineer in accordance with said schedule, and (b) a schedule fixing the respective dates for the submission of show drawings, the beginning of manufacture, testing and installation of materials, supplies and equipment, and the completion of the various parts of the work; each such schedule to be subjected to change from time to time in accordance with the progress of the work.

4. Shop or Setting Drawings

The Contractor shall submit promptly to the Architect/Engineer two copies of each shop or setting drawing prepared in accordance with the schedule predetermined as aforesaid. After examination of such drawings by the Architect/Engineer and the return thereof, the Contractor shall make such corrections to the drawings as have been indicated and shall furnish the Architect/Engineer with two corrected copies. If requested by the Architect/Engineer the Contractor must furnish additional copies. Regardless of corrections made in or approval given to such drawings by the Architect/Engineer, the Contractor will nevertheless be responsible for the accuracy of such drawings and for their conformity to the plans and specifications, unless he notifies the Architect/Engineer in writing of any deviations at the time he furnishes such drawings.

5. Materials, Services and Facilities

(a) It is understood that except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, superintendence, temporary construction of every nature and all other services and facilities of every nature whatsoever necessary to execute, complete and deliver the work within the specified time.

(b) Any work necessary to be performed after regular working hours, on Sunday or Legal Holidays, shall be performed without additional expense to the Owner.

6. Contractor's Title to Materials

No materials or supplies for the work shall be purchased by the Contractor subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller. The Contractor warrants that he has good title to all materials and supplies used by him in the work, free from all liens, claims or encumbrances.

7. Inspection and Testing of Materials

(a) All materials and equipment used in the construction of the project shall be subject to adequate inspection and testing in accordance with accepted standards. The laboratory or inspection agency shall be selected by the Owner. The Owner will pay for all laboratory inspection service direct, and not as a part of the Subcontract.

(b) Materials of construction, particularly those upon which the strength and durability of the structure may depend, shall be subject to inspection and testing to establish conformance with specifications and suitability for uses intended.

8. "Or Equal" Clause

Whenever a material, article or piece of equipment is identified on the plans or in the specifications by reference to manufacturers' or vendors' names, trade names, catalogue numbers, etc., it is intended merely to establish a standard; and, any materials, article or equipment of other manufacturers and vendors which will perform adequately to the duties imposed by the general design will be considered equally acceptable provided the material, article or equipment so proposed, is, in the opinion of the Architect/Engineer, of equal substance and function. It shall not be purchased or installed by the Contractor without the Architect/Engineer's written approval.

9. Copyrights and Patents

- (a) The Contractor shall hold and save the Owner and its officers, agents, servants and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of, any patented or unpatented invention, process, article or appliance manufactured or used in the performance of the Contract, including its use by the Owner, unless otherwise specifically stipulated in the Contract Documents.
- (b) License or Royalty Fees: License and/or royalty fees for the use of a process which is authorized by the Owner of the project must be reasonable, and paid to the holder of the patent, or his authorized licensee, direct by the Owner and not by or through the Contractor.
- (c) If the contractor uses any design, device or materials covered by letters, patent or copyright, he shall provide for such use by suitable agreement with the Owner of such patented or copyrighted design, device or material. If is mutually agreed and understood, that without exception, the contract prices shall include all royalties or costs arising from the use of such design, device or materials, in any say involved in the work. The Contactor and/or his Sureties shall indemnify and save harmless the Owner of the project from any and all claims for infringement by reason of the use of such patented or copyrighted design, device or materials or any trademark or copyright in connection with work agreed to be performed under this Contract, and shall indemnify the Owner for any cost, expense or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after completion of the work.
- (d) Any copyrightable work resulting from this Agreement is available to the author for such, but the City and the Department of Local Government reserve the option for unlimited use and license to such work. Any discovery or invention shall be reported promptly to the City and the Department of Local Government for the determination as to whether patent protection should be sought and how the rights of any patent shall be disposed of and administered in order to protect the public interest.

10. Surveys, Permits and Regulations

Unless otherwise expressly provided for in the specifications, the Owner will furnish the Contractor all surveys necessary for the execution of the work.

The Contractor shall procure and pay all permits, licenses and approvals necessary for the execution of this Subcontract.

The Contractor shall comply with all laws, ordinances, rules, orders and regulations relating to performance of the work, the protection of adjacent property and the maintenance of passageways, guard fences or other protective facilities.

11. Contractor's Obligations

The Contractor shall and will, in good workmanlike manner, do and perform all work and furnish all supplies and materials, machinery, equipment, facilities and means, except as herein otherwise expressly specified, necessary or proper to perform and complete all the work required by this Contract, within the time herein specified, in accordance with the provisions of this Contract and said specifications and in accordance with the plans and drawings covered by this Contract any and all supplemental plans and drawings, and in accordance with the directions of the Contractor and/or Architect/Engineer as given from time to time during the progress of the work. He shall furnish, erect, maintain and remove such construction plant and such temporary works as may be required.

The Contractor shall observe, comply with, and be subject to all terms, conditions, requirements and limitations of the Contract and specifications, and shall do, carry on and complete the entire work to the satisfaction of the Contractor, Architect/Engineer and the Owner.

12. Weather Conditions

In the event of temporary suspension of work, or during inclement weather, or whenever the Architect/Engineer shall direct, the Contractor will, and will cause his Subcontractors to protect carefully his and their work and materials against damage or injury from the weather. If, in the opinion of the Architect/Engineer, any work or materials shall have been damaged or injured by reason of failure on the part of the Contractor or any of his Subcontractors to protect his work, such materials shall be removed and replaced at the expense of the Contractor.

13. Protection of Work and Property – Emergency

The Contractor shall at all times safely guard the Owner's property from injury or loss in connection with this Contract. He shall at all times safely guard and protect his own work, and that of adjacent property from damage. The Contractor shall replace or make good any such damage, loss or injury unless such be caused directly by errors contained in the Contract or by the Owner, or his duly authorized representatives.

In case of an emergency which threatens loss or injury of property, and/or safety of life, the Contractor will be allowed to act, without previous instructions from the Architect/Engineer, in a diligent manner. He shall notify the Architect/Engineer

immediately thereafter. Any claim for compensation by the Contractor due to such extra work shall be promptly submitted to the Architect/Engineer for approval.

Where the Contractor has not taken action but has notified the Architect/Engineer of an emergency threatening injury to persons or damage to the work or any adjoining property, he shall act as instructed or authorized by the Architect/Engineer.

The amount of reimbursement claimed by the Contractor on account of any emergency action shall be determined in the manner provided in Paragraph 17 of the General Conditions.

14. Inspection

The authorized representatives and agents of the Department of Local Government and the Department of Housing and Urban Development shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials and other relevant data and records.

15. Reports, Records and Data

The Contractor shall submit to the Owner such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data as the Owner may request concerning work performed or to be performed under this Contract.

16. Superintendence by Contractor

At the site of the work the Contractor shall employ a construction superintendent or foreman who shall have full authority to act for the Contractor. It is understood that such representative shall be acceptable to the Architect/Engineer and shall be one who can be continued in that capacity for the particular job involved unless he ceases to be on the Contractor's payroll.

17. Changes in Work

No changes in the work covered by the approved Contract Documents shall be made without having prior written approval of the Owner. Charges or credits for the work covered by the approved change shall be determined by one or more, or a combination of the following methods:

- (a) Unit bid prices previously approved.
- (b) An agreed lump sum.
- (c) The actual cost of
 - 1. Labor, including foremen.
 - 2. Materials entering permanently into the work.
 - 3. The ownership or rental cost of construction plant and equipment during the time of use on the extra work.

4. Power and consumable supplies for the operation of power equipment.
5. Insurance.
6. Social Security and old age and unemployment contributions.

18. Extras

Without invalidating the Contract, the Owner may order extra work or make changes by altering, adding to or deducting from the work, the contract sum being adjusted accordingly, and the consent of the Surety being first obtained where necessary or desirable. All the work of the kind bid upon shall be paid for at the price stipulated in the proposal, and no claims for any extra work or materials shall be allowed unless the work is ordered in writing by the Owner or its Architect/Engineer, acting officially for the Owner, and the price is stated in such order.

19. Time for Completion and Liquidated Damages

It is hereby understood and mutually agreed, by and between the Contractor and the Owner, that the date of beginning and the time for completion as specified in the contract of the work to be done hereunder are ESSENTIAL CONDITIONS of this Contract; and it is further mutually understood and agreed that the work embraced in this Contract shall be commenced on a date to be specified in the "Notice to Proceed".

The Contractor agrees that said work shall be prosecuted regularly, diligently and uninterruptedly at such rate of progress as will insure full completion thereof within the time specified. It is expressly understood and agreed, by and between the Contractor and the Owner, that the time for the completion of the work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.

If the said Contractor shall neglect, fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by the Owner, then the Contractor does hereby agree, as part consideration for the awarding of this Contract, to pay to the Owner the amount specified in the Contract, not as a penalty but as liquidated damages for such breach of contract as hereinafter set forth, for each and every calendar day that the Contractor shall be in default after the time stipulated in the Contract for completing the work.

The said amount is fixed and agreed upon by and between the Contractor and the Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain, and said amount is agreed to be the amount of damages which the Owner would sustain and said amount shall be retained from time to time by the Owner from current periodical estimates.

It is further agreed that time is of the essence of each and every portion of this Contract and of the specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where under the Contract an additional time is allowed for the completion of any work, the new time limit fixed by

such extension shall be of the essence of this Contract. Provided, that the Contractor shall not be charged with liquidated damages or any excess cost when the Owner determines that the contractor is without fault and the Contractor's reasons for the time extension are acceptable to the Owner; provided, further, that the Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due:

- (a) To any preference, priority or allocation order duly issued by the Government.
- (b) To unforeseeable cause beyond the control and without fault or negligence of the Contractor, including, but not restricted to, acts of God, or of the public enemy, acts of the Owner, acts of another Contractor in performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and severe weather.
- (c) To any delays of Subcontractors or suppliers occasioned by any of the causes specified in subsections (a) and (b) of this article.

Provided, further, that the Contractor shall, within ten (10) days from the beginning of such delay, unless the Owner shall grant a further period of time prior to the date of final settlement of the Contract, notify the Owner, in writing, of the causes of the delay, who shall ascertain in the facts and extent of the delay and notify the Contractor within a reasonable time of its decision in the matter.

20. Correction of Work

All work, all materials, whether incorporated in the work or not, all processes of manufacture, and all methods of construction shall be at all times and places subject to the inspection of the Architect/Engineer who shall be the final judge of the quality and suitability of the work, materials, processes of manufacture and methods of construction for the purposes for which they are used. Should they fail to meet his approval they shall be forthwith reconstructed, made good, replaced and/or corrected, as the case may be, by the Contractor at his own expense. Rejected materials shall immediately be removed from the site. If, in the opinion of the Architect/Engineer, it is undesirable to replace any defective or damaged materials or to reconstruct or correct any portion of the work injured or not performed in accordance with the Contract Documents, the compensation to be paid to the Contractor hereunder shall be reduced by such amount as in the judgment of the Architect/Engineer shall be equitable.

21. Subsurface Conditions Found Different

Should the Subcontractor encounter subsurface and/or latent conditions at the site materially differing from those shown on the plans or indicated in the specifications, he shall immediately give notice to the Architect/Engineer of such conditions before they are disturbed. The Architect/Engineer will thereupon promptly investigate the conditions, and if he finds that they materially differ from those shown on the plans or indicated in the specifications he will at once make such changes in the plans and/or specifications as he may find necessary, any increase or decrease of cost resulting from such changes to be adjusted in the manner provided in Paragraph 17 of the General Conditions.

22. Claims for Extra Cost

No claim for extra work or associated cost shall be allowed unless the same was done in pursuance of a written order of the Architect/Engineer approved by the Owner, as aforesaid and the claim presented with the first estimate after the changed or extra work is done. When work is performed under the terms of subparagraph 17(c) of the General Conditions, the Subcontractor shall furnish satisfactory bills, payrolls and vouchers covering all items of cost and when requested by the Owner, give the Owner access to accounts relating thereto.

23. Right of Owner to Terminate Contract

In the event that any of the provisions of this Contract are violated by the Contractor, or by any of his Subcontractors, the Owner may serve written notice upon the Contractor and the Surety of its intention to terminate the Contract, such notices to contain the reasons for such intention to terminate the Contract, and unless within ten (10) days after the serving of such notice upon the Contractor, such violation or delay shall cease and satisfactory arrangement of correction be made, the Contract shall, upon the expiration of said ten (10) days, cease and terminate. In the event of any such termination, the Owner shall immediately serve notice thereof upon the Surety and the Contractor and the Surety shall have the right to take over and perform the Contract; provided, however, that if the Surety does not commence performance thereof within ten (10) days from the date of the mailing to such Surety of notice of termination, the Owner may take over the work and prosecute the same to completion by contract or by force account for the account and at the expense of the Contractor and the Contractor and his Surety shall be liable to the Owner for any excess cost occasioned by the Owner thereby, and in such event the Owner may take possession of and utilize in completing the work, such materials, appliances and plant as may be on the site of the work and necessary therefore.

The Owner may terminate this Contract at any time by giving at least ten (10) days notice in writing to the Contractor. If the Contract is terminated by the Owner as provided herein, the Contractor will be paid for the time provided and expenses incurred up to the termination date. If the Contract is terminated due to the fault of the Contractor, the above paragraph relative to termination shall apply.

24. Construction Schedule and Periodic Estimates

Immediately after execution and delivery of the Contract, and before the first partial payment is made, the Contractor shall deliver to the Owner an estimated construction progress schedule in form satisfactory to the Owner, showing the proposed dates of commencement and completion of each of the various subdivisions of work required under the Contract Documents and the anticipated amount of each monthly payment will become due the Contractor in accordance with the progress schedule. The Contractor shall also furnish on forms to be supplied by the Owner (a) a detailed estimate giving a complete breakdown of the contract price and (b) periodic itemized estimates of work done for the purpose of making partial payments thereon. The costs employed in making up any of these schedules will be used only for determining the basis of partial payments and will not be considered as fixing a basis for additions to or deductions from the contract price.

25. Payments to the Contractor

- (a) Not later than the _____ day of each calendar month the Owner shall make a progress payment to the Contractor on the basis of a duly certified and approved estimate of the work performed during the preceding calendar month under this Contract, but to insure the proper performance of this Contract, the Owner shall retain ten percent (10%) of the amount of each estimate until final completion and acceptance of all work covered by this Contract; provided, that the Contractor shall submit his estimate not later than the _____ day of the month; provided, further, that on completion and acceptance of each separate building, public work, or other division of the Contract, on which the price is stated separately in the Contract, payment may be made in full, including retained percentages thereon, less authorized deductions.
- (b) In preparing estimates the material delivered on the site and preparatory work done may be taken into consideration.
- (c) All material and work covered by partial payments made shall thereupon become the sole property of the Owner, but this provision shall not be construed as relieving the Contractor from the sole responsibility for the care and protection of materials and work upon which payments have been made or the restoration of any damaged work, or as a waiver of the right of the Owner to require the fulfillment of all of the terms of the Contract.
- (d) Owner's Right to Withhold Certain Amounts and Make Application Thereof: The Contractor agrees that he will indemnify and save the Owner harmless from all claims growing out of the lawful demands of subcontractors, laborers, workmen, mechanics, materialmen and furnishers of machinery and parts thereof, equipment, power tools and all supplies, including commissary, incurred in the furtherance of the performance of this Contract. The Contractor shall, at the Owner's request, furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged or waived. If the Contractor fails to do so, then the Owner may, after having served written notice on the said Contractor, either pay unpaid bills, of which the Owner has written notice, direct, or withhold from the Contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the Contractor shall be resumed, in accordance with the terms of this Contract, but in no event shall the provisions of this sentence be construed to impose any obligations upon the Owner to either the Contractor or his Surety. In paying any unpaid bills of the Contractor, the Owner shall be deemed the agent of the Contractor, and any payment so made by the Owner shall be considered as a payment made under the Contract by the Owner to the Contractor and the Owner shall not be liable to the Contractor for any such payments made in good faith.

26. Acceptance of Final Payment Constitutes Release

The acceptance by the Contractor of final payment shall be and shall operate as a release to the Owner of all claims and all liability to the Contractor for all things done or furnished in connection with this work and for every act and neglect of the Owner

and others relating to or arising out of this work. No payment, however, final or otherwise, shall operate to release the Contractor or his Sureties from any obligations under this Contract or the performance and payment bond.

27. Payments by Contractor

The Contractor shall pay (a) for all transportation and utility services not later than the _____ day of the calendar month following that in which services are rendered, (b) for all materials, tools and other expendable equipment to the extent of ninety percent (90%) of the cost thereof, not later than the ___ day of the calendar month following that in which such materials, tools and equipment are delivered at the site of the project, and the balance of the cost thereof, not later than the __ day following the completion of that part of the work in or on which such materials, tools and equipment are incorporated or used, and (c) to each of his Subcontractors, not later than the __ day following each payment to the Contractor, the respective amount allowed the Contractor on account of the work performed by his Subcontractors to the extent of each Subcontractor's interest therein.

28. Insurance

The Contractor shall not commence work under this Contract until he has obtained all the insurance required under this paragraph and such insurance has been approved by the Owner, nor shall the Contractor allow any Subcontractor to commence work on this subcontract until the insurance required of the Subcontractor has been so obtained and approved.

- (a) Compensation Insurance: The Contractor shall procure and shall maintain during the life of this Contract Workmen's Compensation Insurance as required by applicable State or territorial law for all of his employees to be engaged in work at the site of the project under this Contract, and, in case of any such work sublet, the Contractor shall require the Subcontractor similarly to provide Workmen's Compensation Insurance for all of the latter's employees to be engaged in such work unless such employees are covered by the protection afforded by the Contractor's Workmen's Compensation Insurance. In case any class of employees engaged in hazardous work on the project under this Contract is not protected under the Workmen's Compensation Statute, the Contractor shall provide and shall cause each Subcontractor to provide adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected.
- (b) Contractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance: The Contractor shall procure and maintain during the life of this Contract Contractor's Public Liability Insurance, Contractor's Property Damage Insurance and Vehicle Liability Insurance in the amounts specified in Supplemental General Conditions.
- (c) Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance: The Contractor shall either (1) require each of his Subcontractors to procure and to maintain during the life of his subcontract Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance of the type and in the amounts specified in the Supplemental General Conditions specified in

subparagraph (B) hereof, or (2) insure the activities of his policy, specified in subparagraph (b) hereof.

- (d) Scope of Insurance and Special Hazards: The insurance required under subparagraphs (b) and (c) hereof shall provide adequate protection for the Contractor and his Subcontractors, respectively, against damage claims which may arise from operations under this Contract, whether such operations be by the insured or by anyone directly or indirectly employed by him and, also against any of the special hazards which may be encountered in the performance of this Contract as enumerated in the Supplemental General Conditions.
- (e) Builder's Risk Insurance (Fire and Extended Coverage): Until the project is completed and accepted by the Owner, the Owner or Contractor (at the Owner's option as indicated in the Supplemental General Conditions. Form HUD-4238-N) is required to maintain Builder's Risk Insurance (fire and extended coverage) on a 100 percent completed value basis on the insurable portion of the project for the benefit of the Owner, the Contractor, and Subcontractors as their interests may appear. The Contractor shall not include any costs for Builder's Risk Insurance (fire and extended coverage) premiums during construction unless the Contractor is required to provide such insurance, however, this provision shall not release the Contractor from his obligation to complete, according to plans and specifications, the project covered by the Contract, and the Contractor and his Surety shall be obligated to full performance of the Contractor's undertaking.
- (f) Proof of Carriage of Insurance: The Contractor shall furnish the Owner with certificates showing the type, amount, class of operations covered, effective dates and date of expiration of policies. Such certificates shall also contain substantially the following statement: "The insurance covered by this certificate will not be canceled or materially altered, except after ten (10) days written notice has been received by the Owner."

29. Contract Security

The Contractor shall furnish a performance bond in an amount at least equal to one hundred percent (100%) of the contract prices as security for the faithful performance of this Contract and also a payment bond in an amount not less than one hundred percent (100%) of the contract price or in a penal sum not less than that prescribed by State, territorial or local law, as security for the payment of all persons performing labor on the project under this Contract and furnishing materials in connection with this Contract. The performance bond and the payment bond may be in one or in separate instruments in accordance with local law.

30. Additional or Substitute Bond

If at any time the Owner for justifiable cause shall be or become dissatisfied with any Surety or Sureties, then upon the performance or payment bonds, the Contractor shall within five (5) days after notice from the Owner to do so, substitute an acceptable bond (or bonds) in such form and sum and signed by such other Surety or Sureties as may be satisfactory to the Owner. The premiums on such bond shall be paid by the Contractor. No further payments shall be deemed due nor shall be

made until the new Surety or Sureties shall have furnished such an acceptable bond to the Owner.

31. Assignments

The Contractor shall not assign the whole or any part of this Contract or any moneys due or to become due hereunder without written consent of the Owner. In case the Contractor assigns all or any part of any moneys due or to become due under this Contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any moneys due or to become due to the corporations of services rendered or materials supplied for the performance of the work called for in this contract.

32. Mutual Responsibility of Contracts

If, through acts of neglect on the part of the Contractor, any other Contractor or any Subcontractor shall suffer loss or damage on the work, the Contractor agrees to settle with such other Contractor or Subcontractor by agreement or arbitration if such other Contractor or Subcontractor will so settle. If such other Contractor or Subcontractor shall assert any claim against the Owner on account of any damage alleged to have been sustained, the Owner shall notify the Contractor, who shall indemnify and save harmless the Owner against any such claim.

33. Separate Contracts

The Contractor shall coordinate his operations with those of other Contractors. Cooperation will be required in the arrangement for the storage of materials and in the detailed execution of the work. The Contractor, including his Subcontractors, shall keep informed of the progress and the detail work of other Contractors and shall notify the Architect/Engineer immediately of lack of progress or defective workmanship on the part of other Contractors. Failure of a Contractor to keep informed of the work progressing on the site and failure to give notice of lack of progress of defective workmanship by others shall be construed as acceptance by him of the status of the work as being satisfactory for proper coordination with his own work.

34. Subcontracting

- (a) The Contractor may utilize the services of specialty Subcontractors on those parts of the work which, under normal contracting practices, are performed by specialty Subcontractors.
- (b) The Contractor shall not award any work to any Subcontractor without prior written approval of the Owner, which approval will not be given until the Contractor submits to the Owner a written statement concerning the proposed award to the Subcontractor, which statement shall contain such information as the Owner may require.
- (c) The Contractor shall be as fully responsible to the Owner for the acts and omissions of his Subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.
- (d) The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind Subcontractors to the Contractor

by the terms of the General Conditions and other Contract Documents insofar as applicable to the work of Subcontractors and to give the Contractor the same power as regards terminating any subcontract that the Owner may exercise over the Contractor under any provision of the Contract Documents.

- (e) Nothing contained in this Contract shall create any contractual relation between any Subcontractor and the Owner.

35. Architect/Engineer's Authority

The Architect/Engineer shall give all orders and directions contemplated under this contract and specifications, relative to the execution of the work. The Architect/Engineer shall determine the amount, quality, acceptability and fitness of the several kinds of work and materials which are to be paid for under this Contract and shall decide all questions which may arise in relation to said work and the construction thereof. The Architect/Engineer's estimates and decisions shall be final and conclusive, except as herein otherwise expressly provided. In case any question shall arise between the parties hereto relative to said Contract and specifications, the determination or decision of the Architect/Engineer shall be a condition precedent to the right of the Contractor to receive any money or payment for work under this Contract affected in any manner or to any extent by such question.

The Architect/Engineer shall decide the meaning and intent of any portion of the specifications and of any plans or drawings where the same may be found obscure or be in dispute. Any differences or conflicts in regard to their work which may arise between the Contractor under this Contract and other Contractors performing work for the Owner shall be adjusted and determined by the Architect/Engineer.

36. Stated Allowances

The Contractor shall include in his proposal the cash allowances stated in the Supplemental General Conditions. The Contractor shall purchase the "Allowed Materials" as directed by the Owner on the basis of the lowest and best bid of at least three competitive bids. If the actual price for purchasing the "Allowed Materials" is more or less than the "Cash Allowance," the contract price shall be adjusted accordingly. The adjustment in contract price shall be made on the basis of the purchase price without additional charges for overhead, profit, insurance or any other incidental expenses. The cost of installation of the "Allowed Materials" shall be included in the applicable sections of the Contract Specifications covering this work.

37. Use of Premises and Removal of Debris

The Contractor expressly undertakes at his own expense:

- (a) To take every precaution against injuries to persons or damage to property.
- (b) To store his apparatus, materials, supplies and equipment in such orderly fashion at the site of the work as will not unduly interfere with the progress of his work or the work of any other Contractors.
- (c) To place upon the work or any part thereof only such loads as are consistent with the safety of that portion of the work.
- (d) To clean up frequently all refuse, rubbish, scrap materials and debris caused by his operations, to the end that at all times the site of the work shall present a neat, orderly and workmanlike appearance.

- (e) Before final payment to remove all surplus material, false-work, temporary structures, including foundations thereof, plant of any description and debris of every nature resulting from his operations, and to put the site in a neat, orderly condition.
- (f) To effect all cutting, fitting or patching of his work required to make the same to conform to the plans and specifications and, except with the consent of the Architect/Engineer, not to cut or otherwise alter the work of any other Contractor.

38. Quantities of Estimate

Wherever the estimated quantities of work to be done and materials to be furnished under this Contract are shown in any of the documents including the proposal, they are given for use in comparing bids and the right is especially reserved except as herein otherwise specifically limited, to increase or diminish them as may be deemed reasonably necessary or desirable by the Owner to complete the work contemplated by this Contract, and such increase or diminution shall in no way vitiate this Contract, nor shall any such increase or diminution give cause for claims or liability for damages.

39. Lands and Rights-of-Way

Prior to the start of construction, the Owner shall obtain lands and rights-of-way necessary for the carrying out and completion of work to be performed under this Contract.

40. General Guaranty

Neither the final certificate of payment nor any provision in the Contract Documents, nor partial or entire occupancy of the premises by the Owner, shall constitute an acceptance of work not done in accordance with the Contract Documents or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The Contractor shall remedy any defects in the work and pay for any damage to other work resulting therefrom, which shall appear within a period of one year from the date of final acceptance of the work unless a longer period is specified. The Owner will give notice of observed defects with reasonable promptness.

41. Conflicting Conditions

Any provisions in any of the Contract Documents which may be in conflict or inconsistent with any of the paragraphs in these General Conditions shall be void to the extent of such conflict or inconsistency.

42. Notice and Service Thereof

Any notice to any Contractor from the Owner relative to any part of this Contract shall be in writing and considered delivered and the service thereof completed, when said notice is posted, by certified or registered mail, to the said Contractor at his last given address or delivered in person to the said Contractor or his authorized representative on the work.

43. Provisions Required by Law Deemed Inserted

Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and the Contract shall be read and

enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall forthwith be physically amended to make such insertion or correction.

44. Protection of Lives and Health

"The Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the site, which occur as a result of his prosecution of the work. The safety provisions of applicable laws and building and construction codes, in addition to specific safety and health regulations described by Chapter XIII, Bureau of Labor Standards, Department of Labor, Part 1518, Safety and Health Regulations for Construction, as outlined in the Federal Register, Volume 36, No.75, Saturday, April 17, 1971. Title 29 - Labor shall be observed and the Contractor shall take or cause to be taken, such additional safety and health measures as the Contracting Authority may determine to be reasonably necessary."

45. Subcontracts

"The Contractor will insert in any subcontracts the Federal Labor Standards Provision contained herein and such other clauses as the Department of Housing and Urban Development may, by instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made."

46. Conflict of Interest

No person who is an employee, agent, consultant, officer or elected or appointed official of recipient or subrecipient who exercises or has exercised any functions or responsibilities with respect to KCDBG activities or who is in a position to participate in a decision making process or gain inside information with regard to such activities may obtain a financial interest or benefit from a KCDBG activity, have an interest or benefit from the activity or have an interest in any contract, subcontract or agreement with respect to a CDBG activity or its proceeds, for themselves or those with whom they have family or business ties. The prohibition applies during their tenure and for one year thereafter.

47. Interest of Member of or Delegate to Congress

No member of or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this Contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this Contract if made with a corporation for its general benefit.

48. Other Prohibited Interests

No official of the Owner who is authorized in such capacity and on behalf of the Owner to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this Contract or in any part thereof. No officer, employee, architect, attorney, engineer or inspector of or for the Owner who is authorized in such capacity and on behalf of the

Owner to exercise any legislative, executive, supervisory or other similar functions in connection with the construction of the project, shall become directly or indirectly interested personally in this Contract or in any part thereof, any material supply contract, subcontract, insurance contract or any other contract pertaining to the project.

49. Use and Occupancy Prior to Acceptance by Owner

The Contractor agrees to use and occupancy of a portion or unit of the project before formal acceptance by the Owner, provided the Owner:

- (a) Secures written consent of the Contractor except in the event, in the opinion of the Architect/Engineer, the Contractor is chargeable with unwarranted delay in final cleanup of punch list items or other Contract requirements.
- (b) Secures endorsement from the insurance carrier and consent of the surety permitting occupancy of the building or use of the project during the remaining period of construction.

Or

- (c) When the project consists of more than one building, and one of the buildings is occupied, secures permanent fire and extended coverage insurance, including a permit to complete construction. Consent of Surety must also be obtained.

50. Photographs of the Project

If required by the Owner, the Contractor shall furnish photographs of the project, in the quantities and as described in the Supplemental General Conditions.

51. Suspension of Work

Should the Owner be prevented or enjoined from proceeding with work either before or after the start of construction by reason of any litigation or other reason beyond the control of the Owner, the Contractor shall not be entitled to make or assert claim for damage by reason of said delay; but time for completion of the work will be extended to such reasonable time as the Owner may determine will compensate for time lost by such delay with such determination to be set forth in writing.

52. Access to Records

The Contractor shall maintain accounts and project records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the City/County to assure proper accounting for all project funds, both CDBG and non-CDBG shares. These records will be made available to the City, the Department of Local Government, Commonwealth of Kentucky Finance & Administration Cabinet, Commonwealth of Kentucky Auditor of Public Audits, Commonwealth of Kentucky Legislative Research Commission, U.S. Department of Housing and Urban Development, the U. S. Department of Labor, and the Comptroller General of the United States, or any of their duly authorized representatives. These parties shall have access to any books, documents, papers and records of the Contractor which are directly pertinent to the project, for the purpose of making audit, examination, excerpts, and transcriptions. All records shall be maintained for five years after project closeout.

53. Federal Labor Standards Provisions (HUD-401 0,2-84)

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A.1. (i) Minimum Wages. All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1 (b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR Part 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321 shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

1. The work to be performed by the classification requested is not performed by a classification in the wage determination;
2. The classification is utilized in the area by the construction industry; and

3. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U. S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(b) or (c) of the paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal Contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of

the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and Basic Records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project). Such records shall contain the name, address and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1 (b)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1 (b)(2)(B) of Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR Part 5.5(a)(3)(i). This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U. S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a 'Statement of Compliance,' signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

1. That the payroll for the payroll period contains the information required to be maintained under 29 CFR Part 5.5(a)(3)(i) and that such information is correct and complete;
2. That each laborer or mechanic (including each helper 1 apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3.
3. That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph A.3(ii)(b) of this section.

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 and Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph A.3(i) of this section available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant 20 CFR Part 5.12.

4. (i) Apprentices and Trainees. Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U. S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on

the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U. S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act Requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract.
6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clause contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as HUD or its designee may be appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 5.5.
7. Contract Termination; Debarment. A breach of contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 CFR Part 5.12.
8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1,3, and 5 are herein incorporated by reference in this contract.
9. Disputes Concerning Labor Standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U. S. Department of Labor, or the employees or their representatives.
10. (i) Certification of Eligibility .By entering into this contract, the contractor certified that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No pan of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis- Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U.S.C.1001. Additionally, U. S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions," provides in part: "Whoever, for the purpose of ...influencing in any way the action of such Administration ...makes, utters, or publishes any statement, knowing the same to be false ...shall be fined not more than \$5,000 or imprisoned not more than two years, or both."
11. Complaints, Proceedings, or Testimony by Employees.
 - (a) No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other

manner discriminated against by the Contractor or subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under Contract to his employer.

B. Contract Work Hours and Safety Standards Act (over \$100,000). As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

1. Overtime Requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
2. Violation; Liability For Unpaid Wages; Liquidated Damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.
3. Withholding For Unpaid Wages and Liquidated Damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.
4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for

compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety

- (1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.
- (2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 (formerly Part 1518) and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96).
- (3) The Contractor shall include the provisions of this Article in every subcontract so that such provisions will be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

54. Anti-Kickback Act

Attachment to Federal Labor Standards Provisions, So-Called "Anti-Kickback Act" and Regulations Promulgated Pursuant Thereto by the Secretary of Labor. United States Department of Labor. Title 18, U.S.C., Section 874 (HUD-4010, 2-76) (Replaces section 1 of the Act of June 13, 1934 (48 Stat. 948, 40 U.S.C., Section 276B) pursuant to the Act of June 25, 1948, 62 Stat. 862).

Kickbacks from Public Works Employees

Whoever, by force, intimidation, or threat of procuring dismissal from employment, or by any other manner whatsoever induces any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract of employment, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

Section 2 of the Act of June 13, 1934, as amended (48 Stat. 948, 62 Stat. 862, 63 Stat. 108, Stat. 967, 40 U.S.C., section 276c).

The Secretary of Labor shall make reasonable regulations for contractors and subcontractors engaged in the construction, prosecution, completion or repair of buildings, public works or buildings or works financed in whole or in part by loans or grants from the United States, including a provision that each contractor shall furnish

weekly a statement with respect to the wages paid each employee during the preceding week. Section 1001 of Title 18 (United States Code) shall apply to such statements.

Pursuant to the aforesaid Anti-Kickback Act, the Secretary of Labor, United States Department of Labor, has promulgated the regulations hereinafter set forth, which regulations are found in Title 29, Subtitle A, Code of Federal Regulations, Part 3. The term "this part", as used in the regulations hereinafter set forth, refers to Part 3 last above mentioned. Said regulations are as follows.

Title 29 – Labor; Subtitle A – Office of the Secretary of Labor, Part 3 – Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by loans or grants from the United States.

Section 3.1 – Purpose and scope

This part prescribes "anti-kickback" regulations under section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c), popularly known as the Copeland Act. This part applies to any contract which is subject to Federal wage standards and which is for the construction, prosecution, completion, or repair of public buildings, public works or buildings or works financed in whole or in part by loans or grants from the United States. The part is intended to aid in the enforcement of the minimum wage provisions of the Davis-Bacon Act and the various statutes dealing with Federally-assisted construction that contain similar minimum wage provisions, including those provisions which are not subject to Reorganization Plan No.14 (e.g., the College Housing Act of 1950, the Federal Water Pollution Control Act, and the Housing Act of 1959), and in the enforcement of the overtime provisions of the Contract Work Hours Standards Act whenever they are applicable to construction work. The part details the obligation of contractors and subcontractors relative to the weekly submission of statements regarding the wages paid on work covered thereby; sets forth the circumstances and procedures governing the making of payroll deductions from the wages of those employed on such work; and delineates the methods of payment permissible on such work.

Section 3.2 – Definitions.

As used in the regulations in this part:

- (a) The terms "building" or "work" generally include construction activity as distinguished from manufacturing, furnishing of materials, or servicing and maintenance work. The terms include, without limitation, buildings, structures, and improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals; dredging, shoring, scaffolding, drilling, blasting, excavating, clearing, and landscaping. Unless conducted in connection with and at the site of such a building or work as is described in the foregoing sentence, the manufacture or furnishing of materials, articles, supplies, or equipment (whether or not a Federal or State agency acquires title to such materials, articles, supplies, or equipment during the course of the manufacture or furnishing, or owns the materials from which

they are manufactured or furnished) is not a "building" or "work" within the meaning of the regulations in this part.

- (b) The terms "construction", "completion," or "repair" mean all types of work done on a particular building or work at the site thereof, including, without limitation, altering, remodeling, painting and decorating, the transporting of materials and supplies to or from the building or work by the employees of the construction contractor or construction subcontractor, and the manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the building or work, by persons employed at the site by the contractor or subcontractor.
- (c) The terms "public building" or "public work" include building or work for whose construction, prosecution, completion, or repair, as defined above, a Federal agency is a contracting party, regardless of whether title thereof is in a Federal agency.
- (d) The term "building or work financed in whole or in part by loans or grants from the United States" includes building or work for whose construction, prosecution, completion, or repair, as defined above, payment or part payment is made directly or indirectly from funds provided by loans or grants by a Federal agency. The term does not include building or work for which Federal assistance is limited solely to loan guarantees or insurance.
- (e) Every person paid by a contractor or subcontractor in any manner for his labor in the construction, prosecution, completion, or repair of a public building or public work or work financed in whole or in part by loans or grants from the United States is "employed" and receiving "wages," regardless of contractual relationship alleged to exist between him and the real employer.
- (f) The term "any affiliated person" includes a spouse, child, parent, or other close relative of the contractor or subcontractor; a partner or officer of the contractor or subcontractor; a corporation closely connected with the contractor or subcontractor as parent, subsidiary or otherwise, and an officer or agent of such corporation.
- (g) The term "Federal agency" means the United States, the District of Columbia, and all executive departments, independent establishments, administrative agencies, and instrumentalities of the United States and of the District of Columbia, including corporations, all or substantially all of the stock of which is beneficially owned by the United States, by the District of Columbia, or any of the foregoing departments, establishments, agencies and instrumentalities.

Section 3.3 – Weekly statement with respect to payment of wages

- (a) As used in this section, the term "employee" shall not apply to persons in classifications higher than that of laborer or mechanic and those who are the immediate supervisors of such employees.
- (b) Each contractor or subcontractor engaged in the construction, prosecution, completion, or repair of any public building or public work, or building or work financed in whole or in part by loans or grants from the United States, shall furnish each week a statement with respect to the wages paid each of its employees engaged on work covered by 29 CFR Parts 3 and 5 during the preceding weekly payroll period. This statement shall be executed by the contractor or subcontractor or by an authorized officer or employee of the contractor or subcontractor who supervises the payment of wages and shall

be on form WH 348, "Statement of Compliance," or on an identical form on the back of WH 347, "Payroll (For Contractors Optional Use)" or on any form with identical wording. Sample copies of WH 347 and WH 348 may be obtained from the Government contracting or sponsoring agency, and copies of these forms may be purchased at the Government Printing Office.

- (c) The requirements of this section shall not apply to any contract of \$2,000 or less.
- (d) Upon a written finding by the head of a Federal agency, the Secretary of Labor may provide reasonable limitations, variations, tolerances and exemptions from the requirements of this section subject to such conditions as the Secretary of Labor may specify.

(29 F.R. 95, Jan. 4 1964, as amended at 33 FR 10186, July 17, 1968)

Section 3.4 – Submission of weekly statements and the preservation and inspection of weekly payroll records.

- (a) Each weekly statement required under SS 3.3 shall be delivered by the contractor or subcontractor within seven days after the regular payment date of the payroll period, to a representative of a Federal or State agency in charge at the site of the building or work, or, if there is no representative of a Federal or State agency at the site of the building or work, the statement shall be mailed by the contractor or subcontractor, within such time, to a Federal or State agency contracting for or financing the building or work. After such examination and check as may be made, such statement, or a copy thereof, shall be kept available, or shall be transmitted together with a report of any violation, in accordance with applicable procedures prescribed by the United States Department of Labor.
- (b) Each contractor or subcontractor shall preserve his weekly payroll records for a period of three years from date of completion of the contract. The payroll records shall set out accurately and completely the name and address of each laborer and mechanic, his correct classification, rate of pay, daily and weekly number of hours worked, deductions made, and actual wages paid. Such payroll records shall be made available at all times for inspection by the contracting officer or his authorized representative, and by authorized representatives of the Department of Labor.

Section 3.5 – Payroll deductions permissible without application to or approval of the Secretary of Labor.

Deductions made under the circumstances or in the situations described in the paragraphs of this section may be made without application to and approval of the Secretary of Labor.

- (a) Any deduction made in compliance with the requirements of Federal, State or local law, such as Federal or State withholding income taxes and Federal social security taxes.
- (b) Any deduction of sums previously paid to the employee as a bona fide prepayment of wages when such prepayment is made without discount or

interest. A "bona fide prepayment of wages". is considered to have been made only when cash or its equivalent has been advanced to the person employed in such manner as to give him complete freedom of disposition of the advanced funds.

- (c) Any deduction of amounts required by court process to be paid to another, unless the deduction is in favor of the contractor, subcontractor or any affiliated person, or when collusion or collaboration exists.
- (d) Any deduction constituting a contribution on behalf of the person employed to funds established by the employer or representatives of employees, or both, for the purpose of providing *either* from principal or income, or both, medical or hospital care, pensions or annuities on retirement, death benefits, compensation for injuries, illness, accidents, sickness, or disability, or for insurance to provide any of the foregoing. or unemployment benefits, vacation pay, savings accounts, or similar payments for the benefit of employees, their families and dependents: Provided, however, That the following standards are met: (1) The deduction is not otherwise prohibited by law; (2) it is either: (i) Voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for the obtaining of or for the continuation of employment, or (ii) provided for in a bona fide collective bargaining agreement between the contractor or subcontractor and representatives of its employees; (3) no profit or other benefit is otherwise obtained, directly or indirectly, by the contractor or subcontractor or any affiliated person in the form of commission, dividend, or otherwise; and (4) the deductions shall serve the convenience and interest of the employee.
- (e) Any deduction contribution toward the purchase of United States Defense Stamps and Bonds when voluntarily authorized by the employee.
- (f) Any deduction requested by the employee to enable him to repay loans to or to purchase shares in credit unions organized and operated in accordance with Federal and State credit union statutes.
- (g) Any deduction voluntarily authorized by the employee for the making of contributions to governmental or quasi-governmental agencies, such as the American Red Cross.
- (h) Any deduction voluntarily authorized by the employee for the making of contributions to Community Chests, United Givers Funds, and similar charitable organizations.
- (i) Any deductions to pay regular union initiation fees and membership dues, not including fines or special assessments: Provided, however, that a collective bargaining agreement between the contractor or subcontractor and representatives of its employees provides for such deductions and the deductions are not otherwise prohibited by law.
- (j) Any deduction not more than for the "reasonable cost" of board, lodging, or other facilities meeting the requirements of section 3(m) of the Fair Labor Standards Act of 1938, as amended, and Part 431 of this title. When such a deduction is made the additional records required under SS 516.27(a) of this title shall be kept.

Section 3.6 – Payroll deductions permissible with the approval of the Secretary of Labor.

Any contractor or subcontractor may apply to the Secretary of Labor for permission to make any deduction not permitted under SS 3.5. The Secretary may grant permissions whenever he finds that:

- (a) The contractor, subcontractor, or any affiliated person does not make a profit or benefit directly or indirectly from the deduction either in the form of a commission, dividend, or otherwise;
- (b) The deduction is not otherwise prohibited by law;
- (c) The deduction is either (1) voluntarily consented to by the employee in writing and in advance of the period in which the work to be done, and such consent is not a condition either for the obtaining of employment or its continuance, or (2) provided for in a bona fide collective bargaining agreement between the contractor or subcontractor and representatives of its employees; and
- (d) The deduction serves the convenience and interest of the employee.

Section 3.7 – Applications for the approval of the Secretary of Labor.

Any application for the making of payroll deductions under SS 3.6 shall comply with the requirements prescribed in the following paragraphs of this section:

- (a) The application shall be in writing and shall be addressed to the Secretary of Labor.
- (b) The application shall identify the contract or contracts under which the work in question is to be performed. Permission will be given for deductions only on specific, identified contracts, except upon a showing of exceptional circumstances.
- (c) The application shall state affirmatively that there is compliance with the standards set forth in the provisions of SS 3.6. The affirmation shall be accompanied by a full statement of the facts indicating such compliance.
- (d) The application shall include a description of the proposed deduction, the purpose to be served thereby, and the classes of laborers or mechanics from whose wages the proposed deduction would be made.
- (e) The application shall state the name and business of any third person to whom any funds obtained from the proposed deductions are to be transmitted and the affiliation of such person, if any, with the applicant.

Section 3.8 – Action by the Secretary of Labor upon applications.

The Secretary of Labor shall decide whether or not the requested deduction is permissible under provisions of SS 3.6; and shall notify the applicant in writing of his decision.

Section 3.9 – Prohibited payroll deductions.

Deductions not elsewhere provided for by this part and which are not found to be permissible under SS 3.6 are prohibited.

Section 3.10 – Methods of payment of wages.

The payment of wages shall be by cash, negotiable instruments payable on demand, or the additional forms of compensation for which deductions are permissible under this part. No other methods of payment shall be recognized on work subject to the Copeland Act.

Section 3.11 – Regulations part of contract.

All contracts made with respect to the construction, prosecution, completion, or repair of any public building or public work or building or work financed in whole or in part by loans or grants from the United States covered by the regulations in this part shall expressly bind the contractor or subcontractor to comply with such of the regulations in this part as may be applicable. In this regard, see SS 5.5(a) of this subtitle.

18.

**SUPPLEMENTAL GENERAL CONDITIONS
Including Equal Opportunity Provisions**

- 1. Enumeration of Plans, Specifications and Addenda
- 2. Stated Allowances
- 3. Special Hazards
- 4. Contractor’s and Subcontractor’s Public Liability, Vehicle Liability and Property Damage Insurance
- 5. Photographs of Project
- 6. Schedule of Occupational Classifications and Minimum Hourly Wage Rates
- 7. Builder’s Risk Insurance
- 8. Special Equal Opportunity Provisions
- 9. Certification of Compliance with Air and Water Acts
- 10. Special Conditions Pertaining to Hazards, Safety Standards and Accident Prevention
- 11. Energy Efficiency
- 12. Access to Records
- 13. Wage Rate Determination(s)
- 14. Contract Work Hours and Safety Standards Act
- 1. Enumeration of Plans, Specifications and Addenda

Following are the Plans, Specifications and Addenda which form a part of this Contract, as set forth in paragraph 1 of the General Conditions, “Contract and Contract Documents”:

DRAWINGS

General Construction:	Nos. _____
Heating and Ventilating:	Nos. _____
Plumbing:	Nos. _____
Electrical:	Nos. _____
	Nos. _____

Nos. _____

SPECIFICATIONS:

General Construction: Page _____ to _____, inclusive

Heating and Ventilating: Page _____ to _____, inclusive

Plumbing: Page _____ to _____, inclusive

Electrical: Page _____ to _____, inclusive

Page _____ to _____, inclusive

Page _____ to _____, inclusive

ADDENDA:

No. _____ Date _____ No. _____ Date _____

No. _____ Date _____ No. _____ Date _____

2. Stated Allowances

Pursuant to Paragraph 36 of the General Conditions, the Contractor shall include the following cash allowances in his proposal

(a) For _____ (Page _____ of Specifications) \$ _____

(b) For _____ (Page _____ of Specifications) \$ _____

(c) For _____ (Page _____ of Specifications) \$ _____

(d) For _____ (Page _____ of Specifications) \$ _____

(e) For _____ (Page _____ of Specifications) \$ _____

(f) For _____ (Page _____ of Specifications) \$ _____

3. Special Hazards

The Contractor's and his Subcontractor's Public Liability and Property Damage Insurance shall provide adequate protection against the following special hazards:

4. Contractor's and Subcontractor's Public Liability, Vehicle Liability and Property Damage Insurance

As required under paragraph 28 of the General Conditions, the Contractor's Public Liability Insurance and Vehicle Insurance shall be in an amount not less than \$_____ for injuries, including accidental death, to any one person, and subject to the same limit for each person, in an amount not less than \$_____ on account of one accident, and Contractor's Property Damage Insurance in an amount not less than \$_____.

The Contractor shall either (1) require each of his Subcontractors to procure and to maintain during the life of his subcontract, Subcontractor's Public Liability and Property Damage Insurance of the type and in the same amounts as specified in the preceding paragraph, or (2) insure the activities of his Subcontractors in his own policy.

5. Photographs of Project

As provided in paragraph 30 of General Conditions, the Contractor will furnish photographs in the number, type and stage as enumerated below:

6. Schedule of Occupational Classifications and Minimum Hourly Wage Rate as required under paragraph 52 of the General Conditions.

Given on pages _____, _____, and

7. Builder's Risk Insurance

As provided in the General Conditions, paragraph 28(e), the Contractor will/will not* maintain Builder's Risk Insurance (fire and extended coverage) on a 100 percent completed value basis on the insurable portions of the project for the benefit of the Owner, the Contractor and all Subcontractors, as their interests may appear.

* Strike out one.

8. Special Equal Opportunity Provisions

A. 3-Paragraph Equal Opportunity Clause for Activities and Contracts Not subject to Executive Order 11246, as Amended (applicable to Federally assisted construction contracts and related subcontracts \$10,000 and under)

During the performance of this Contract, the Contractor agrees as follows:

1. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

2. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by contracting officer setting forth the provisions of this nondiscrimination clause. The Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, or sex or national origin.
 3. Contractors shall incorporate forgoing requirements in all subcontracts.
- B. Executive Order 11246 (contracts/subcontracts above \$10,000)

1. Section 202 Equal Opportunity Clause

During the performance of this Contract, the Contractor agrees the following:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- b. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration without regard to race, color, religion, sex or national origin.
- c. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or workers' representatives of the Contractor's commitment under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
- e. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and

accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and others.

- f. In the event of the Contractor's non-compliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations or orders, this Contract may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
 - g. The Contractor will include the provisions of the sentence immediately preceding paragraph a. and the provisions of paragraphs a. through g. in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each Subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provisions, including sanctions for non-compliance. Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction by the Department, the Contractor may request the United States to enter into such litigation to protect the interest of the United States.
2. Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246) (applicable to contract/subcontracts exceeding \$10,000)
- a. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications", set forth herein.
 - b. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Goals for Minority
Participation
(Insert Goals)

Goals for Female
Participation
(Insert Goals for Current Year)

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or Federally assisted) performed in the covered area. If the Contractor performs construction work in a geographic area located outside of the

covered area, it shall apply the goals established for such geographic area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its Federally involved and non-Federally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR 60-4 shall be based on its implementation of the Equal Opportunity Clause. Specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goal shall be a violation of the Contract, the Executive Order and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.

- c. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the Subcontractor; employer identification number; estimated dollar amount of the subcontract; and the geographical area in which the contract is to be performed.
 - d. As used in this notice, and in the contract resulting from the solicitation, the "covered area" is (insert description of the geographical areas where the contract is to be performed giving the state, county, and city, if any).
3. Standard CDBG Assisted Employment Opportunity Construction Contract Specifications (Executive Order 11246)
 - a. As used in these specifications:
 - (1) "Covered area" means the geographical area described in solicitation from which this Contract resulted.
 - (2) "Director" means Director, Office of Federal Contract Compliance Program, United States Department of Labor, or any person to whom the Director delegates authority.

- (3) "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
- (4) "Minority" includes:
- (a) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin).
 - (b) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race).
 - (c) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands).
 - (d) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
- (5) Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this Contract resulted.
- (6) If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U. S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the plan area (including goals and timetables) shall be in accordance with that plan for those trades which have unions participating in the plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the plan goals and timetables.
- (7) The Contractor shall implement the specific affirmative action standards provided in paragraphs 10a through p of these specifications. The goals set forth in the solicitation form which this Contract resulted are expressed as

percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction Contractors- performing contracts in geographical areas where they do not have a Federal or Federally-assisted construction contract shall apply the minority and female goals established for the geographic area where the contract is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting, its goals in each craft during the period specified.

- (8) Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement to refer either minorities or women, shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
- (9) In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U. S. Department of Labor.
- (10) The Contractor shall take specific affirmative actions to ensure equal employment opportunity .The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
 - (a) Ensure and maintain a working environment free of harassment, intimidation and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working

environment, with specific attention to minority or female individuals working at such sites or in such facilities.

- (b) Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organization's responses.
- (c) Maintain a current file of the names, addresses and telephone numbers of each minority and female off- the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.
- (d) Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
- (e) Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 10b above.
- (f) Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy

manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

- (g) Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed and disposition of the subject matter.
- (h) Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
- (i) Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations such as the above, describing the openings, screening procedures and tests to be used in the selection process.
- (j) Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to

minority and female youth both on the site and in other areas of a Contractor's work force.

- (k) Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
 - (l) Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
 - (m) Ensure that seniority practices job classifications work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy under the Contractor's obligations under these specifications are being carried out.
 - (n) Ensure that all facilities and company activities are non-segregated except that separate or single-use toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - (o) Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
 - (p) Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
- (11) Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (10a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 10a through p of these specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the

concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation shall not be a defense for the Contractor's non-compliance.

- (12) A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
- (13) The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex or national origin.
- (14) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
- (15) The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Employment Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
- (16) The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 10 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

- (17) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Contractors shall not be required to maintain separate records.
- (18) Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

C. Certification of Nonsegregated Facilities (over \$10,000)

By the submission of this bid, the bidder, offeror, applicant or subcontractor certifies that s/he does not maintain or provide for his/her employees any segregated facility at any of his/her establishments, and that s/he does not permit employees to perform their services at any location, under his/her control, where segregated facilities are maintained. S/he certifies further that s/he will not maintain or provide for employees any segregated facilities at any of his/her establishments, and s/he will not permit employees to perform their services at any location under his/her control where segregated facilities are maintained. The bidder, offeror, applicant or subcontractor agrees that a breach of this certification is a violation of the Equal Employment Opportunity Clause of this Contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, *transportation and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom or otherwise. S/he further agrees that (except where he/she has obtained identical certifications. from proposed Subcontractors for specific time periods) he/she will obtain identical certification from proposed Subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause; that he/she will retain such certifications in his/her files; and that he/she will forward the following notice to such proposed Subcontractors (except where proposed Subcontractors have submitted identical certifications for specific time periods).

* Parking lots, drinking fountains, recreation or entertainment areas.

D. Title VI Clause, Civil Rights Act of 1964

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

E. Section 109 Clause, Housing and Community Development Act of 1974

No person in the United States shall on the grounds of race, color national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

F. "Section 3" Compliance in the Provision of Training, Employment and Business Opportunities (Over \$100,000)

1. The work to be performed under this Contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701 u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given low and very low income residents of the project area (including public housing residents and persons with disabilities) and contracts for work in connection with the project be awarded to business concerns which are owned by or employee low and very low income residents of the project area.
2. The parties to this Contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Contract. The parties to this Contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
3. The Contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract of understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
4. The Contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the

applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the Subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The Contractor will not subcontract with any Subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the Subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

5. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the Contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified in 24 CFR Part 135.

G. Rehabilitation Act of 1973, Section 503 Handicapped (if \$10,000 or over)

Affirmative Action for Handicapped Workers

1. The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.
2. The Contractor agrees to comply with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
3. In the event of the Contractor's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
4. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

5. The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physical and mentally handicapped individuals.
 6. The Contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each Subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.
- H. Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; 41 CFR Part 60-250 (if \$100,000 or over)
1. The contractor will not discriminate against any employee or applicant for employment because he or she is a special disabled veteran or veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals without discrimination based on their status as a special disabled veteran or veteran of the Vietnam era
 - i. recruitment, advertising, and job application procedures
 - ii. hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
 - iii. rates of pay or any other form of compensation and changes in compensation;
 - iv. job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
 - v. leaves of absence, sick leave, or any other leave;
 - vi. fringe benefits available by virtue of employment, whether or not administered by the contractor
 - vii. selection and financial support for training, including apprenticeship, and on-the-job training under 38 U.S.C 3687, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

- viii. activities sponsored by the contractor including social or recreational programs; and
 - ix. any other term, condition, or privilege of employment.
2. The contractor agrees to immediately list all employment openings which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the contractor other than the one wherein the contract is being performed, but excluding those of independently operated corporate affiliates, at an appropriate local employment service office of the state employment security agency wherein the opening occurs. Listing employment openings with the U.S. Department of Labor's America's Job Bank shall satisfy the requirement to list jobs with the local employment service office.
 3. Listing of employment openings with the local employment service office pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and nonveterans. The listing of employment openings does not require the hiring of any particular job applicants or from any particular group of job applicants, and nothing herein is intended to relieve the contractor from any requirements in Executive orders or regulations regarding nondiscrimination in employment.
 4. Whenever the contractor becomes contractually bound to the listing provisions in paragraphs 2 and 3 of this clause, it shall advise the state employment security agency in each state where it has establishments of the name and location of each hiring location in the state, provided that this requirement shall not apply to state and local governmental contractors. As long as the contractor is contractually bound to these provisions and has so advised the state agency, there is no need to advise the state agency of subsequent contracts. The contractor may advise the state agency when it is no longer bound by this contract clause.
 5. The provisions of paragraphs 2 and 3 of this clause do not apply to the listing of employment openings which occur and are filled outside of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.
 6. As used in this clause:
 - i. All employment openings includes all positions except executive and top management, those positions that will be filled from within the contractor's organization, and positions lasting three days or less. This term includes full-time employment, temporary employment of

more than three days' duration, and part-time employment.

- ii. Executive and top management means any employee:
 - a) Whose primary duty consists of the management of the enterprise in which he or she is employed or of a customarily recognized department or subdivision thereof; and
 - b) who customarily and regularly directs the work of two or more other employees therein; and
 - c) who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and
 - d) who customarily and regularly exercises discretionary powers; and
 - e) who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his or her hours of work in the work week to activities which are not directly and closely related to the performance of the work described in (a) through (d) of this paragraph 6. ii.; Provided, that (e) of this paragraph 6.ii. shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated branch establishment, or who owns at least a 20-percent interest in the enterprise in which he or she is employed.
 - iii. Positions that will be filled from within the contractor's organization means employment openings for which no consideration will be given to persons outside the contractor's organization (including any affiliates, subsidiaries, and parent companies) and includes any openings which the contractor proposes to fill from regularly established "recall" lists. The exception does not apply to a particular opening once an employer decides to consider applicants outside of his or her own organization.
7. The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
8. In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
9. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be

prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants who are special disabled veterans or veterans of the Vietnam era. The contractor must ensure that applicants or employees who are special disabled veterans are informed of the contents of the notice (e.g., the contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair).

10. The contractor will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, and is committed to take affirmative action to employ and advance in employment qualified special disabled veterans and veterans of the Vietnam era.
11. The contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Deputy Assistant Secretary for Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

I. Age Discrimination Act of 1975

During the performance of this Contract, the Contractor agrees as follows: the Contractor agrees not to exclude from participation, deny program benefits, or discriminate on the basis of age.

9. Certification of Compliance with Air and Water Acts (applicable to Federally-assisted construction contracts and related subcontracts exceeding (\$100,000)

During the performance of this Contract, the Contractor and all Subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Contract Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended.

In addition to the foregoing requirements, all "nonexempt" Contractors and Subcontractors shall furnish to the Owner, the following:

- A. A stipulation by the Contractor or Subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is

not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.

- B. Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- C. A stipulation that as a condition for the award of the Contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the Contract, is under consideration to be listed on the EPA List of Violating Facilities.
- D. Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in paragraphs A through D of this section in every nonexempt subcontract and requiring that the Contractor will take such actions as the Government may direct as a means of enforcing such provisions.

10. Special Conditions Pertaining to Hazards, Safety Standards and Accident Prevention

- A. Lead-Based Paint Hazards (applicable to contracts for construction or rehabilitation of residential structures)

The construction or rehabilitation of residential structures is subject to the HUD Lead-Based Paint regulations, 24 CFR Part 35. The Contractor and Subcontractors shall comply with the provisions for the elimination of lead-based paint hazards under sub-part B of said regulations. The Owner will be responsible for the inspections and certifications required under Section 35.14(f) thereof.

- B. Use of Explosives (modify as required)

When the use of explosives is necessary for the prosecution of the work, the Contractor shall observe all local, State and Federal laws in purchasing and handling of explosives. The Contractor shall take all necessary precaution to protect completed work, neighboring property, water lines or other underground structures. Where there is danger to structures or property from blasting, the charges shall be reduced and the material shall be covered with suitable timer, steel or rope mats. The Contractor shall notify all owners of public utility property of intention to use explosives at least eight hours before blasting is done close to such property. Any supervision or direction of use of explosives by the Engineer, does not in any way reduce the responsibility of the Contractor or his Surety for damages that may be caused by such use.

- C. Danger Signals and Safety Devices (modify as required)

The Contractor shall make all necessary precautions to guard against damages to property and injury to persons. He shall put up and maintain in good condition, sufficient red or warning lights at night, suitable barricades and other devices necessary to protect the public. In case the Contractor fails or neglects to take such precautions, the Owner may have such lights and barricades installed and charge the cost of this work to the Contractor. Such action by the Owner does not relieve the Contractor of any liability incurred under these specifications or Contract.

11. Energy Efficiency

The Contractor shall recognize mandatory standards and policies relating to energy efficiency, which are contained in the State Energy Conservation Plan issued in Compliance with the Energy Policy and Conservation Act.

12. Access to Records

The Contractor shall maintain accounts and project records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the City to assure proper accounting for all project funds, both CDBG and non-CDBG shares. These records will be made available to the City, the Department of Local Government, Commonwealth of Kentucky Finance & Administration Cabinet, Commonwealth of Kentucky Auditor of Public Audits, Commonwealth of Kentucky Legislative Research Commission, U.S. Department of Housing and Urban Development, the U. S. Department of Labor, and the Comptroller General of the United States, or any of their duly authorized representatives. These parties shall have access to any books, documents, papers and records of the Contractor, which are directly pertinent to the project, for the purpose of making audit, examination, excerpts and transcriptions. All records shall be maintained for five years after project closeout.

13. Wage Rate Determination(s)

(appropriate wage rates shall be inserted here)

14. Contract Work Hours and Safety Standards Act

All grantees and subgrantee's contracts must contain provisions requiring compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5) where construction contracts are awarded by grantees or subgrantees in excess of \$2,000, and in excess of \$2,500 for other contracts involving the employment of mechanics and laborers.

CONTRACT FOR PROFESSIONAL SERVICES
Community Development Block Grant Program
(Sample)

PART 1 – AGREEMENT

This Contract for professional services is by and between the CITY OF _____, State of Kentucky (hereinafter called the “City”), acting herein by _____, Mayor, hereunto duly authorized, and Envirodynamics Incorporated, a corporation organized under the laws of the State of Kentucky (hereinafter called the “Consultant”), acting herein by _____, President, hereunto duly authorized:

WITNESSETH THAT:

WHEREAS, the City has entered into an agreement with the State of Kentucky for the implementation of a Community Development Block Grant (CDBG) program pursuant to Title I of the Housing and Community Development Act of 1974; and

WHEREAS, the City desires to engage the Consultant to render certain technical assistance services in connection with its Community Development program:

NOW, THEREFORE, the parties do mutually agree as follows:

1. Employment of Consultant

The City hereby agrees to engage the Consultant, and the Consultant hereby agrees to perform the following Scope of Services:

2. Scope of Services

The Consultant shall, in a satisfactory and proper manner, perform the following services:

- A. Prepare Environmental Review Record for All Activities. Responsibilities include making a recommendation to the local governing body as to a finding of the level of impact, preparation of all required public notices, preparation for Request for Release of Funds, and acquiring adequate documentation. For activities, which are not exempt from Environmental Assessments, an Environmental Assessment will be prepared. For activities, which are exempt and/or categorically excluded from Environmental Assessments, prepare a written Finding of Exemption, which should identify the project or Activity, and under which of the categories of exemption it falls. Also include documentation of compliance with requirements of historic preservation, floodplains and wetlands, and other applicable authorities.
- B. Coordinate with the community the Request for Payments to ensure consistency with the State Account procedures established for the KCDBG program.
- C. Ensure that the community has an acceptable financial management system as it pertains to finances of the KCDBG program. An acceptable system includes, but is not limited to, cash receipts and disbursement journal and accompanying ledgers, the cash control register, and should conform to generally accepted principles of municipal accounting.
- D. Establish project files in local government office. These must demonstrate compliance with all applicable Federal, State and local regulations. Monitor

project files throughout the programs to ensure they are complete and that all necessary documentation is being retained in the community's files.

- E. If applicable to the program, assist grant recipients in complying with regulations governing land acquisition (real property, easements, rights of way, donation of property, etc.).
- F. Prepare all bid documents and supervise the bidding process consistent with State and Federal Regulations.
- G. Secure the applicable wage decision from the State and include it in bid specifications.
- H. Prepare construction contracts which comply with Federal regulations.
- I. Obtain determination of contractor and subcontractor eligibility from the State.
- J. Check weekly payrolls to ensure compliance with wage decisions. Conduct onsite interviews and compare the results with appropriate payrolls.
- K. Monitor construction to ensure compliance with Equal Opportunity and Labor Standard provisions.
- L. Make progress inspections and certify partial payment requests.
- M. Make a final inspection and issue a final certificate of payment.
- N. Prepare closeout documents to include Program Completion Report, Final Wage Compliance Report and Certificate of Completion.

Services in each of the above work areas shall be performed under and at the direction of the Director, City Department of Community Development, or his designated representative.

3. Time of Performance

The services of the Consultant shall commence on July 1, _____ and be provided on a per-day basis as requested by the Director of Community Development or his designated representative. Such services shall be continued in such sequence as to assure their relevance to the purposes of this Contract. In any event, all of the services required and performed hereunder shall be completed no later than July 1, _____.

4. Access to Information

It is agreed that all information, data, reports, records and maps as are existing, available and necessary for the carrying out of the work outlined above, shall be furnished to the Consultant by the City and its agencies. No charge will be made to the Consultant for such information, and the City and its agencies will cooperate with the Consultant in every way possible to facilitate the performance of the work described in this Contract.

5. Compensation and method of Payment

The maximum amount of compensation and reimbursement to be paid hereunder shall not exceed \$_____ for all services required. All contract work will be performed on a time and materials basis. Consultant time for principals and staff will be provided at their respective rate of compensation.

In addition to compensation for staff time, the City will compensate the Consultant for his expenses in performing contract tasks. Expenses reimbursement shall not exceed the cost of travel in the lowest practicable class of service by common carrier, and will not exceed \$_____per diem for sustenance expenses.

The Consultant shall submit monthly invoices to the City for payment. These invoices shall summarize the number of person-days provided in performing assigned tasks, and shall list the travel and per diem expenses incurred in the preceding month. Invoices shall be submitted by the tenth day of each month for the time and expenses allocated during the previous month. The City will make payment to the Consultant within twenty (20) days after the receipt of each invoice. The Consultant agrees to keep accurate records, including time sheets and travel vouchers, of all time and expenses allocated to the performance of contract work. Such records shall be kept in the offices of the Consultant and shall be made available to the City for inspection and copying upon request.

6. Ownership Documents

All documents, including original drawings, estimates, specifications, field notes and data are the property of the City. Consultant may retain reproducible copies of drawings and other documents.

7. Professional Liability

Consultant shall be responsible for the use of reasonable skill and care befitting the profession in the preparation of particular drawings, plans, specifications, studies and reports and in the designation of particular materials for the project covered by this Contract.

8. Indemnification

The Consultant shall comply with the requirements of all applicable laws, rules and regulations in connection with the services of Consultant and shall exonerate, indemnify and hold harmless the City, its officers, agents and all employees from and against them and local taxes or contributions imposed or required under the Social Security, Workers' Compensation, and Income Tax laws. Further, Consultant shall exonerate, indemnify and hold harmless the City with respect to any damages, expenses or claims arising from or in connection with any of the work performed under this Contract by Consultant. This shall not be construed as a limitation of the Consultant's liability under the Contract or as otherwise proved by law.

9. Terms and Conditions

This Contract is subject to the provisions titled, "Part II – Terms and Conditions," attached hereto and incorporated by reference herein.

10. Address of Notices and Communications

(Name), Director
Department of Community Development
City Hall, Room 202
(City), KY 01111

(Name), President
(Company Name)
(Address)
(City, State, Zip)

11. Captions

Each paragraph of this Contract has been supplied with a caption to serve only as guide to the contents. The caption does not control the meaning of any paragraph or in any way determine its interpretation or application.

12. Authorization

This Contract is authorized by City Resolution _____, adopted _____, _____, _____, copies of which are attached hereto and made a part hereof.

ATTEST:

CITY OF _____

By: _____
(Name), Mayor

Date: _____

(Name of Company)

By: _____
(Name), President

Date: _____

CONTRACT FOR PROFESSIONAL SERVICES

PART II – TERMS AND CONDITIONS

1. Termination of Contract for Cause

If through any cause, the Consultant shall fail to fulfill in timely and proper manner his obligations under this Contract, or if the Consultant shall violate any of the covenant, agreements or stipulations of this Contract, the City shall thereupon have the right to terminate this contract by giving written notice to the Consultant of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Consultant under this Contract shall, at the option of the City, become its property and the Consultant shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Notwithstanding the above, the Consultant shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Contract by the Consultant, and the City may withhold any payments to the Consultant for the purpose of set-off until such time as the exact amount of damages due the City from the Consultant is determined.

2. Termination for Convenience of the City

The City may terminate this Contract at any time by giving at least ten (10) days notice in writing to the Consultant. If the Contract is terminated by the City as provided herein, the Consultant will be paid for the time provided and expenses incurred up to the termination date. If this Contract is terminated due to the fault of the Consultant, Paragraph 1 hereof relative to termination shall apply.

3. Changes

The City may, from time to time, request changes in the scope of services of the Consultant to be performed hereunder. Such changes, including any increase or decrease in the amount of the Consultant's compensation, which are mutually agreed upon by and between the City and the Consultant, shall be incorporated in written amendments to this Contract.

4. Personnel

- A. The Consultant represents that he has, or will secure at his own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the City.
- B. All of the services required hereunder will be performed by the Consultant or under his supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services.
- C. None of the work or services covered by this Contract shall be subcontracted without the prior approval of the City. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Contract.

5. Assignability

The Consultant shall not assign any interest on this Contract, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the City thereto: provided, however, that claims for money by the Consultant from the City under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City.

6. Reports and Information

The Consultant, at such times and in such forms as the City may require, shall furnish the City such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Contract.

7. Findings Confidential

All of the reports, information, data, etc., prepared or assembled by the Consultant under this Contract are confidential and the Consultant agrees that they shall not be made available to any individual or organization without the prior written approval of the City.

8. Copyrights and Patents

Any copyrightable work resulting from this Agreement is available to the author for such, but the City and the Kentucky Department for Local Government reserve the option for unlimited use and license to such work. Any discovery or invention shall be reported promptly to the City and the Kentucky Department for Local Government for the determination as to whether patent protection should be sought and how the rights of any patent shall be disposed of and administered in order to protect the public interest.

9. Compliance with Local Laws

The Consultant shall comply with applicable laws, ordinances and codes of the State and local governments.

10. Access to Records

The Consultant shall maintain accounts and project records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the City to assure proper accounting for all project funds, both CDBG and non-CDBG shares. These records will be made available to the City, the Kentucky Governor's Office for Local Development Commonwealth of Kentucky Finance & Administration Cabinet, Commonwealth of Kentucky Auditor of Public Audits, Commonwealth of Kentucky Legislative Research Commission, U.S. Department of Housing and Urban Development, the U. S. Department of Labor, and the Comptroller General of the United States, or any of their duly authorized representatives. These parties shall have access to any books, documents, papers and records of the Consultant, which are directly pertinent to the project for the purpose of making audit, examination, excerpts and transcriptions. All records shall be maintained for five years after project closeout.

11. Title VI, Civil Rights Act of 1964

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

12. Section 109 of the Housing and Community Development Act of 1974

No person in the United States shall on the ground of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

13. Age Discrimination

The Contractor shall comply with the Age Discrimination Act of 1975, which prohibits discrimination on the basis of age. No person shall be excluded from participation in, denied program benefits of, or subject to discrimination on the basis of age under any program or activity funded in whole or in part with Federal funds.

14. Section 504

The Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, which extends the prohibitions against discrimination to individuals with disabilities.

15. Conflict of Interest Clauses

Interest of Members of a City

No member of the governing body of the City and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract; and the Consultant shall take appropriate steps to assure compliance.

Interests of Other Local Public Officials

No member of the governing body of the locality and no other public official of such locality, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract; and the Consultant shall take appropriate steps to assure compliance.

Interest of Consultant and Employees

The Consultant covenants that he presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his

services hereunder. The Consultant further covenants that in the performance of this Contract, no person having any such interest shall be employed.

16. “Section 3” Compliance

- A. The work to be performed under this Contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701 u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work and purchase of services and supplies in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
- B. The parties to this Contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Contract. The parties to this Contract certify and agree that they are under no contractual or other disability that would prevent them from complying with these requirements.
- C. The Consultant will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment training.
- D. The Consultant will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a *finding* that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The Consultant will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- E. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors

and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

17. Equal Opportunity Clause (Contracts above \$10,000)

During the performance of this Contract, the Consultant agrees as follows:

- A. The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection of training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this non-discrimination clause.
- B. The Consultant will, in all solicitation or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- C. The Consultant will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
- D. The Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.
- E. The Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the City's Department of Housing and Community Development and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

- F. In the event of the Consultant's noncompliance with the non-compliance clause of this Contract or with any of such rules, regulations or orders, this Contract may be canceled, terminated or suspended in whole or in part and the Consultant may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

- G. The Consultant will include the provisions of paragraphs (A) through (G) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965 as amended, so that such provisions will be binding upon each subcontractor or vendor. The Consultant will take such action with respect to any subcontract or purchase order as the City's Department of Housing and Community Development may direct as a means of enforcing such provisions including sanctions for noncompliance: provided, however, that in the event the Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the City's Department of Housing and Community Development, the Consultant may request the United States to enter such litigation to protect the interests of the United States.

ATTACHMENT 5-3

SUBCONTRACT FORM

THIS AGREEMENT, made this _____ day of _____, 20____, by and between _____
_____, Herein called "PRIME CONTRACTOR," acting through its
(Corporate Name of Owner _____, and
(Title of Authorized Official)

STRIKE OUT (a corporation) (a partnership)
INAPPLICABLE (an individual doing business as _____
TERMS _____

Of _____, County of _____, and State of _____
Hereinafter called "SUBCONTRACTOR"

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the PRIME CONTRACTOR, the SUBCONTRACTOR hereby agrees with the PRIME CONTRACTOR to commence and complete the construction as described as follows:

hereinafter called the project, for the sum of _____ Dollars (\$ _____) and all extra work in connection therewith, under the terms as stated in the General and Special Conditions of the Subcontract; and at his (its or their) own proper cost and expense to furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said project in accordance with the conditions and prices stated in the Proposal, the General Conditions, Supplemental General Conditions and Special Conditions of the Subcontract, the plans, which include all maps, plats, blue prints and other drawings and printed or written explanatory matter thereof, the specifications and contract documents therefore as prepared by _____, herein entitle the Architect/Engineer, and as enumerated in Paragraph 1 of the Supplemental General Conditions, all of which are made a part hereof and collectively evidence and constitute the contract.

The Subcontractor hereby agrees to commence work under this contract on or before a date to be specified in written "Notice to Proceed" of the PRIME CONTRACTOR and to fully complete the project within _____ consecutive calendar days thereafter. The Subcontractor further agrees to pay, as liquidated damages, the sum of \$ _____ for each consecutive calendar day thereafter as hereinafter provided in Paragraph 17 of the General Conditions.

The PRIME CONTRACTOR agrees to pay the SUBCONTRACTOR in current funds for the performance of the contract, subject to additions and deductions, as provided in the General Conditions of the Contract, and to make payments on account thereof as provided in Paragraph 22, "Payments by Prime Contractor," of the General Conditions.

IN WITNESS THEREOF, the parties to these presents have executed this subcontract in _____() counterparts, each of which shall be deemed an original, in the year and day first above mentioned.

(Seal)
ATTEST

Prime Contractor

(Secretary)

By

(Witness)

(Title)

(Seal)

(Subcontractor)

(Secretary)

By

(Witness)

(Title)

(Address and Zip Code)

NOTE: Secretary of the Prime Contractor should attest. If Subcontractor is a corporation, Secretary should attest.

BONDING REQUIREMENTS

Construction project bids estimated to exceed \$25,000 must include bidder security. An acceptable form of bidder security is a bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his/her bid, execute such contractual documents as may be required within the time specified.

Construction contracts or subcontracts exceeding \$25,000 must include:

- a. A performance bond on the part of the contractor for 100 percent of the contract price as it may be increased. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- b. A payment bond on part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

GENERAL CONDITIONS
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GENERAL CONDITIONS
Including Federal Labor Standards Provisions

1. Subcontract and Subcontractor Documents

The project to be constructed and pursuant to this Subcontract will be financed with assistance from the Kentucky Community Development Block Grant Program and is subject to all applicable Federal laws and regulations.

The plans, specifications and addenda, hereinafter enumerated in Paragraph 1 of the Supplemental General Conditions on page 30, shall form part of this Subcontract and the provisions thereof shall be as binding upon the parties hereto as if they were herein fully set forth. The table of contents, titles, headings, running headlines and marginal notes contained herein and in said documents are solely to facilitate reference to various provisions of the Subcontract Documents and in no way affect, limit or cast light on the interpretation of the provisions to which they refer.

2. Definitions

The following terms as used in this contract are respectively defined as follows:

- A. "Owner": The governmental unity (city or county) with whom the contract is made by the Prime Contractor.
- A. "Prime Contractor": A person, firm or corporation with whom the contract is made by the Owner.
- A. "Subcontractor": A person, firm or corporation supplying labor and materials or only labor for work at the site of the project for, and under separate contract or agreement with, the Prime Contractor.
- A. "Work on (at) the project": Work to be performed at the location of the project, including the transportation of materials and supplies to or from the location of the project by employees of the Prime Contractor and any Subcontractor.

3. Additional Instructions and Detail Drawings

The Subcontractor will be furnished additional instructions and detail drawings as necessary to carry out the work included in the contract. The additional drawings and instructions thus supplied to the Subcontractor will coordinate with the Contract Documents and will be so prepared that they can be reasonably interpreted as part thereof. The Subcontractor shall carry out the work in accordance with the additional detail drawings and instructions.

4. Materials, Services and Facilities

- A. It is understood that except as otherwise specifically stated in the Subcontract Documents, the Prime Contractor shall provide and pay for all water, light, power, transportation, superintendence, temporary construction of every nature and all other services and facilities of every nature whatsoever

necessary to execute, complete and deliver the work within the specified time.

- A. Any work necessary to be performed after regular working hours, on Sunday or Legal Holidays, shall be performed without additional expense to the Owner.

5. Subcontractor's Title to Materials

No materials or supplies for the work shall be purchased by the Subcontractor subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller. The Subcontractor warrants that he has good title to all materials and supplies used by him in the work, free from all liens, claims or encumbrances.

6. Inspection and Testing of Materials

- a. All materials and equipment used in the construction of the project shall be subject to adequate inspection and testing in accordance with accepted standards. The laboratory or inspection agency shall be selected by the Owner. The Owner will pay for all laboratory inspection service direct, and not as a part of the Subcontract.
- b. Materials of construction, particularly those upon which the strength and durability of the structure may depend, shall be subject to inspection and testing to establish conformance with specifications and suitability for uses intended.

7. "Or Equal" Clause

Whenever a material, article or piece of equipment is identified on the plans or in the specifications by reference to manufacturers' or vendors' names, trade names, catalogue numbers, etc., it is intended merely to establish a standard; and, any materials, article or equipment of other manufacturers and vendors which will perform adequately to the duties imposed by the general design will be considered equally acceptable provided the material, article or equipment so proposed, is, in the opinion of the Architect/Engineer, of equal substance and function. It shall not be purchased or installed by the Subcontractor without the Architect/Engineer's written approval.

8. Copyrights and Patents

Any copyrightable work resulting from this Agreement is available to the author for such, but the City and the Kentucky Governor's Office for Local Development reserve the option for unlimited use and license to such work. Any discovery or invention shall be reported promptly to the City and the Kentucky Governor's Office for Local Development for the determination as to whether patent protection should be sought and how the rights of any patent shall be disposed of and administered in order to protect the public interest.

9. Surveys, Permits and Regulations

Unless otherwise expressly provided for in the specifications, the Owner will furnish the Prime Contractor all surveys necessary for the execution of the work.

Unless otherwise stated, the Prime Contractor shall procure and pay all permits, licenses and approvals necessary for the execution of this Subcontract.

10. Subcontractor's Obligations

The Subcontractor shall and will, in good workmanlike manner, do and perform all work and furnish all supplies and materials, machinery, equipment, facilities and means, except as herein otherwise expressly specified, necessary or proper to perform and complete all the work required by this Subcontract, within the time herein specified, in accordance with the provisions of this Subcontract and said specifications and in accordance with the plans and drawings covered by this Subcontract any and all supplemental plans and drawings, and in accordance with the directions of the Prime Contractor and/or Architect/Engineer as given from time to time during the progress of the work. He shall furnish, erect, maintain and remove such construction plant and such temporary works as may be required.

The Subcontractor shall observe, comply with, and be subject to all terms, conditions, requirements and limitations of the Subcontract and specifications, and shall do, carry on and complete the entire work to the satisfaction of the Prime Contractor, Architect/Engineer and the Owner.

11. Weather Conditions

In the event of temporary suspension of work, or during inclement weather, or whenever the Architect/Engineer shall direct, the Subcontractor will protect carefully his and their work and materials against damage or injury from the weather. If, in the opinion of the Architect/Engineer, any work or materials shall have been damaged or injured by reason of failure on the part of the Subcontractor to protect his work, such materials shall be removed and replaced at the expense of the Subcontractor.

12. Protection of Work and Property – Emergency

The Subcontractor shall at all times safely guard the Owner's property from injury or loss in connection with this Subcontract. He shall at all times safely guard and protect his own work, and that of adjacent property from damage. The Subcontractor shall replace or make good any such damage, loss or injury unless such be caused directly by errors contained in the Contract or by the Owner, the Prime Contractor or another Subcontractor.

In case of an emergency which threatens loss or injury of property, and/or safety of life, the Subcontractor will be allowed to act, without previous instructions from the Prime Contractor or Architect/Engineer, in a diligent manner. He shall notify the Prime Contractor and Architect/Engineer immediately thereafter. Any claim for compensation by the Subcontractor due to such extra work shall be promptly submitted to the Prime Contractor for approval.

The amount of reimbursement claimed by the Subcontractor on account of any emergency action shall be determined in the manner provided in Paragraph 15 of the General Conditions.

13. Inspection

The authorized representatives and agents of the Kentucky Governor's Office for Local Development and the Department of Housing and Urban Development shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials and other relevant data and records.

14. Reports, Records and Data

The Subcontractor shall submit to the Prime Contractor such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data as the Prime Contractor may request concerning work performed or to be performed under this Subcontract.

15. Superintendence by Prime Contractor

At the site of the work the Prime Contractor shall employ a construction superintendent or foreman who shall have full authority to act for the Prime Contractor. It is understood that such representative shall be acceptable to the Architect/Engineer and shall be one who can be continued in that capacity for the particular job involved unless he ceases to be on the Prime Contractor's payroll.

16. Changes in Work

No changes in the work covered by the approved Subcontract Documents shall be made without having prior written approval of the Prime Contractor. Charges or credits for the work covered by the approved change shall be determined by one or more, or a combination of the following methods:

- (a) Unit bid prices previously approved.
- (b) An agreed lump sum.
- (c) The actual cost of
 - (1) Labor, including foremen.
 - (2) Materials entering permanently into the work.
 - (3) The ownership or rental cost of construction plant and equipment during the time of use on the extra work.
 - (4) Power and consumable supplies for the operation of power equipment.
 - (5) Insurance.
 - (6) Social Security and old age and unemployment contributions.

17. Extras

Without invalidating the Subcontract, the Owner may order extra work or make changes by altering, adding to or deducting from the work, the subcontract sum being adjusted accordingly, and the consent of the Surety being first obtained where necessary or desirable. All the work of the kind bid upon shall be paid for at the price stipulated in the proposal, and no claims for any extra work or materials shall be allowed unless the work is ordered in writing by the Owner or its Architect/Engineer, acting officially for the Owner, and the price stated in such order. These provisions may be imposed on the Subcontractor at the option of the Prime Contractor.

18. Time for Completion and Liquidated Damages

The Subcontractor agrees that work to be completed under this subcontract shall be prosecuted regularly, diligently and uninterruptedly at such rate of progress as will insure full completion thereof within the time specified. It is expressly understood and agreed, by and between the Prime Contractor and the Subcontractor, that the time for the completion of the work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.

19. Correction of Work

All work, all materials, whether incorporated in the work or not, all processes of manufacture, and all methods of construction shall be at all times and places subject to the inspection of the Architect/Engineer who shall be the final judge of the quality and suitability of the work, materials, processes of manufacture and methods of construction for the purposes for which they are used. Should they fail to meet his approval they shall be forthwith reconstructed, made good, replaced and/or corrected, as the case may be, by the Subcontractor at his own expense. Rejected materials shall immediately be removed from the site. If, in the opinion of the Architect/Engineer, it is undesirable to replace any defective or damaged materials or to reconstruct or correct any portion of the work injured or not performed in accordance with the Subcontract and Contract Documents, the compensation to be paid to the Subcontractor hereunder shall be reduced by such amount as in the judgment of the Prime Contractor shall be equitable.

20. Subsurface Conditions Found Different

Should the Subcontractor encounter subsurface and/or latent conditions at the site materially differing from those shown on the plans or indicated in the specifications, he shall immediately give notice to the Prime Contractor of such conditions before they are disturbed.

21. Claims for Extra Cost

No claim for extra work or associated cost shall be allowed unless the same was done in pursuance of a written order of the Prime Contractor approved by the Architect/Engineer and the Owner. When work is performed under the terms of subparagraph 15(c) of the General Conditions, the Subcontractor shall furnish satisfactory bills, payrolls and vouchers covering all items of cost.

22. Right of Owner to Terminate Subcontract

In the event that any of the provisions of this Subcontract are violated by the Prime Contractor, or by any of his Subcontractors, the Owner may serve written notice upon the Prime Contractor and the Surety of its intention to terminate the Subcontract, such notices to contain the reasons for such intention to terminate the Subcontract, and unless within ten (10) days after the serving of such notice upon the Prime Contractor, such violation or delay shall cease and satisfactory arrangement of correction be made, the Subcontract shall, upon the expiration of said ten (10) days, cease and terminate. In the event of any such termination, the Owner shall immediately serve notice thereof upon the Surety and the Prime Contractor and the Surety shall have the right to take over and perform the Subcontract; provided, however, that if the Surety does not commence performance thereof within ten (10) days from the date of the mailing to such Surety of notice of termination, the Owner may take over the work and prosecute the same to completion by contract or by force account for the account and at the expense of the Prime Contractor and the Prime Contractor and his Surety shall be liable to the Owner for any excess cost occasioned by the Owner thereby, and in such event the Owner may take possession of and utilize in completing the work, such materials, appliances and plant as may be on the site of the work and necessary therefore.

The Owner may terminate this Subcontract at any time by giving at least ten (10) days notice in writing to the Subcontractor. If the Subcontract is terminated by the Owner as provided herein, the Subcontractor will be paid for the time provided and expenses incurred up to the termination date. If the Contract is terminated due to the fault of the Subcontractor, the above paragraph relative to termination shall apply.

23. Payments by Prime Contractor

The Prime Contractor shall pay the Subcontractor, not later than the- day following each payment to the Prime Contractor, the respective amount allowed the Prime Contractor on account of the work performed by his Subcontractors to the extent of each Subcontractor's interest therein.

24. Insurance

The Subcontractor shall not commence work under this Subcontract until he has obtained all the insurance required under this paragraph and such insurance has been approved by the Prime Contractor.

- (a) Compensation Insurance: The Subcontractor shall procure and shall maintain during the life of this Contract Workmen's Compensation Insurance as required by applicable State or territorial law for all of his employees to be engaged in work at the site of the project under this Subcontract, unless such employees are covered by the protection afforded by the Prime Contractor's Workmen's Compensation Insurance. In case any class of employees engaged in hazardous work on the project under this Subcontract is not protected under the Workmen's Compensation Statute, the Subcontractor shall provide adequate employers liability insurance for the protection of such of his employees as are not otherwise protected.

- (b) Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance: The Prime Contractor shall either (1) require each of the Subcontractors to procure and to maintain during the life of his subcontract, Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance of the type and in the amounts specified in the Supplemental General Conditions, or (2) insure the activities on his policy.
- (c) Scope of Insurance and Special Hazards: The insurance required under subparagraph (b) hereof shall provide adequate protection for the Subcontractors, respectively, against damage claims which may arise from operations under this Subcontract, whether such operations be by the insured or by anyone directly or indirectly employed by him and, also against any of the special hazards which may be encountered in the performance of this Subcontract as enumerated in the Supplemental General Conditions.
- (d) Proof of Carriage of Insurance: The Subcontractor shall furnish the Owner with certificates showing the type, amount, class of operations covered, effective dates and date of expiration of policies. Such certificates shall also contain substantially the following statement: "The insurance covered by this certificate will not be canceled or materially altered, except after ten (10) days written notice has been received by the Owner."

25. Contract Security

The Subcontractor shall furnish a performance bond in an amount at least equal to one hundred percent (100%) of the contract prices as security for the faithful performance of this Subcontract and also a payment bond in an amount not less than one hundred percent (100%) of the contract price or in a penal sum not less than that prescribed by State, territorial or local laws, as security for the payment of all persons performing labor on the project under this Subcontract and furnishing materials in connection with this Subcontract. The performance bond and the payment bond may be in one or in separate instruments in accordance with local law.

26. Assignments

The Subcontractor shall not assign the whole or any part of this Subcontract or any moneys due or to become due hereunder without written consent of the Prime Contractor.

27. Mutual Responsibility of Contractors

If, through acts of neglect on the part of the Subcontractor, any other Contractor or any Subcontractor shall suffer loss or damage on the work, the Subcontractor agrees to settle with such other Contractor or Subcontractor by agreement or arbitration if such other Contractor or Subcontractor will so settle. If such other Contractor or Subcontractor shall assert any claim against the Owner on account of any damage alleged to have been sustained, the Owner shall notify the Prime Contractor, who shall indemnify and save harmless the Owner against any such claim.

28. Separate Contracts

The Subcontractor shall coordinate his operations with those of other Contractors. Cooperation will be required in the arrangement for the storage of materials and in the detailed execution of the work. The Subcontractor shall keep informed of the progress and the detail work of other Contractors and shall notify the Architect/Engineer immediately of lack of progress or defective workmanship on the part of other Contractors. Failure of a Subcontractor to keep informed of the work progressing on the site and failure to give notice of lack of progress or defective workmanship by others shall be construed as acceptance by him of the status of the work as being satisfactory for proper coordination with his own work.

29. Architect/Engineer's Authority

The Architect/Engineer shall give all orders and directions contemplated under this Subcontract and specifications relative to the execution of the work. The Architect/Engineer shall determine the amount, quality, acceptability and fitness of the several kinds of work and materials which are to be paid for under this Subcontract and shall decide all questions which may arise in relation to said work and the construction thereof. The Architect/Engineer's estimates and decisions shall be final and conclusive, except as herein otherwise expressly provided. In case any question shall arise between the parties hereto relative to said Subcontract and specifications, the determination or decision of the Architect/Engineer shall be a condition precedent to the right of the Subcontractor to receive any money or payment for work under this Subcontract affected in any manner or to any extent by such question.

The Architect/Engineer shall decide the meaning and intent of any portion of the specifications and of any plans or drawings where the same may be found obscure or be in dispute.

In the event that the project does not involve the use of an assigned Architect/Engineer, the owner shall assume full authority for assigned duties contained herein.

30. Use of Premises and Removal of Debris

The Subcontractor expressly undertakes at his own expense:

- (a) To take every precaution against injuries to persons or damage to property.
- (b) To store his apparatus, materials, supplies and equipment in such orderly fashion at the site of the work as will not unduly interfere with the progress of his work or the work of any other Contractors.
- (c) To place upon the work or any part thereof only such loads as are consistent with the safety of that portion of the work.
- (d) To clean up frequently all refuse, rubbish, scrap materials and debris caused by his operations, to the end that at all times the site of the work shall present a neat, orderly and workmanlike appearance.
- (e) Before final payment to remove all surplus material, false-work, temporary structures, including foundations thereof, plant of any

description and debris of every nature resulting from his operations, and to put the site in a neat, orderly condition.

- (f) To effect all cutting, fitting or patching of his work required to make the same to conform to the plans and specifications and, except with the consent of the Architect/Engineer, not to cut or otherwise alter the work of any other Contractor.

31. Conflicting Conditions

Any provisions in any of the Subcontract Documents which may be in conflict or inconsistent with any of the paragraphs in these General Conditions shall be void to the extent of such conflict or inconsistency.

32. Notice and Service Thereof

Any notice to the Subcontractor from the Owner relative to any part of this Subcontract shall be in writing and considered delivered and the service thereof completed, when said notice is posted, by certified or registered mail, to the said Subcontractor at his last given address or delivered in person to the said Subcontractors or his authorized representative on the work.

33. Provisions Required by Law Deemed Inserted

Each and every provision of law and clause required by law to be inserted in this Subcontract shall be deemed to be inserted herein and the Subcontract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Subcontract shall forthwith be physically amended to make such insertion or correction.

34. Protection of Lives and Health

The Subcontractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the site, which occur as a result of his prosecution of the work. The safety provisions of applicable laws and building and construction codes, in addition to specific safety and health regulations described in Chapter XIII, Bureau of Labor Standards, Department of Labor, Part 1518, Safety and Health Regulations for Construction, as outlined in the Federal Register, Volume 36, No.75, Saturday, April 17, 1971 Title 29 – Labor - shall be observed and the Subcontractor shall take or cause to be taken, such additional safety and health measures as the Contracting Authority may determine to be reasonably necessary. The Subcontractor shall include these clauses in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

35. Interest of Member of or Delegate to Congress

No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this Subcontract or to any benefit that may arise

therefrom, but this provision shall not be construed to extend to this Subcontract if made with a corporation for its general benefit.

36. Other Prohibited Interests

No official of the Owner who is authorized in such capacity and on behalf of the Owner to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this Subcontract or in any part hereof. No officer, employee, architect, attorney, engineer or inspector of or for the Owner who is authorized in such capacity and on behalf of the Owner to exercise any legislative, executive, supervisory or other similar functions in connection with the construction of the project, shall become directly or indirectly interested personally in this Subcontract or in any part thereof, any material supply contract, subcontract, insurance contract or any other contract pertaining to the project.

37. Photographs of the Project

If required by the owner or the Prime Contractor, the Subcontractor shall furnish photographs of the project, in the quantities and as described in the Supplemental General Conditions.

38. Suspension of Work

Should the Owner be prevented or enjoined from proceeding with work either before or after the start of construction by reason of any litigation or other reason beyond the control of the Owner, the Subcontractor shall not be entitled to make or assert claim for damage by reason of said delay; but time for completion of the work will be extended to such reasonable time as the Owner may determine will compensate for time lost by such delay with such determination.

39. Access to Records

The Subcontractor shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to the Subcontract and such other records as may be deemed necessary by the City/County to assure proper accounting for all project funds, both CDBG and non-CDBG shares. These records will be made available to the City, the Kentucky Governor's Office for Local Development, Commonwealth of Kentucky Finance & Administration Cabinet, Commonwealth of Kentucky Auditor of Public Audits, Commonwealth of Kentucky Legislative Research Commission, U.S. Department of Housing and Urban Development, the U. S. Department of Labor, and the Comptroller General of the United States, or any of their duly authorized representatives. These parties shall have access to any books, documents, papers, and records of the Subcontractor which are directly pertinent to the project for the purpose of making audit, excerpts and transcriptions. All records shall be maintained for five years after project closeout.

Note: Articles 39 and 40 are reprinted from Federal documents. Provisions contained therein are binding upon the Subcontractor as referred to as the Contractor.

40. Federal Labor Standards Provisions (HUD-401 0,2-84)

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A.1. (i) Minimum Wages. All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1 (b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR Part 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321 shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U. S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(b) or (c) of the paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal Contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and Basic Records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project). Such records shall contain the name, address and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1 (b)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1 (b)(2)(B) of Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR Part 5.5(a)(3)(i). This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U. S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all

subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

- (1) That the payroll for the payroll period contains the information required to be maintained under 29 CFR Part 5.5(a)(3)(i) and that such information is correct and complete;
- (2) That each laborer or mechanic (including each helper 1 apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3.
- (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 and Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph A.3(i) of this section available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant 20 CFR Part 5.12.

4. (i) Apprentices and Trainees. Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U. S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on

the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U. S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity .The utilization of apprentices, trainees and journeymen under this part shall be in conformity with equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act Requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract.
6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clause contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as HUD or its designee may be appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 5.5.
7. Contract Termination; Debarment. A breach of contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 CFR Part 5.12.
8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1,3, and 5 are herein incorporated by reference in this contract.
9. Disputes Concerning Labor Standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U. S. Department of Labor, or the employees or their representatives.
10. (i) Certification of Eligibility .By entering into this contract, the contractor certified that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No pan of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis- Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U.S.C.1001. Additionally, U. S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions," provides in part: "Whoever, for the purpose of ...influencing in any way the action of such Administration ...makes, utters, or publishes any statement, knowing the same to be false ...shall be fined not more than \$5,000 or imprisoned not more than two years, or both."
11. Complaints, Proceedings, or Testimony by Employees.
 - A. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other

manner discriminated against by the Contractor or subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under Contract to his employer.

B. Contract Work Hours and Safety Standards Act (over \$100,000). As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

- (1) Overtime Requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; Liability For Unpaid Wages; Liquidated Damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.
- (3) Withholding For Unpaid Wages and Liquidated Damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

- (4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety

- (1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.
- (2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 (formerly Part 1518) and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96).
- (3) The Contractor shall include the provisions of this Article in every subcontract so that such provisions will be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

41. Anti-Kickback Act

Attachment to Federal Labor Standards Provisions, So-Called "Anti-Kickback Act" and Regulations Promulgated Pursuant Thereto by the Secretary of Labor. United States Department of Labor. Title 18, U.S.C., Section 874 (HUD-4010, 2-76) (Replaces section 1 of the Act of June 13, 1934 (48 Stat. 948, 40 U.S.C., Section 276B) pursuant to the Act of June 25, 1948, 62 Stat. 862).

Kickbacks from Public Works Employees

Whoever, by force, intimidation, or threat of procuring dismissal from employment, or by any other manner whatsoever induces any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract of employment, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

Section 2 of the Act of June 13, 1934, as amended (48 Stat. 948, 62 Stat. 862, 63 Stat. 108, Stat. 967, 40 U.S.C., section 276c).

The Secretary of Labor shall make reasonable regulations for contractors and subcontractors engaged in the construction, prosecution, completion or repair of

buildings, public works or buildings or works financed in whole or in part by loans or grants from the United States, including a provision that each contractor shall furnish weekly a statement with respect to the wages paid each employee during the preceding week. Section 1001 of Title 18 (United States Code) shall apply to such statements.

Pursuant to the aforesaid Anti-Kickback Act, the Secretary of Labor, United States Department of Labor, has promulgated the regulations hereinafter set forth, which regulations are found in Title 29, Subtitle A, Code of Federal Regulations, Part 3. The term "this part", as used in the regulations hereinafter set forth, refers to Part 3 last above mentioned. Said regulations are as follows.

Title 29 – Labor; Subtitle A – Office of the Secretary of Labor, Part 3 – Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by loans or grants from the United States.

Section 3.1 – Purpose and scope

This part prescribes "anti-kickback" regulations under section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c), popularly known as the Copeland Act. This part applies to any contract which is subject to Federal wage standards and which is for the construction, prosecution, completion, or repair of public buildings, public works or buildings or works financed in whole or in part by loans or grants from the United States. The part is intended to aid in the enforcement of the minimum wage provisions of the Davis-Bacon Act and the various statutes dealing with Federally-assisted construction that contain similar minimum wage provisions, including those provisions which are not subject to Reorganization Plan No.14 (e.g., the College Housing Act of 1950, the Federal Water Pollution Control Act, and the Housing Act of 1959), and in the enforcement of the overtime provisions of the Contract Work Hours Standards Act whenever they are applicable to construction work. The part details the obligation of contractors and subcontractors relative to the weekly submission of statements regarding the wages paid on work covered thereby; sets forth the circumstances and procedures governing the making of payroll deductions from the wages of those employed on such work; and delineates the methods of payment permissible on such work.

Section 3.2 – Definitions.

As used in the regulations in this part:

- (a) The terms "building" or "work" generally include construction activity as distinguished from manufacturing, furnishing of materials, or servicing and maintenance work. The terms include, without limitation, buildings, structures, and improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals; dredging, shoring, scaffolding, drilling, blasting, excavating, clearing, and landscaping. Unless conducted in connection with and at the site of such a building or work as is described in the foregoing sentence, the manufacture or furnishing of materials, articles, supplies, or equipment (whether or not a Federal or State

agency acquires title to such materials, articles, supplies, or equipment during the course of the manufacture or furnishing, or owns the materials from which they are manufactured or furnished) is not a "building" or "work" within the meaning of the regulations in this part.

- (b) The terms "construction," "completion," or "repair" mean all types of work done on a particular building or work at the site thereof, including, without limitation, altering, remodeling, painting and decorating, the transporting of materials and supplies to or from the building or work by the employees of the construction contractor or construction subcontractor, and the manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the building or work, by persons employed at the site by the contractor or subcontractor.
- (c) The terms "public building" or "public work" include building or work for whose construction, prosecution, completion, or repair, as defined above, a Federal agency is a contracting party, regardless of whether title thereof is in a Federal agency.
- (d) The term "building or work financed in whole or in part by loans or grants from the United States" includes building or work for whose construction, prosecution, completion, or repair, as defined above, payment or part payment is made directly or indirectly from funds provided by loans or grants by a Federal agency. The term does not include building or work for which Federal assistance is limited solely to loan guarantees or insurance.
- (e) Every person paid by a contractor or subcontractor in any manner for his labor in the construction, prosecution, completion, or repair of a public building or public work or work financed in whole or in part by loans or grants from the United States is "employed" and receiving "wages," regardless of contractual relationship alleged to exist between him and the real employer.
- (f) The term "any affiliated person" includes a spouse, child, parent, or other close relative of the contractor or subcontractor; a partner or officer of the contractor or subcontractor; a corporation closely connected with the contractor or subcontractor as parent, subsidiary or otherwise, and an officer or agent of such corporation.
- (g) The term "Federal agency" means the United States, the District of Columbia, and all executive departments, independent establishments, administrative agencies, and instrumentalities of the United States and of the District of Columbia, including corporations, all or substantially all of the stock of which is beneficially owned by the United States, by the District of Columbia, or any of the foregoing departments, establishments, agencies, and instrumentalities.

Section 3.3 – Weekly statement with respect to payment of wages

- (a) As used in this section, the term "employee" shall not apply to persons in classifications higher than that of laborer or mechanic and those who are the immediate supervisors of such employees.
- (b) Each contractor or subcontractor engaged in the construction, prosecution, completion, or repair of any public building or public work, or building or work financed in whole or in part by loans or grants from the United States, shall furnish each week a statement with respect to the wages paid each of its employees engaged on work covered by 29 CFR Parts 3 and 5 during the

preceding weekly payroll period. This statement shall be executed by the contractor or subcontractor or by an authorized officer or employee of the contractor or subcontractor who supervises the payment of wages and shall be on form WH 348, "Statement of Compliance," or on an identical form on the back of WH 347, "Payroll (For Contractors Optional Use)" or on any form with identical wording. Sample copies of WH 347 and WH 348 may be obtained from the Government contracting or sponsoring agency, and copies of these forms may be purchased at the Government Printing Office.

- (c) The requirements of this section shall not apply to any contract of \$2,000 or less.
- (d) Upon a written finding by the head of a Federal agency, the Secretary of Labor may provide reasonable limitations, variations, tolerances and exemptions from the requirements of this section subject to such conditions as the Secretary of Labor may specify.

(29 F.R. 95, Jan. 4 1964, as amended at 33 FR 10186, July 17, 1968)

Section 3.4 – Submission of weekly statements and the preservation and inspection of weekly payroll records.

- (a) Each weekly statement required under SS 3.3 shall be delivered by the contractor or subcontractor within seven days after the regular payment date of the payroll period, to a representative of a Federal or State agency in charge at the site of the building or work, or, if there is no representative of a Federal or State agency at the site of the building or work, the statement shall be mailed by the contractor or subcontractor, within such time, to a Federal or State agency contracting for or financing the building or work. After such examination and check as may be made, such statement, or a copy thereof, shall be kept available, or shall be transmitted together with a report of any violation, in accordance with applicable procedures prescribed by the United States Department of Labor.
- (b) Each contractor or subcontractor shall preserve his weekly payroll records for a period of three years from date of completion of the contract. The payroll records shall set out accurately and completely the name and address of each laborer and mechanic, his correct classification, rate of pay, daily and weekly number of hours worked, deductions made, and actual wages paid. Such payroll records shall be made available at all times for inspection by the contracting officer or his authorized representative, and by authorized representatives of the Department of Labor.

Section 3.5 – Payroll deductions permissible without application to or approval of the Secretary of Labor.

Deductions made under the circumstances or in the situations described in the paragraphs of this section may be made without application to and approval of the Secretary of Labor.

- (a) Any deduction made in compliance with the requirements of Federal, State or local law, such as Federal or State withholding income taxes and Federal social security taxes.
- (b) Any deduction of sums previously paid to the employee as a bona fide prepayment of wages when such prepayment is made without discount or interest. A "bona fide prepayment of wages" is considered to have been made only when cash or its equivalent has been advanced to the person employed in such manner as to give him complete freedom of disposition of the advanced funds.
- (c) Any deduction of amounts required by court process to be paid to another, unless the deduction is in favor of the contractor, subcontractor or any affiliated person, or when collusion or collaboration exists.
- (d) Any deduction constituting a contribution on behalf of the person employed to funds established by the employer or representatives of employees, or both, for the purpose of providing *either* from principal or income, or both, medical or hospital care, pensions or annuities on retirement, death benefits, compensation for injuries, illness, accidents, sickness, or disability, or for insurance to provide any of the foregoing, or unemployment benefits, vacation pay, savings accounts, or similar payments for the benefit of employees, their families and dependents: Provided, however, That the following standards are met: (1) The deduction is not otherwise prohibited by law; (2) it is either: (i) Voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for the obtaining of or for the continuation of employment, or (ii) provided for in a bona fide collective bargaining agreement between the contractor or subcontractor and representatives of its employees; (3) no profit or other benefit is otherwise obtained, directly or indirectly, by the contractor or subcontractor or any affiliated person in the form of commission, dividend, or otherwise; and (4) the deductions shall serve the convenience and interest of the employee.
- (e) Any deduction contribution toward the purchase of United States Defense Stamps and Bonds when voluntarily authorized by the employee.
- (f) Any deduction requested by the employee to enable him to repay loans to or to purchase shares in credit unions organized and operated in accordance with Federal and State credit union statutes.
- (g) Any deduction voluntarily authorized by the employee for the making of contributions to governmental or quasi-governmental agencies, such as the American Red Cross.
- (h) Any deduction voluntarily authorized by the employee for the making of contributions to Community Chests, United Givers Funds, and similar charitable organizations.
- (i) Any deductions to pay regular union initiation fees and membership dues, not including fines or special assessments: Provided, however, That a collective bargaining agreement between the contractor or subcontractor and representatives of its employees provides for such deductions and the deductions are not otherwise prohibited by law.
- (j) Any deduction not more than for the "reasonable cost" of board, lodging, or other facilities meeting the requirements of section 3(m) of the Fair Labor Standards Act of 1938, as amended, and Part 431 of this title. When such a deduction is made the additional records required under SS 516.27(a) of this title shall be kept.

Section 3.6 – Payroll deductions permissible with the approval of the Secretary of Labor.

Any contractor or subcontractor may apply to the Secretary of Labor for permission to make any deduction not permitted under SS 3.5. The Secretary may grant permissions whenever he finds that:

- (a) The contractor, subcontractor, or any affiliated person does not make a profit or benefit directly or indirectly from the deduction either in the form of a commission, dividend, or otherwise;
- (b) The deduction is not otherwise prohibited by law;
- (c) The deduction is either (1) voluntarily consented to by the employee in writing and in advance of the period in which the work to be done, and such consent is not a condition either for the obtaining of employment or its continuance, or (2) provided for in a bona fide collective bargaining agreement between the contractor or subcontractor and representatives of its employees; and
- (d) The deduction serves the convenience and interest of the employee.

Section 3.7 – Applications for the approval of the Secretary of Labor.

Any application for the making of payroll deductions under SS 3.6 shall comply with the requirements prescribed in the following paragraphs of this section:

- (a) The application shall be in writing and shall be addressed to the Secretary of Labor.
- (b) The application shall identify the contract or contracts under which the work in question is to be performed. Permission will be given for deductions only on specific, identified contracts, except upon a showing of exceptional circumstances.
- (c) The application shall state affirmatively that there is compliance with the standards set forth in the provisions of SS 3.6. The affirmation shall be accompanied by a full statement of the facts indicating such compliance.
- (d) The application shall include a description of the proposed deduction, the purpose to be served thereby, and the classes of laborers or mechanics from whose wages the proposed deduction would be made.
- (e) The application shall state the name and business of any third person to whom any funds obtained from the proposed deductions are to be transmitted and the affiliation of such person, if any, with the applicant.

Section 3.8 – Action by the Secretary of Labor upon applications.

The Secretary of Labor shall decide whether or not the requested deduction is permissible under provisions of SS 3.6; and shall notify the applicant in writing of his decision.

Section 3.9 – Prohibited payroll deductions.

Deductions not elsewhere provided for by this part and which are not found to be permissible under SS 3.6 are prohibited.

Section 3.10 – Methods of payment of wages.

The payment of wages shall be by cash, negotiable instruments payable on demand. or the additional forms of compensation for which deductions are permissible under this part. No other methods of payment shall be recognized on work subject to the Copeland Act.

Section 3.11 – Regulations part of contract.

All contracts made with respect to the construction, prosecution, completion, or repair of any public building or public work or building or work financed in whole or in part by loans or grants from the United States covered by the regulations in this part shall expressly bind the contractor or subcontractor to comply with such of the regulations in this part as may be applicable. In this regard, see SS 5.5(a) of this subtitle.

**SUPPLEMENTAL GENERAL CONDITIONS
Including Equal Opportunity Provisions**

1. Enumeration of Plans, Specifications and Addenda
2. Stated Allowances
3. Special Hazards
4. Contractor's and Subcontractor's Public Liability, Vehicle Liability and Property
Damage Insurance
5. Photographs of Project
6. Schedule of Occupational Classifications and Minimum Hourly Wage Rates
7. Special Equal Opportunity Provisions
8. Certification of Compliance with Air and Water Acts
9. Special Conditions Pertaining to Hazards, Safety Standards and Accident Prevention
10. Energy Efficiency
11. Access to Records
12. Wage Rate Determination(s)
13. Contract Work Hours and Safety Standards Act

1. Enumeration of Plans, Specifications and Addenda

Following are the Plans, Specifications and Addenda which form a part of this Contract, as set forth in paragraph 1 of the General Conditions, "Contract and Contract Documents":

DRAWINGS

General Construction: Nos. _____
Heating and Ventilating: Nos. _____
Plumbing: Nos. _____
Electrical: Nos. _____
Nos. _____
Nos. _____

SPECIFICATIONS:

General Construction: Page _____ to _____, inclusive
Heating and Ventilating: Page _____ to _____, inclusive
Plumbing: Page _____ to _____, inclusive
Electrical: Page _____ to _____, inclusive
Page _____ to _____, inclusive
Page _____ to _____, inclusive

ADDENDA:

No. _____ Date _____ No. _____ Date _____
No. _____ Date _____ No. _____ Date _____

2. Stated Allowances

Pursuant to Paragraph 36 of the General Conditions, the Contractor shall include the following cash allowances in his proposal

(a) For _____ (Page _____ of Specifications) \$ _____
(b) For _____ (Page _____ of Specifications) \$ _____
(c) For _____ (Page _____ of Specifications) \$ _____
(d) For _____ (Page _____ of Specifications) \$ _____
(e) For _____ (Page _____ of Specifications) \$ _____
(f) For _____ (Page _____ of Specifications) \$ _____

3. Special Hazards

The Subcontractor's Public Liability and Property Damage Insurance shall provide adequate protection against the following special hazards:

4. Subcontractor's Public Liability, Vehicle Liability and Property Damage Insurance

As required under paragraph 23 of the General Conditions, the Subcontractor's Public Liability Insurance and Vehicle Insurance shall be in an amount not less than \$_____ for injuries, including accidental death, to any one person, and subject to the same limit for each person, in an amount not less than \$_____ on account of one accident, and Subcontractor's Property Damage Insurance in an amount not less than \$_____.

The Subcontractor shall either (1) require each of his Subcontractors to procure and to maintain during the life of his subcontract, Subcontractor's Public Liability and Property Damage Insurance of the type and in the same amounts as specified in the preceding paragraph, or (2) insure the activities of his Subcontractors in his own policy or (3) be insured on the policy of the Prime Contractor.

5. Photographs of Project

As provided in paragraph 36 of General Conditions, the Subcontractor will furnish photographs in the number, type and stage as enumerated below:

6. Schedule of Occupational Classifications and Minimum Hourly Wage Rate as required under paragraph 39 of the General Conditions.

Given on pages _____, _____, and _____

Note: Articles 7 and 8 are reprinted from federal documents. Provisions contained therein are binding upon the subcontractor as referred to as the contractor.

7. Special Equal Opportunity Provisions

A. 3-Paragraph Equal Opportunity Clause for Activities and Contracts Not subject to Executive Order 11246, as Amended (applicable to Federally assisted construction contracts and related subcontracts \$10,000 and under)

During the performance of this Contract, the Contractor agrees as follows:

1. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
2. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by contracting officer setting forth the provisions of this nondiscrimination clause. The Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity or national origin.

3. Contractors shall incorporate forgoing requirements in all subcontracts.

B. Executive Order 11246 (contracts/subcontracts above \$10,000)

1. Section 202 Equal Opportunity Clause

During the performance of this Contract, the Contractor agrees the following:

- a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- b. The contractor will, in all solicitations or advancements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- c. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous place available to employees and applicant for employment. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions of noncompliance.
- d. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.
- e. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and others.
- f. In the event of the Contractor's non-compliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations or orders, this Contract may be canceled, terminated or suspended in whole or in part and the Contractor may be declared

ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

- g. The Contractor will include the provisions of the sentence immediately preceding paragraph a. and the provisions of paragraphs a. through g. in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each Subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provisions, including sanctions for non-compliance.

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction by the Department, the Contractor may request the United States to enter into such litigation to protect the interest of the United States.

- 2. Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246) (applicable to contract/subcontracts exceeding \$10,000)

- a. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications", set forth herein.
- b. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Goals for Minority
Participation

(Insert Goals)

Goals for Female
Participation

(Insert Goals for
Current Year)

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or Federally assisted) performed in the covered area. If the Contractor performs construction work in a geographic area located outside of the covered area, it shall apply the goals established for such geographic area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its Federally involved and non-Federally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR part 60-4 shall be based on its implementation of the Equal Opportunity Clause. specific affirmative action obligations required by the specifications set forth in 41 CFR 60- 4.3(a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The

hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goal shall be a violation of the Contract, the Executive Order and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.

- c. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the Subcontractor; employer identification number; estimated dollar amount of the subcontract; and the geographical area in which the contract is to be performed.
- d. As used in this notice, and in the contract resulting from the solicitation, the "covered area" is (insert description of the geographical areas where the contract is to be performed giving the state, county, and city, if any).

3. Standard CDBG Assisted Employment Opportunity Construction Contract Specifications (Executive Order 11246)
 - a. As used in these specifications:
 - (1) "Covered area" means the geographical area described in solicitation from which this Contract resulted.
 - (2) "Director" means Director, Office of Federal Contract Compliance Program, United States Department of Labor, or any person to whom the Director delegates authority.
 - (3) "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
 - (4) "Minority" includes:
 - (a) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin).
 - (b) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race).
 - (c) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands).
 - (d) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
 - (5) Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this Contract resulted.
 - (6) If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U. S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the plan area (including goals and timetables) shall be in accordance with that plan for those trades which have unions participating in the plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the plan goals and timetables.

- (7) The Contractor shall implement the specific affirmative action standards provided in paragraphs 10a through p of these specifications. The goals set forth in the solicitation form which this Contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction Contractors- performing contracts in geographical areas where they do not have a Federal or Federally-assisted construction contract shall apply the minority and female goals established for the geographic area where the contract is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting, its goals in each craft during the period specified.
- (8) Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
- (9) In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U. S. Department of Labor.
- (10) The Contractor shall take specific affirmative actions to ensure equal employment opportunity .The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
- (a) Ensure and maintain a working environment free of harassment, intimidation and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

- (b) Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organization's responses.
- (c) Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.
- (d) Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
- (e) Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 10b above.
- (f) Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- (g) Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific

review of these items with on-site supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed and disposition of the subject matter.

- (h) Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
- (i) Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations such as the above, describing the openings, screening procedures and tests to be used in the selection process.
- (j) Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.
- (k) Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
- (l) Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
- (m) Ensure that seniority practices job classifications work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy under the Contractor's obligations under these specifications are being carried out.
- (n) Ensure that all facilities and company activities are non-segregated except that separate or single-use

toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

- (o) Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
 - (p) Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
- (11) Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (10a through p). The efforts of a contractor association, joint contractor-union, contractor- community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 10a through p of these specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation shall not be a defense for the Contractor's non-compliance.
- (12) A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
- (13) The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (14) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
- (15) The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Employment Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or

ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

- (16) The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 10 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
- (17) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, sexual orientation, gender identity, status (e.g., mechanic, apprentice, trainee, helper or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Contractors shall not be required to maintain separate records.
- (18) Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

C. Certification of Nonsegregated Facilities (over \$10,000)

By the submission of this bid, the bidder, offeror, applicant or subcontractor certifies that s/he does not maintain or provide for his/her employees any segregated facility at any of his/her establishments, and that s/he does not permit employees to perform their services at any location, under his/her control, where segregated facilities are maintained. S/he certifies further that s/he will not maintain or provide for employees any segregated facilities at any of his/her establishments, and s/he will not permit employees to perform their services at any location under his/her control where segregated facilities are maintained. The bidder, offeror, applicant or subcontractor agrees that a breach of this certification is a violation of the Equal Employment Opportunity Clause of this Contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, *transportation and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom or otherwise. S/he further agrees that (except where he/she has obtained identical certifications. from

proposed Subcontractors for specific time periods) he/she will obtain identical certification from proposed Subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause; that he/she will retain such certifications in his/her files; and that he/she will forward the following notice to such proposed Subcontractors (except where proposed Subcontractors have submitted identical certifications for specific time periods).

* Parking lots, drinking fountains, recreation or entertainment areas.

D. Title VI Clause, Civil Rights Act of 1964

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

E. Section 109 Clause, Housing and Community Development Act of 1974

No person in the United States shall on the grounds of race, color national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

F. "Section 3" Compliance in the Provision of Training, Employment and Business Opportunities (over \$100,000)

1. The work to be performed under this Contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701 u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
2. The parties to this Contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Contract. The parties to this Contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
3. The Contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract of understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
4. The Contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action

pursuant to the subcontract upon a finding that the Subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The Contractor will not subcontract with any Subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the Subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

5. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the Contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified in 24 CFR Part 135.

G. Rehabilitation Act of 1973, Section 503 Handicapped (if \$10,000 or over)

Affirmative Action for Handicapped Workers

1. The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.
2. The Contractor agrees to comply with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
3. In the event of the Contractor's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
4. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
5. The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physical and mentally handicapped individuals.

6. The Contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions **Will** be binding upon each Subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

H. Section 402 Veterans of the Vietnam Era (if \$10,000 or over)

Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era

1. The Contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based on their disability or veteran status in all employment practices such as the following: employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.
2. The Contractor agrees that all suitable employment openings of the Contractor which exist at the time of the execution of this Contract and those which occur during the performance of this Contract, including those not generated by this Contract and including those occurring at an establishment of the Contractor other than the one wherein the Contract is being performed but excluding those of independently operated corporate affiliates, shall be listed at an appropriate local office of the State employment service system wherein the opening occurs. The Contractor further agrees to provide such reports to such local office regarding employment openings and hires as may be required. State and local government agencies holding Federal contracts of \$10,000 or more shall also list all their suitable openings with the appropriate office of the State employment service, but are not required to provide those reports set forth in paragraphs 4 and 5.
3. Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and non-veterans. The listing of employment openings does not require the hiring of any particular *job* applicant or from any particular group of job applicants, and nothing herein is intended to relieve the Contractor from any requirements in Executive Orders or regulations regarding nondiscrimination in employment.
4. The reports required by paragraph 2 of this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office or, where the Contractor has more than one hiring location in a State, with the central office of that State employment service. Such reports shall indicate for each hiring location (1) the number of individuals hired during the reporting period, (2) the number of nondisabled veterans of the Vietnam era hired, (3) the number of disabled veterans of the Vietnam era hired, and (4) the total number of disabled veterans hired. The reports should include covered veterans hired for on-the-job training under

38 U.S.C. 1787. The Contractor shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this Contract identifying data for each hiring location copies of the reports submitted until the expiration of one year after final payment under the Contract, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representatives of the contracting officer or of the Secretary of Labor. Documentation would include personnel records respecting job openings, recruitment and placement.

5. Whenever the Contractor becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these provisions and has so advised the State system, there is no need to advise the State system of subsequent contracts. The Contractor may advise the State system when it is no longer bound by the contract clause.
6. This clause does not apply to the listing of employment openings which occur and are filled outside of the 50 states, the District of Columbia, Puerto Rico, Guam and the Virgin Islands.
7. The provisions of paragraphs 2. 3. 4 and 5 of this clause do not apply to openings which the Contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization or employer-union arrangement for that opening.
8. As used in this clause:
 - a. "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: production and nonproduction; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive, administrative, and professional openings are compensated on a salary basis of less than \$25,000 per year. This term includes full-time employment, temporary employment of more than three days' duration, and part-time employment. It does not include openings which the Contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement nor openings in an educational institution which are restricted to students of that institution. Under the most compelling circumstances an employment opening may not be suitable for listing, including such situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be for the best interest of the Government.
 - b. "Appropriate office of the State employment service system" means the local office of the Federal-State national system of public employment offices with assigned responsibility for serving the area where the employment opening to be filled, including the District of Columbia, Guam, Puerto Rico and the Virgin Islands.

- c. "Openings which the Contractor proposes to fill from within his own organization" means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings which the Contractor proposes to fill from regularly established "recall" lists.
 - d. "Openings which the Contractor proposes to fill pursuant to a customary and traditional employer-union hiring arrangement" means employment openings which the Contractor proposes to fill from union halls, which is part of the customary and traditional- hiring relationship which exists between the Contractor and representatives of his employees.
9. The contractor agrees to comply with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
 10. In the event of the Contractor's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
 11. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notice shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era for employment, and the rights of applicants and employees.
 12. The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of the Vietnam Era Veterans Readjustment Assistance Act, and is committed to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam Era.
 13. The Contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations or orders of the Secretary issued pursuant to the Act, so that such provisions will be binding upon each Subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

I. Age Discrimination Act of 1975

During the performance of this Contract, the Contractor agrees as follows: the Contractor agrees not to exclude from participation, deny program benefits, or discriminate on the basis of age.

8. Certification of Compliance with Air and Water Acts (applicable to Federally assisted construction contracts and related subcontracts exceeding (\$100,000)

Compliance with Air and Water Acts

During the performance of this Contract, the Contractor and all Subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Contract Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended.

In addition to the foregoing requirements, all nonexempt" Contractors and Subcontractors shall furnish to the Owner, the following:

- A. A stipulation by the Contractor or Subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.
- B. Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- C. A stipulation that as a condition for the award of the Contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the Contract, is under consideration to be listed on the EPA List of Violating Facilities.
- D. Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in paragraphs A through D of this section in every nonexempt subcontract and requiring that the Contractor will take such actions as the Government may direct as a means of enforcing such provisions.

9. Special Conditions Pertaining to Hazards, Safety Standards and Accident Prevention

- A. Lead-Based Paint Hazards (applicable to contracts for construction or rehabilitation of residential structures)

The construction or rehabilitation of residential structures is subject to the HUD Lead-Based Paint regulations, 24 CFR Part 35. The Contractor and Subcontractors shall comply with the provisions for the elimination of lead-based paint hazards under sub-part B of said regulations. The Owner will be responsible for the inspections and certifications required under Section 35.14(f) thereof.

- B. Use of Explosives (modify as required)

When the use of explosives is necessary for the prosecution of the work, the Contractor shall observe all local, State and Federal laws in purchasing and handling of explosives. The Contractor shall take all necessary precaution to protect completed work, neighboring property, water lines or other underground structures. Where there is danger to structures or property from blasting, the charges shall be reduced and the material shall be covered with suitable timer, steel or rope mats. The Contractor shall notify all owners of public utility property of intention to use explosives at least eight hours before blasting is done close to such property. Any supervision or direction of use of explosives by the Engineer, does not in any way reduce the responsibility of the Contractor or his Surety for damages that may be caused by such use.

C. Danger Signals and Safety Devices (modify as required)

The Contractor shall make all necessary precautions to guard against damages to property and injury to persons. He shall put up and maintain in good condition, sufficient red or warning lights at night, suitable barricades and other devices necessary to protect the public. In case the Contractor fails or neglects to take such precautions, the Owner may have such lights and barricades installed and charge the cost of this work to the Contractor. Such action by the Owner does not relieve the Contractor of any liability incurred under these specifications or Contract.

10. Energy Efficiency

The Contractor shall recognize mandatory standards and policies relating to energy efficiency, which are contained in the State Energy Conservation Plan issued in Compliance with the Energy Policy and Conservation Act.

11. Access to Records

The Contractor shall maintain accounts and project records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the City to assure proper accounting for all project funds, both CDBG and non-CDBG shares. These records will be made available to the City, the Kentucky Governor's Office for Local Development, Commonwealth of Kentucky Finance & Administration Cabinet, Commonwealth of Kentucky Auditor of Public Audits, Commonwealth of Kentucky Legislative Research Commission, U.S. Department of Housing and Urban Development, the U. S. Department of Labor, and the Comptroller General of the United States, or any of their duly authorized representatives. These parties shall have access to any books, documents, papers and records of the Contractor, which are directly pertinent to the project, for the purpose of making audit, examination, excerpts and transcriptions. All records shall be maintained for five years after project closeout.

12. Wage Rate Determination(s)

(Appropriate wage rates shall be inserted here)

13. Contract Work Hours and Safety Standards Act

All grantees and subgrantee's contracts must contain provisions requiring compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5) where construction contracts are awarded by grantees or subgrantees in excess of \$2,000, and in excess of \$2,500 for other contracts involving the employment of mechanics and laborers.

CERTIFICATION OF LEGALLY BINDING AGREEMENTS
(Sample)

Pursuant to Article _____ of the KCDBG Contract, I hereby submit the following legal opinion to the evidentiary materials required to be furnished by _____ (Name of company of individual) _____.

1. I am the attorney for the city/county of _____, recipient of the KCDBG Contract referenced above.

2. I am basing the foregoing legal opinion on the written Affidavit of _____ (Name, title, and function) _____, copies of the enclosed documents, and upon my information and belief. I do not have personal knowledge of any of the facts alleged herein.

3. **Evidence of Contracts.** Enclosed is a copy of the Agreement entered into by _____ (Name and title of city/county official) _____, the city/county of _____, as attested to by _____ (List all persons attesting to contract and titles -- both city/county officials and representatives of private parties) _____.

Also enclosed is a copy of the Ordinance authorizing the _____ (Title of city/county official) _____ to enter into a Contract with _____ (Name of company or individual) _____.

It is my opinion that _____ (Name of city/county official) _____ was authorized to enter into the Contract with _____ (Name of company or individual) _____. My opinion is based on resolution number _____, which was duly passed by the legislative body of the city/county of _____ authorizing the _____ (Title of city/county official) _____ to enter into the Contract.

It is my opinion that _____ (Name) _____ is the _____ (Title) _____ of _____ (Name of company) _____ and that s/he was authorized to enter into the KCDBG Agreement with the city/county of _____. My opinion is based upon the attached Affidavit(s) of _____ (Name(s) and title(s) of person(s) submitting Affidavit(s) _____.

It is my opinion that the above mentioned contracts are legally enforceable under the laws of this Commonwealth and conform to the provision of the Grant Agreement unless otherwise specified herein.

Optional: to be used where acquisition, lease and/or loan transactions occur

4. **Evidence of Loan/Lease Agreements.** Attached are copies of loan/lease documents _____ (to be) _____ entered into by _____ (Name and title of city/county official) _____, the _____ (city/county) _____, as listed below:

- a) Lease agreement signed and recorded between the lessor and the lessee; and/or,
- b) Draft loan agreement between _____ the lender and _____ the debtor;
- c) Draft mortgage document(s), promissory note(s), subordination agreement(s), security agreement(s), etc. as deemed appropriate by the _____ (city/county) _____ attorney.

Also attached is a copy of the resolution/ordinance authorizing the _____ (Title of city/county official) _____ to enter into the referenced documents with _____ (Name of company or individual) _____.

It is my opinion that _____ (Name of city/county official) _____ was authorized to enter into the above documents with _____ (Name of company or individual) _____. My opinion is based on resolution/ordinance number _____, which was duly passed by the legislative body of the city/county of _____ authorizing the _____ (Title of city/county official) _____ to enter into the documents.

It is my opinion that _____ (Name) _____ is the _____ (Title) _____ of _____ (Name of company) _____ and that he was authorized to enter into the documents with the city/county of _____. My opinion is based upon the attached Affidavit(s) of _____ (Name(s) and title(s) of person(s) submitting Affidavit(s)).

5. **Opinion on Title.** I have conducted/reviewed a title search of the referenced property expressed by _____ (Name, title of preparer) _____. It is my opinion that the conclusion(s) expressed is commensurate with the intent of the CDBG Grant Agreement.

LEGALLY BINDING AGREEMENT
(Sample)

NOTE: This sample agreement represents a format that can be adapted by the grant recipient to be used as either a two-party or three-party document depending on the particular needs of the project. The sample can be modified for use based on the provisions of the grant agreement. The sample provides a legal mechanism that can be executed between a grantee and either a for-profit corporation, nonprofit corporation, water/sewer district, or other related organization. Modification of this agreement is to be conducted in line with the content and requirements of the Grant Agreement.

This agreement entered into this _____ day of _____, 20____, by and between the _____ (Council/Fiscal Court) _____, hereinafter referred to as the Recipient, (and/or) the _____ (Organization/District) _____, hereinafter called the Nonprofit (and/or) the _____ (Company) _____, hereinafter called the Participating Party. This agreement is being executed in three original contracts, each of which is deemed an original.

WHEREAS, the Recipient has entered into a Grant Agreement with the Commonwealth of Kentucky, Department of Local Government, and

WHEREAS, the payment of funds to the Recipient under the terms of the Grant Agreement is contingent upon the Nonprofit (and/or) Participating Party contracting to undertake certain responsibilities, and

WHEREAS, the funds made available under the terms of the Grant Agreement will directly benefit the Participating Party (and/or) Nonprofit,

NOW, THEREFORE, for and in consideration of the sum of ONE DOLLAR (\$1.00) paid to the Nonprofit (and/or) Participating Party, and in further consideration of the mutual promises and covenants hereinafter contained, IT IS AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

NOTE: For two-party agreement include either Item 1 or 2 as appropriate.
For three-party agreement include both Item 1 and 2 as appropriate.

ITEM 1:

The Recipient and Nonprofit do hereby agree to carry out and perform all of the activities required of it under the terms and conditions of the Grant Agreement, which agreement is incorporated herein by reference as if copied in full.

The Nonprofit agrees as follows:

- a) To perform project activities as enumerated in Exhibit B-2 of the Grant Agreement as enumerated below:
 - i. **List activities as contained in the Grant Agreement.**
 - ii.
 - iii. **...etc.**

Include b) and c) if applicable
- b) Nonprofit shall assure that the (Loan/Lease) Agreement with the Participating Party shall contain provisions granting access to employment records by the Recipient and the Commonwealth for the sole purpose of confirming compliance with job requirements set forth in Exhibit A and CDBG benefit requirements.
- c) Nonprofit shall assure that the recapture of CDBG funds will be deposited in a Revolving Fund Account (RF). Recaptured funds will be used for activities set forth in the application dated _____, 20____. The Nonprofit shall assure compliance with proper accounting and reporting requirements related thereto. The Nonprofit shall obtain project approval from the Recipient for the expenditure of funds as specified in the RF document.

ITEM 2:

The Recipient and Participating Party do hereby agree to carry out and perform all of the activities required of it under the terms and conditions of the Grant Agreement, which agreement is incorporated herein by reference as if copied in full.

The Participating Party agrees as follows:

- a) To perform project activities as enumerated in Exhibit C of the Grant Agreement as enumerated below:
 - i. **List activities as contained in the Grant Agreement.**
 - ii.
 - iii. **...etc.**
- b) To provide employment opportunity as enumerated in Exhibit A of the Grant Agreement and below:
 - i. To create/retain at a minimum _____ (_____) permanent full-time jobs.
 - ii. To assure at least fifty-one percent (51%) of the jobs will be filled by individuals from families of low- to moderate-income (LMI).
 - iii. To accept income limits for identifying LMI beneficiaries and the time period set for meeting job requirements as set out in the Grant Agreement.
- c) To maintain for a period of five years following project closeout all employment records related to the project to include but not be limited to the Employee Survey Forms, Employee Characteristics Record and Employee Characteristics Summarization.

- d) To pay the Commonwealth of Kentucky through the Recipient, an amount equal to the total CDBG grant funds received by the Recipient, except for any planning or administrative funds, should 51% of the jobs created fail to be fulfilled by individuals from LMI families as required by the Grant Agreement, Exhibit C. Failure to create the full job commitment of _____ (_____) jobs shall require repayment by the Participating Party at the rate of \$_____ per job not created.

The Nonprofit (and/or) Participating Party agrees as follows:

- a) To maintain for a period of five years following project closeout all financial records and documents relative to disbursement of any CDBG or other funds identified in and required by the Grant Agreement. Such records include, but are not limited to, ledgers, bank statements, contracts, invoices and reports.
- b) To grant access to inspect, copy, audit and examine at all reasonable times employment and financial records to any duly authorized representative of the Commonwealth, HUD, Inspector General and General Accounting Office of the United States, for a period up to five years following completion of closeout procedures.
- c) To comply with all State and Federal laws and regulations pertinent to the project.

The Nonprofit (and/or) Participating Party further agrees to the following terms and conditions:

- a) That no transfer of grant funds by the Recipient to the Nonprofit (and/or) Participating Party shall be or be deemed an assignment of grant funds, and that the Nonprofit (and/or) Participating Party shall neither succeed to any rights, benefits, or advantages of the Recipient under the terms of the hereinabove described Grant Agreement nor attain any rights, privileges, authorities or interest in or under the said agreement.
- b) That the Nonprofit (and/or) Participating Party acknowledges nothing contained in the said agreement, nor in any contract between the parties hereto, nor any act of the Commonwealth, the Recipient or any other party shall be deemed or construed to create any relationship or third-party beneficiary, principal and agent, limited or general partnership, or joint venture, or of any association or relationship involving the Commonwealth.
- c) That the Recipient shall not be liable to the Nonprofit (and/or) Participating Party or any party except the Commonwealth, for the completion of, or the failure to complete, any activities which are a part of the project herein contemplated, except those specified in Exhibit B, of the said Grant Agreement.
- d) None of the Nonprofit (and/or) Participating Party's designees, agents, members, officers or employees, has or shall have any interest, direct or indirect, in any contract or subcontract or the proceeds thereof, for work to be

performed in connection with the project herein contemplated at any time during or after such person's tenure with the Nonprofit (and/or) Participating Party.

- e) The obligations of the parties are totally contingent upon the obtaining of a Release of Funds from the Department of Local Government and no project activities other than environmentally exempt activities may occur until the release is achieved.
- f) Recipient, Nonprofit (and/or) Participating Party agree and accept that all applicable provisions of the Grant Agreement are incorporated into and made a part of this Legally Binding Agreement.
- g) The Legally Binding Agreement Standard Provisions attached to this Agreement as Exhibit I are considered to be an integral part of this Agreement. These provisions are subject to change from time to time as Federal laws and regulations are promulgated. The Nonprofit (and/or) Participating Party will be notified in writing if any changes occur.

**City/County
Legally Binding Agreement**

This Agreement being formally adopted this _____ day of _____,
20____:

Recipient:

Examined as to form and legality:

(Mayor/County Judge)

Recipient Attorney

State of Kentucky
County of _____

Subscribed, sworn to and acknowledged before me by _____,
_____(Title)_____ by and through its resolution, on this _____ day of _____,
20_____.

My Commission expires:

Notary Public

Nonprofit:

(President/Chair)

State of Kentucky
County of _____

Subscribed, sworn to and acknowledged before me by _____,
_____(Title)_____ by and through its resolution, on this _____ day of _____,
20_____.

My Commission expires:

Notary Public

City/County
Legally Binding Agreement

Participating Party:

(President/Chairman)

State of Kentucky

County of _____

Subscribed, sworn to and acknowledged before me by _____,
_____ (Title) _____ by and through its resolution, on this _____ day of _____,
20____.

My Commission expires:

Notary Public

**LEGALLY BINDING AGREEMENT
EXHIBIT I
STANDARD PROVISIONS**

NOTE: The following CDBG Provisions should be used with all Legally Binding Agreements where CDBG funds are being used in whole or in part.

1. **Unexpended Grant Funds:** The Non-Profit (and/or) Participating Party agrees that it will return to the Recipient any unexpended grant funds provided by the Recipient under this Agreement.
2. **Program Income:** Briefly describe how the program income generated from CDBG funded activities will be handled.
3. **Limitation of Liability:** The Non-Profit (and/or) Participating Party will not assert in any legal action by claim or defense, or take the position in any administrative or legal procedures that he is an agent or employee of the Recipient.
4. **Ownership:** Ownership of all real or personal property, acquired in whole or in part with CDBG funds for use on this project, shall be vested in the unit of local government. When the unit of local government determines that the property is no longer required for the purposes of this project, the unit of local government must notify the Department of Local Government (DLG) and obtain approval for disposition of the property in accordance with applicable guidelines.
5. **Agreement/Contract:** If any provision in this agreement/contract shall be held to be invalid or unenforceable, the remaining portions shall remain in effect. In the event such invalid or unenforceable provision is considered an essential element of this agreement/contract, the parties shall promptly negotiate a replacement provision, which addresses the intent of such provision.

The failure of either party to insist upon strict performance of any terms, conditions and covenants herein set forth shall not be deemed a waiver of any rights or remedies that such party may have and shall not be deemed a waiver of any subsequent breach or default in the terms, conditions and covenants herein contained.

Federal, State and local laws, ordinances and codes are subject to change from time to time as they are promulgated. The Non-Profit (and/or) Participating Party shall be notified in writing of any such changes when they occur and they shall be incorporated in writing into this contract/agreement upon concurrence by both parties unless such changes are considered to have an essential impact upon the intent of this agreement/contract and then they shall be incorporated upon notification to the Non-Profit (and/or) Participating Party.

6. **Terms and Conditions:** DLG reserves the right to add or delete terms and conditions of this Agreement as may be required by revisions and additions or changes in the requirements, regulations, and laws governing the Community Development Block Grant Program.

7. **Reporting Requirements:** The Non-Profit (and/or) Participating Party agrees to complete and submit all reports, in such form and according to such schedule, as may be required by DLG.
8. **Maintenance of Records:** Records for non-expendable property purchased totally or partially with Federal funds must be retained for five years after final close-out. All other pertinent contract records including financial records, supporting documents and statistical records shall be retained for a minimum of five (5) years after the final close-out report.

However, if any litigation, claim, or audit is started before the expiration of the five (5) year period, then records must be retained for five (5) years after the litigation, claim or audit is resolved.

9. **Access to Records:** Records with respect to all matters covered by this agreement shall be made available for audit and inspection by DLG, HUD or their representatives.
10. **Sanctions:** If the Non-Profit (and/or) Participating Party fails or refuses to comply with the provisions set forth herein, then DLG or the Recipient may take any or all of the following sanctions: cancel, terminate or suspend in whole or in part this agreement, or refrain from extending any further funds to the Non-Profit (and/or) Participating Party until such time as the Non-Profit (and/or) Participating Party is in full compliance.
11. **Applicable Law:** In addition to the applicable Federal Laws and Regulations, this agreement is also made under and shall be construed in accordance with the laws of the Commonwealth of Kentucky. By execution of this agreement, the Non-Profit (and/or) Participating Party agrees to submit to the jurisdiction of the Commonwealth of Kentucky for all matters arising or to arise hereunder, including but not limited to performance of said agreement and payment of all licenses and taxes of whatever kind or nature applicable hereto.
12. **Uniform Administrative requirements:** The Non-Profit (and/or) Participating Party shall adhere to the following administrative requirements:

Financial: Guidelines for financial and compliance audits of Federally assisted programs which are OMB Circular A-133, and OMB Circular A-87.

Procurement: The following provisions regarding "conflicts of interest" apply to the use and expenditure of CDBG funds by the Recipient and the Non-Profit (and/or) Participating Party.

Except for eligible administrative or personnel costs, the general rule is that no person who is an employee, agent, consultant, officer, or elected or appointed official of the Commonwealth of Kentucky or a unit of general local government or any designated public agencies or subrecipient which are receiving CDBG funds who exercise or have exercised any function or responsibilities with respect to CDBG activities assisted herein or are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder either for themselves or those with whom they have family or business ties during their tenure or for one year thereafter. Exceptions may be granted

by the Department for Local Government on a case-by-case basis as requested upon full disclosure in writing.

Should any governmental entity, recipient, subrecipient, employee or official know or perceive any breach of ethical standards or conflict of interest involving any other CDBG grant, they shall immediately notify the Department for Local Government.

Personnel: All contractors and subcontractors engaged in the project shall be fully qualified and properly licensed under State and local law to perform such services.

The Non-Profit (and/or) Participating Party shall insure that all Prime Contractors/Subcontractors are bonded and insured in accordance with State and Federal requirements.

Other Program Requirements: All activities by the Non-Profit (and/or) Participating Party shall be carried out in compliance with all Federal laws and regulations except for environmental responsibilities and review process under Executive Order 12372, which are the responsibility of the Recipient.

Suspension and Termination: In accordance with 24 CFR 85.43 suspension or termination may occur if the Non-Profit (and/or) Participating Party materially fails to comply with any terms of this Agreement, and that the Agreement may be terminated for convenience in accordance with 24 CFR 85.44.

Debarment Certification: The Non-Profit (and/or) Participating Party must verify that all contractors and subcontractors are not listed in the "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions", prior to receiving Federal funds. The Non-Profit (and/or) Participating Party must require that any prime contractor or lower tier contractor with a contract valued at more than \$100,000 must also complete a debarment certification and the Non-Profit (and/or) Participating Party will keep it on file for review as outlined in records and reports. The Non-Profit (and/or) Participating Party must also check the eligibility on all contractors and subcontractors who perform work under this Agreement regardless of dollar amount.

Use of Real Property and Reversion of Assets: Upon expiration or termination of this Agreement the Non-Profit (and/or) Participating Party shall transfer on behalf of the Recipient, to the Department for Local Government, or the Department for Local Government's Assignee, any CDBG funds on hand at that time and any accounts receivable attributable to the use of CDBG funds.

Any real property acquired or improved in whole or in part with CDBG funds must continue to be used for the purpose for which it was acquired or improved. Any changes in its use must be approved by the Department for Local Government in writing.

Amendments: Any changes in the scope of the project, as outlined in this Agreement, including cost increases, must be submitted in writing by the Non-Profit (and/or) Participating Party to the Recipient as a request for an award adjustment. Any adjustment granted by the Recipient shall be appended to this Agreement as an amendment.

13. **Copyright:** Except as otherwise provided in the terms and conditions of this contract, the Non-Profit (and/or) Participating Party paid through this contract is free to copyright any books, publications or other copyrightable materials developed in the course of and under this contract. However, the U. S. Department of Housing and Urban Development and DLG reserve a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, for Federal Government and State Funded Agencies (SFA) purposes:

- A. the copyright in any work developed under this contract; and
- B. any rights of copyright to which a Non-Profit (and/or) Participating Party purchases ownership with grant support.

The Federal Government's rights and the DLG's rights identified above must be conveyed to the publisher and the language of the publisher's release form must insure the preservation of these rights.

14. **Compliance with Air and Water Acts:** Applicable to construction contracts and related subcontracts exceeding \$100,000: This contract is subject to the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect to 40 CFR Part 15, as amended from time to time.

- A. A stipulation by the Contractor that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the List of Violating Facilities, issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.
- B. Agreement by the Contractor to comply with all the requirements of section 114 of the Clean Air Act, as amended (42 USC 1857c-8-0 and section 308 of the Federal Water Pollution Control Act, as amended (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said section 114 and 308, and all regulations and guidelines issued thereunder.
- C. A stipulation that as a condition of award of contract prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the contract under consideration is to be listed on the EPA list of Violating Facilities.
- D. Agreement by the Non-Profit (and/or) Participating Party that he will include or cause to be included the criteria and requirements in paragraph (A) through (D) of this agreement, in every nonexempt subcontract and requiring that the Contractor will take such action as the State may direct as a means of enforcing such provisions.

In no event shall any amount of assistance provided under this agreement be utilized with respect to a facility which has given rise to a conviction under section 113(c)(1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.

15. **Subcontracting with Small and Minority Firms, Women's Business Enterprise and Labor Surplus Areas:** It is national policy to award a fair share of contracts to small and minority and women's owned businesses. Accordingly, affirmative steps must be taken to assure that small, minority and women owned businesses are utilized when possible as

sources of supplies, equipment, construction and services. Affirmative steps shall include the following:

- A. Including qualified small and minority businesses on solicitation lists;
 - B. Assuring that small, minority and women owned businesses are solicited whenever they are potential sources;
 - C. Whenever economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small, minority and women owned businesses' participation;
 - D. Where the requirement permits, establishing delivery schedules which will encourage participation by small and minority businesses; and
 - E. Using the services and assistance of the Small Business Administration, the Kentucky Cabinet for Economic Development, the U. S. Department of Commerce and the Community Services Administration as required.
16. **Confidential Information:** Any reports, information, data, etc., given to, prepared by, or assembled by the Non-Profit (and/or) Participating Party under this agreement, which DLG requests to be kept confidential, shall not be made available to any individual or organization by the Non-Profit (and/or) Participating Party without prior written approval of DLG.
 17. **Prime Non-Profit (and/or) Participating Party Responsibilities:** The Non-Profit (and/or) Participating Party is required to assume sole responsibility for the complete effort and enforcement of laws and regulations under this agreement. The Recipient will consider the Non-Profit (and/or) Participating Party to be the sole point of contact with regard to contractual matters.
 18. **Subcontracting:** If any part of the work covered by this agreement is to be subcontracted, the Non-Profit (and/or) Participating Party shall identify the subcontracting entity and the contractual arrangements made therewith to the Recipient. All subcontracts must be approved by the Recipient to insure they are not debarred or suspended by the Federal or State Government and to insure the Recipient understands the arrangements.
 19. **Legal Services:** No attorney-at-law shall be engaged through the use of any funds provided under this contract in suits against the State, Local Public Body or any political subdivision.
 20. **Political Activity:** None of the funds, materials, property or services provided directly or indirectly under this contract shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office or otherwise in violation of the provisions of the "Hatch" Act.
 21. **Reporting of Fraudulent Activity:** If at any time during the term of this agreement anyone has reason to believe by whatever means that, under this or any other program administered by DLG, a recipient of funds has improperly or fraudulently applied for or received benefits, monies or services pursuant to this or any other contract, such information shall be immediately reported to the appropriate authorities.

22. **Age Discrimination:** In accordance with 45 CFR, parts 90 and 91, the Non-Profit (and/or) Participating Party agrees there shall be no bias or age discrimination as to benefits and participation under this agreement.
23. **Section 109 of the Housing and Community Development Act of 1974:** No person in the United States shall on the grounds of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part pursuant to agreement.
24. **Section 3, Compliance and Provision of Training, Employment and Business Opportunities:** 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 USC 1701u. The purpose of Section 3 is to ensure that 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, particularly persons who are recipients of HUD assistance for housing.

The parties to this said contract agree to comply with HUD's regulations in 24 CFR Part 135, 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 135 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, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and 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 subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. 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 135.

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 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.

The contractor agrees to submit such reports as required to document compliance with Part 135. Noncompliance with the regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

25. **Section 504 of the Rehabilitation Act of 1973:** The Non-Profit (and/or) Participating Party agrees that no otherwise qualified individual with disabilities shall, solely by reason of his disability, be denied the benefits, or be subjected to discrimination including discrimination in employment, in any program or activity that receives the benefits from the Federal financial assistance.
26. **Lead-Based Paint:** The construction or rehabilitation of residential structures with assistance provided under this Agreement is subject to the HUD Lead-Based Paint regulations, 24 CFR Part 35. Any grants or loans made by the Non-Profit (and/or) Participating Party for the rehabilitation of residential structures with assistance provided under this Agreement shall be made subject to the provisions for the elimination of lead-base paint hazards under subpart B of said regulations, and the Non-Profit (and/or) Participating Party shall be responsible for the inspections and certifications required under section 35.14(f) thereof.
27. **Debarment Certification:** The Non-Profit (and/or) Participating Party must comply with Federal Debarment and Suspension regulations prior to entering into a financial agreement for any transaction as outlined below.
- A. Any procurement contract for goods and services, regardless of type, expected to equal or exceed the Federal procurement small purchase threshold (which is \$25,000 and is cumulative amount from all Federal funding sources).
 - B. Any procurement contract for goods and services, regardless of amount, under which the Non-Profit (and/or) Participating Party will have a critical influence on or substantive control over the transaction.
28. **Equal Employment Opportunity:** In carrying out the program, the Non-Profit (and/or) Participating Party shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Non-Profit (and/or) Participating Party must take affirmative action to insure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Non-Profit (and/or) Participating Party shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Government setting forth the provisions of this non-discrimination clause. The Non-Profit (and/or) Participating Party shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin. The Non-Profit (and/or) Participating Party shall incorporate the foregoing requirements of this paragraph in all of its subcontracts for project or program.

The Non-Profit (and/or) Participating Party will, in all solicitations or advertisements for employees by or on behalf of the Non-Profit (and/or) Participating Party, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

The Non-Profit (and/or) Participating Party will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the State advising the said labor union or workers' representatives of the Non-Profit (and/or) Participating Party's commitment under this Section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The Non-Profit (and/or) Participating Party will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the State.

The Non-Profit (and/or) Participating Party will furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended, and by the rules, regulations, and orders of the State, or pursuant thereto, and will permit access to its books, records, and accounts by HUD and the State for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

In the event of the Non-Profit (and/or) Participating Party's noncompliance with the non-discrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the Non-Profit (and/or) Participating Party may be declared ineligible for further Government contracts or Federally assisted construction contract procedures authorized in Executive Order 11246 of September 24, 1965, as amended, or by rules, regulations, or order of the State, or as otherwise provided by law.

The Non-Profit (and/or) Participating Party will include the above provisions in every subcontract or purchase order unless exempted by rules, regulations, or orders of the State issued pursuant to section 204 of Executive Order 11246 of September 25, 1965, as amended, so that such provisions will be binding upon each Non-Profit (and/or) Participating Party or vendor. The Non-Profit (and/or) Participating Party will take such action with respect to any subcontract or purchase order as DLG may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Non-Profit (and/or) Participating Party becomes involved in, or is threatened with, litigation with an entity as a result of such direction by DLG, the Non-Profit (and/or) Participating Party may request DLG to enter into such litigation to protect the interest of the State.

The Non-Profit (and/or) Participating Party further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in Federally assisted construction work.

29. **Federal Labor Standards Provisions:** The project or program to which the work covered by this agreement pertains is being assisted by the United States of America and the Federal Labor Standards Provisions are applicable to any construction contracts in excess of \$2,000 or residential rehabilitation contracts involving more than eight units entered into by the Non-Profit (and/or) Participating Party. The Non-Profit (and/or) Participating Party shall include the required Federal language covering Davis-Bacon, Copeland Anti Kickback, and Contract work and Safety Standard Acts in any such contract.

Contract and Subcontract Activity

Public Reporting Burden for this collection of information is estimated to average .50 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This information is voluntary. HUD may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB Control Number.

Executive Order 12421 dated July 14, 1983, directs the Minority Business Development Plans shall be developed by each Federal Agency and that these annual plans shall establish minority business development objectives. The information is used by HUD to monitor and evaluate MBE activities against the total program activity and the designated minority business enterprise (MBE) goals. The Department requires the information to provide guidance and oversight for programs for the development of minority business enterprise concerning Minority Business Development. If the information is not collected HUD would not be able to establish meaningful MBE goals nor evaluate MBE performance against these goals. While no assurances of confidentiality is pledged to respondents, HUD generally discloses this data only in response to a Freedom of Information request.

Privacy Act Notice - The United States Department of Housing and Urban Development, Federal Housing Administration, is authorized to solicit the information requested in this form by virtue of Title 12, United States Code, Section 1701 et seq., and regulations promulgated thereunder at Title 12, Code of Federal Regulations. It will not be disclosed or released outside the United States Department of Housing and Urban Development without your consent, except as required or permitted by law.

1. Grantee/Project Owner/Developer/Sponsor/Builder/Agency	Check if: PHA <input type="checkbox"/> IHA <input type="checkbox"/>	2. Location (City, State, ZIP Code)		
3a. Name of Contact Person	3b. Phone Number (Including Area Code)	4. Reporting Period <input type="checkbox"/> Oct. 1 - Sept. 30 (Annual-FY)	5. Program Code (Not applicable for CPD programs.) See explanation of codes at bottom of page. Use a separate sheet for each program code.	6. Date Submitted to Field Office

Grant/Project Number or HUD Case Number or other identification of property, subdivision, dwelling unit, etc. <small>7a.</small>	Amount of Contract or Subcontract <small>7b.</small>	Type of Trade Code (See below) <small>7c.</small>	Contractor or Subcontractor Business Racial/Ethnic Code (See below) <small>7d.</small>	Woman Owned Business (Yes or No) <small>7e.</small>	Prime Contractor Identification (ID) Number <small>7f.</small>	Sec. 3 <small>7g.</small>	Subcontractor Identification (ID) Number <small>7h.</small>	Sec. 3 <small>7i.</small>	Contractor/Subcontractor Name and Address <small>7j.</small>												
									Name	Street	City	State	Zip Code								

- | | | | | |
|--|--|--|---|---|
| CPD:
1 = New Construction
2 = Education/Training
3 = Other | 7c: Type of Trade Codes:
Housing/Public Housing:
1 = New Construction
2 = Substantial Rehab.
3 = Repair
4 = Service
5 = Project Mangt. | 7d: Racial/Ethnic Codes:
1 = White Americans
2 = Black Americans
3 = Native Americans
4 = Hispanic Americans
5 = Asian/Pacific Americans
6 = Hasidic Jews | 5: Program Codes (Complete for Housing and Public and Indian Housing programs only):
1 = All insured, including Section 8
2 = Flexible Subsidy
3 = Section 8 Noninsured, Non-HFDA
4 = Insured (Management) | 5 = Section 202
6 = HUD-Held (Management)
7 = Public/Indian Housing |
|--|--|--|---|---|

This report is to be completed by grantees, developers, sponsors, builders, agencies, and/or project owners for reporting contract and subcontract activities of \$10,000 or more under the following programs: Community Development Block Grants (entitlement and small cities); Urban Development Action Grants; Housing Development Grants; Multifamily Insured and Noninsured; Public and Indian Housing Authorities; and contracts entered into by recipients of CDBG rehabilitation assistance.

Contracts/subcontracts of less than \$10,000 need be reported only if such contracts represent a significant portion of your total contracting activity. Include only contracts executed during this reporting period.

This form has been modified to capture Section 3 contract data in columns 7g and 7i. Section 3 requires that the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. Recipients using this form to report Section 3 contract data must also use Part I of form HUD-60002 to report employment and training opportunities data. Form HUD-2516 is to be

completed for public and Indian housing and most community development programs. Form HUD-60002 is to be completed by all other HUD programs including State administered community development programs covered under Section 3.

A Section 3 contractor/subcontractor is a business concern that provides economic opportunities to low- and very low-income residents of the metropolitan area (or nonmetropolitan county), including a business concern that is 51 percent or more owned by low- or very low-income residents; employs a substantial number of low- or very low-income residents; or provides subcontracting or business development opportunities to businesses owned by low- or very low-income residents. Low- and very low-income residents include participants in Youthbuild programs established under Subtitle D of Title IV of the Cranston-Gonzalez National Affordable Housing Act.

The terms "low-income persons" and "very low-income persons" have the same meanings given the terms in section 3(b)(2) of the United States Housing Act of 1937. Low-income persons mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary

may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families. Very low-income persons means low-income families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

Submit two (2) copies of this report to your local HUD Office within ten (10) days after the end of the reporting period you checked in item 4 on the front.

Complete item 7h. only once for each contractor/subcontractor on each semi-annual report.

Enter the prime contractor's ID in item 7f. for all contracts and subcontracts. Include only contracts executed during this reporting period. PHAs/IHAs are to report all contracts/subcontracts.

Community Development Programs

1. **Grantee:** Enter the name of the unit of government submitting this report.
3. **Contact Person:** Enter name and phone of person responsible for maintaining and submitting contract/subcontract data.
- 7a. **Grant Number:** Enter the HUD Community Development Block Grant Identification Number (with dashes). For example: B-32-MC-25-0034. For Entitlement Programs and Small City multi-year comprehensive programs, enter the latest approved grant number.
- 7b. **Amount of Contract/Subcontract:** Enter the dollar amount rounded to the nearest dollar. If subcontractor ID number is provided in 7f, the dollar figure would be for the subcontract only and not for the prime contract.
- 7c. **Type of Trade:** Enter the numeric codes which best indicates the contractor's/subcontractor's service. If subcontractor ID number is provided in 7f., the type of trade code would be for the subcontractor only and not for the prime contractor. The "other" category includes supply, professional services and all other activities except construction and education/training activities.
- 7d. **Business Racial/Ethnic/Gender Code:** Enter the numeric code which indicates the racial/ethnic /gender character of the owner(s) and controller(s) of 51% of the business. When 51% or more is not owned and controlled by any single racial/ethnic/gender category, enter the code which seems most appropriate. If the subcontractor ID number is provided, the code would apply to the subcontractor and not to the prime contractor.
- 7e. **Woman Owned Business:** Enter Yes or No.
- 7f. **Contractor Identification (ID) Number:** Enter the Employer (IRS) Number of the Prime Contractor as the unique identifier for prime recipient of HUD funds. Note that the Employer (IRS) Number must be provided for each contract/subcontract awarded.
- 7g. **Section 3 Contractor:** Enter Yes or No.
- 7h. **Subcontractor Identification (ID) Number:** Enter the Employer (IRS) Number of the subcontractor as the unique identifier for each subcontract awarded from HUD funds. When the subcontractor ID Number is provided, the respective Prime Contractor ID Number must also be provided.
- 7i. **Section 3 Contractor:** Enter Yes or No.
- 7j. **Contractor/Subcontractor Name and Address:** Enter this information for each

Previous editions are obsolete.

firm receiving contract/subcontract activity only one time on each report for each firm.

Multifamily Housing Programs

1. **Grantee/Project Owner:** Enter the name of the unit of government, agency or mortgagor entity submitting this report.
3. **Contact Person:** Same as item 3 under CPD Programs.
4. **Reporting Period:** Check only one period.
5. **Program Code:** Enter the appropriate program code.
- 7a. **Grant/Project Number:** Enter the HUD Project Number or Housing Development Grant or number assigned.
- 7b. **Amount of Contract/Subcontract:** Same as item 7b. under CPD Programs.
- 7c. **Type of Trade:** Same as item 7c. under CPD Programs.
- 7d. **Business Racial/Ethnic/Gender Code:** Same as item 7d. under CPD Programs.
- 7e. **Woman Owned Business:** Enter Yes or No.
- 7f. **Contractor Identification (ID) Number:** Same as item 7f. under CPD Programs.
- 7g. **Section 3 Contractor:** Enter Yes or No.
- 7h. **Subcontractor Identification (ID) Number:** Same as item 7h. under CPD Programs.
- 7i. **Section 3 Contractor:** Enter Yes or No.
- 7j. **Contractor/Subcontractor Name and Address:** Same as item 7j. under CPD Programs.

Public Housing and Indian Housing Programs

PHAs/IHAs are to report all contracts/subcontracts. Include only contracts executed during this reporting period.

1. **Project Owner:** Enter the name of the unit of government, agency or mortgagor entity submitting this report. Check box as appropriate.
3. **Contact Person:** Same as item 3 under CPD Programs.
4. **Reporting Period:** Check only one period.
5. **Program Code:** Enter the appropriate program code.
- 7a. **Grant/Project Number:** Enter the HUD Project Number or Housing Development Grant or number assigned.
- 7b. **Amount of Contract/Subcontract:** Same as item 7b. under CPD Programs.
- 7c. **Type of Trade:** Same as item 7c. under CPD Programs.
- 7d. **Business Racial/Ethnic/Gender Code:** Same as item 7d. under CPD Programs.
- 7e. **Woman Owned Business:** Enter Yes or No.
- 7f. **Contractor Identification (ID) Number:** Same as item 7f. under CPD Programs.
- 7g. **Section 3 Contractor:** Enter Yes or No.
- 7h. **Subcontractor Identification (ID) Number:** Same as item 7h. under CPD Programs.
- 7i. **Section 3 Contractor:** Enter Yes or No.
- 7j. **Contractor/Subcontractor Name and Address:** Same as item 7j. under CPD Programs.

Chapter 6: Labor Standards and Construction Management

Introduction

Construction projects funded with KCDBG require that certain procedures be followed in order to comply fully with applicable federal and state requirements. For example, federal and state labor standards require recipients and contractors to meet and document compliance with certain rules associated with the employment of workers on construction projects.

This chapter describes the policies and procedures that must be followed when undertaking construction projects with KCDBG funds, including bid preparation, compliance with labor standards, pre-construction meetings and inspection and approval procedures.

Section 6-A. Pre-Bidding Requirements

The first step in effective management of KCDBG-funded construction projects is the preparation of a bid package. This requires the writing of the technical bid specification – usually by an architect or engineer on the basis of prepared plans or working drawings. These specifications must provide a clear and accurate description of technical requirements for materials and products and/or services to be provided in the contract. Please refer to Chapter 4: Procurement for more guidance on bidding.

[Chapter 4: Procurement](#)

Additionally, the plans and specifications for non-residential construction must be stamped by an architect or engineer registered in Kentucky. Water and sewer projects also require the approval of various state agencies. While the engineer/architect prepares the technical specifications, the Certified Grant Administrator must determine the applicability of Labor Standards and request the necessary wage decisions (see Section B of this chapter).

Note: The environmental review must be completed and, if applicable, release of funds obtained prior to publishing the bid advertisement. Please refer to Chapter 2: Environmental Review for more information.

[Chapter 2: Environmental Review](#)

Property Acquisition Issues

At this stage of the process, the grantee must have obtained all lands, rights-of-way, and easements necessary for carrying out the project. All property to be acquired for any activity, funded in whole or in part with KCDBG funds, is subject to the Uniform Relocation Assistance and Real Property Acquisitions Policies for Federal and Federally Assisted Programs (42 U.S. Code Chapter 61), also referred to as the Uniform Act or URA. Included in the definition of property, among other things, are rights-of-way and easements. If the construction project involves real property acquisition, the grantee should contact its DLG Program Advisor very early and make sure the acquisition is done according to the provisions of the Uniform Act. See Chapter 9: Acquisition for additional information.

[Chapter 9: Acquisition](#)

Section 6-B. Determining the Applicability of Labor Provisions

Federal Requirements

Most construction projects including alteration, repair or demolition, funded in whole or in part with federal dollars, must comply with federal labor standards provisions. Applicable laws include the following:

- ✓ The Davis-Bacon Act requires that workers receive no less than the prevailing wages being paid for similar work in the same locality. The CDBG regulations apply this Act to construction work that is financed in whole or in part with CDBG funds of more than \$2,000.
- ✓ The Copeland Anti-Kickback Act requires that workers be paid weekly, that deductions from their pay be permissible, and that contractors keep and submit weekly payrolls and Statements of Compliance.
- ✓ The Contract Work Hours and Safety Standards Act requires that workers receive overtime compensation for hours they have worked in excess of 40 hours in one week. This Act applies to all KCDBG-assisted construction contracts of \$100,000 or more.

Davis-Bacon Act: 40 USC, Chapter 3, Section 276a-276a-5

Copeland Anti-Kickback Act: 40 USC, Chapter 3, Section 276c and 18 USC, Part 1, Chapter 41, Section 874

Contract Work Hours and Safety Standards Act: 40 USC, Chapter 5, Sections 326-332

Tip: HUD had published two guides that are available for downloading on labor standards requirements. These documents are “Making Davis Bacon Work: A Practical Guide for States, Indian Tribes and Local Agencies” and “Making Davis Bacon Work: A Contractor’s Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects.” HUD Handbook 1344.1 also provides detailed guidance on labor standards requirements.

Exceptions

There are certain exceptions to the Davis-Bacon and Copeland Anti-Kickback Acts. These acts do not apply to:

- ✓ Construction contracts at or below \$2,000. Note that arbitrarily separating a project into contracts below \$2,000 in order to circumvent the requirements is not permitted.
- ✓ Rehabilitation of residential structures containing less than eight units. See Chapter 10: Housing for other rehabilitation requirements.
- ✓ Non-construction related activities will not cause Davis-Bacon to apply to the whole project. These are activities such as real property acquisition, procurement of furnishings, architectural and engineering fees, and certain pieces of equipment that would not become permanently affixed to the real property. Exempt equipment purchases would be those that are incidental to the project that require minimal installation costs. Please contact DLG for equipment installations to determine whether the labor requirements will apply.

Chapter 10: Housing

- ✓ Simple water and sewer line extensions without pumps, tanks, etc. may also be exempt. Grantees must first check with DLG staff.
- ✓ Separate and distinct projects. In some cases, an activity can occur in the same vicinity as another activity, but because it is a separate and distinct project, labor provisions may apply to one and not the other. Contact DLG for guidance.
- ✓ Contracts solely for demolition, when no construction is anticipated on the site.

DLG should be contacted if there is any situation where Davis-Bacon applicability is in question.

Equipment and Installation

When CDBG funds are utilized in whole or in part to finance equipment, the applicability of wage rates to the installation must be determined. The general rule is that installation work performed in conjunction with an equipment supply contract is subject to labor standards where it involves more than an incidental amount of construction activity. Factors requiring consideration include: nature of the prime contract work; type of work performed by employees installing the equipment; extent to which structural modifications to buildings are needed to accommodate the equipment; the cost of the installation work both in terms of absolute amounts as well as in terms of the proportion of the total equipment and project cost. An equipment analysis must be completed in which all items of equipment are included with an explanation of related installation/modification costs and submitted to DLG to make a proper determination.

State Requirements

Prior to January 17, 2017, the Kentucky Prevailing Wage Law at KRS 337.505-550 required state prevailing wages be paid by any public authority for construction of any public works project fairly estimated to cost more than \$250,000. **The KY prevailing wage requirement was repealed by the Governor as of January 7, 2017.** Therefore, projects for which bids had been awarded prior to that date are subject to the previous state prevailing wage requirements, while projects for which bids have NOT been awarded by that date are NOT subject to the state prevailing wage requirements.

KRS 337.505-550, 337.010,
337.285 and 33.540

The state overtime requirements of KRS 337.285 regarding payment of time and one-half for hours in excess of a 40-hour workweek will continue to apply to all contracts, unless exempt. Kentucky also requires employers to pay employees overtime at the rate of 1½ time their regular rate for all hours worked on the seventh day when an employee works seven days in a work week, unless exempt.

The state overtime requirements of KRS 337.540 (time and one-half for hours over eight in a workday) were repealed along with the state prevailing wage requirements and will only apply to contracts that were subject to state prevailing wage rates, which means only projects for which contracts were awarded prior to the January 7 repeal of the prevailing wage requirement. For those projects still subject to the 8-hour workday overtime requirements (i.e., those awarded prior to January 7, 2017), the state requires that a contractor enter an agreement with each participating employee in order to waive the eight (8) hour overtime provision in favor of a four (4), ten- (10) hour day week. A sample Kentucky Prevailing

Attachment 6-18:
Sample Kentucky Prevailing Wage
Overtime Agreement

Wage Overtime Agreement for the projects subject to the prior requirements can be found in Attachment 6-18 for this purpose.

Section 6-C. Bidding and Contracting Requirements

A grantee or the grant administrator must be sure to include all applicable labor standards, equal opportunity, and other language in the bid specifications and contract documents, in addition to verifying contractor/subcontractor eligibility (as described in Chapter 4). The grantee is responsible for obtaining all required documentation, monitoring project compliance, and maintaining appropriate files.

Chapter 4: Procurement

Preparing Bid Packages to Meet Federal and State Labor Standards Provisions

Once it is determined that a construction project is subject to federal and/or state labor standards provisions, the following steps must be taken to ensure compliance.

Step 1: Request Applicable Federal Wage Rate Decision

The grantee may access federal wage rate decisions through the Internet at <https://sam.gov/content/wage-determinations>

However, in order to ensure accuracy, the grantee **must** request the applicable federal wage rate decision from DLG using Attachment 6-1: Request for Determination of Wage Rate form.

Attachment 6-1:
Request for Determination of
Wage Rate

This form must be submitted a minimum of 30 days in advance of binding bid documents, though the turn-around time from DLG is usually much quicker than this. DLG prefers your request to be in the form of an email. **Be sure to include the appropriate return email address as requested on the form.**

Note that federal wage determinations are issued for four categories: Building, Residential, Heavy, and Highway. Most KCDBG construction projects will involve either Building or Heavy determinations. In determining which type of wage decision to request, it is important to understand the differences to avoid paying wages from an inappropriate determination.

- ✓ **Building construction** generally includes construction of sheltered enclosures with walk-in access for housing persons, machinery, equipment or supplies. This includes all construction within and including the exterior walls, both above and below grade.
- ✓ **Residential projects** involve the construction, alteration or repair of single-family houses or apartment buildings no more than four stories tall.
- ✓ **Highway** projects include construction, alteration or repair of roads.
- ✓ **Heavy construction** is generally considered for all construction not properly classified as Highway, Residential, or Building. Water and sewer line construction will typically be categorized as Heavy construction.

A grantee's DLG Program Advisor should be consulted if there are questions about properly identifying the type of construction on the project and the wage determination necessary.

NOTE: State prevailing wage requirements were repealed as of January 7, 2017 and thus do not apply to projects awarded after that date.

Step 2: Add Labor Provisions to the Bid Package

The wage rate decision must be a physical part of the bid package. The bid package must contain the labor standards requirements, which are summarized below and separately in this Chapter as Attachment 6-2.

Attachment 6-2:
Federal Labor Standards Provisions
(HUD 4010)

- ✓ Davis-Bacon provisions;
- ✓ Contract Work Hours and Safety Standards clause;
- ✓ Copeland Anti-Kickback clause;
- ✓ Employment of Apprentices/Trainee clause; and
- ✓ Applicable wage rate determination(s).

Caution: If the grantee fails to include the correct wage rate determination(s), the grantee will be responsible for paying the difference between the proper wage rate and the wages paid by the contractor based upon the information provided in the bid package. Also, the grantee *must* make the “Nine-Day Call” to DLG to confirm the wage rates. This requirement is described in detail in Chapter 4: Procurement.

Preparing Contracting Procedures to Meet Equal Opportunity Requirements

The grantee must review all draft bid and contract documents to insure compliance with equal opportunity requirements and establish procedures for monitoring compliance during project execution. The following equal opportunity provisions and signed contractor and subcontractor certifications must be included in all bid and contract documents:

- ✓ Certification of Bidder regarding Section 3;
- ✓ Certification by Proposed Subcontractor regarding Section 3 Segregated Facilities;
- ✓ Certification of Bidder regarding Equal Employment Opportunity;
- ✓ Contractor Section 3 Plan Format (if project exceeds \$200,000);
- ✓ Certification by Proposed Subcontractor regarding Equal Employment Opportunity;
- ✓ Three-paragraph Equal Opportunity Clause for Activities and Contracts not subject to Executive Order 11246 (if contract is less than \$10,000);
- ✓ Executive Order 11246 clause (if contract is \$10,000 or above);
- ✓ Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (if contract over \$10,000);
- ✓ Standard KCDBG-assisted Equal Employment Opportunity Construction Contract Specification (if contract over \$10,000);
- ✓ Certification of Non-segregated Facilities clause (if contract over \$10,000);
- ✓ Title VI Clause, Civil Rights Act of 1964;

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- ✓ Section 109 clause, Housing and Community Development Act of 1974;
 - ✓ Section 3 Compliance in the Provision of Training, Employment and Business Opportunities clause (if contract exceeds \$100,000);
 - ✓ Rehabilitation Act of 1973, Section 503 Handicapped clause (if contract \$2,500 and above);
 - ✓ Section 402 Veterans of the Vietnam Era clause (if contract over \$100,000); and
 - ✓ Age Discrimination Act of 1975 clause.

Female and Minority Participation Requirements

Grantees should pay particular attention to the Standard KCDBG-assisted Equal Employment Opportunity Construction Contract Specifications. These specifications include a place for the grantee to insert both minority and female goals. The nationwide goal for female participation is 6.9 percent.

Minority goals are specific to “Economic Areas,” so the grantee must refer to the regulations for the minority goal for their locality. Attachment 6-3 lists the female and minority participation goals by county.

The Minority Employment Goals By Economic Area for State of Kentucky apply to each construction craft and trade in the contractor’s entire workforce that is working in an area covered by goals and timetables and not just on those jobs that are KCDBG-assisted. A contractor with a KCDBG contract in Standard Metropolitan Statistical Area (SMSA) X and a non-KCDBG assisted contract in SMSA Y must meet SMSA X goals for the workforce in SMSA X, and SMSA Y goals for the workforce in SMSA Y, even though that contract is not KCDBG-assisted.

Attachment 6-3:
Goals for Female and Minority
Participation

These goals for contract specifications make written affirmative action plans unnecessary unless the U.S. Department of Labor, Office of Federal Contract Compliance Programs determines a specific contractor or group of contractors needs to establish higher goals in order to remedy the effects of past discriminatory behavior.

Other Bidding and Contracting Requirements

KCDBG Provisions

The bid package must also include all KCDBG-related provisions and the grantee’s terms and conditions. The following provisions for KCDBG-assisted projects must be included, as applicable.

- ✓ Bonding and Insurance Requirements Clause (Kentucky state law for contracts over \$25,000 and 2 CFR 200 Omni Circular if over \$100,000);
- ✓ Conflict of Interest;
- ✓ Certification of Compliance with Air and Water Acts (if over \$100,000);
- ✓ Special Conditions Pertaining to Hazards, Safety Standards and Accident Prevention (including Lead-based Paint Prohibition);
- ✓ Energy Efficiency; and
- ✓ Access to Records/Maintenance of Records.

Cost and Pricing Format

The bid package must include cost and pricing formats. Generally street, water, sewer, utility and landscaping projects will be unit price contracts, while building type contracts will be lump sum. For unit cost contracts, the bid specifications should delineate each type of item, estimating quantity, unit price, and estimated total cost. All bid packages should indicate that the grantee can reject any and all bids received.

Attorney Review

Finally, the bid package should be reviewed in its entirety by the grantee's attorney to ensure compliance with applicable federal, state and city/county laws.

Procurement Requirements

Once the bid document is prepared, it is time to advertise for construction bids. Refer to Chapter 4: Procurement for specific instructions on how to proceed with the bidding process.

Chapter 4: Procurement

Section 6-D. Pre-Construction Requirements

Pre-construction Conferences

Before any work is performed by a contractor, DLG highly recommends that the grantee, the grant administrator, the engineer or architect, and any other technical advisors to the grantee conduct a pre-construction conference with the contractor to explain contractual requirements and performance schedules. Though no longer required in order to comply with federal labor standards, this conference reduces the likelihood of later conflicts caused by assumptions and misunderstandings between the contractor and the grantee.

The grantee should prepare an agenda, and plan to utilize and distribute a pre-construction checklist as a guide to ensure that all areas are properly addressed. (See Attachment 6-4: Outline of a Pre-construction Conference.) A tape recorder may be used to record the meeting and/or a stenographer may be asked to prepare notes. The grantee should clearly present the federal statutory compliance requirements as well as performance expectations. A copy of the minutes should be signed by all parties to the contract and placed in the files.

Attachment 6-4:
Outline of a Pre-Construction
Conference

Items that should be covered at the pre-construction conference include, but are not limited to:

- ✓ Explain to the contractors their responsibilities with respect to labor standards and equal opportunity requirements as well as the technical job requirements.
 - DLG has prepared a list of Commonly Asked Questions Concerning Equal Opportunity (provided as Attachment 6-5), which should be distributed and discussed.
 - At this time, the grantee should correct any outstanding deficiencies, such as securing signed Section 3 Plans and Certifications of Compliance.
 - Obtain the contractor's Federal Identification Number. This must be a Data Universal Numbering System (DUNS) number that is registered in the System for Award Management (SAM).

-
- ✓ Have the contractor complete Attachment 6-6: Contractor Employee Breakdown Form, listing each employee expected to work on the project by race, sex, job classification, and salary/wage rate. This form can then be used to cross check against future employment for the project to determine if minority and female hiring goals are being achieved.
- Attachment 6-6:
Contractor Employee Breakdown
Form
- ✓ Explain that the contractor must submit weekly payrolls and Statements of Compliance signed by an officer of the company, and that the prime contractor is responsible for securing, checking, and reviewing payrolls and Statements of Compliance from all subcontractors.
 - ✓ Explain that wages paid must conform to those included in the wage rate decision included in the contract. Discuss the classifications to be used. If additional classifications are needed, contact DLG immediately.
 - ✓ Explain that employee interviews will be conducted during the project.
 - ✓ Emphasize that both a copy of the wage rate decision and the wage rate poster must be posted at the job site.
 - ✓ Explain that apprentice or trainee rates cannot be paid unless the apprentice or training program is certified by the State Bureau of Apprenticeship and Training. If apprentices or trainees are to be used, the contractor must provide the grantee with a copy of the state certification of his/her program.
 - ✓ If the contract is \$100,000 or greater, explain that workers must be paid overtime if they work more than 40 hours in one week. Only a waiver from the Secretary of Labor can override the Contract Work Hours and Safety Standards Law. If state wage rates apply to the contract, explain that workers must also be paid overtime if they work more than eight hours in a day or 40 hours in a week, unless signed agreements have been obtained from each employee. (See Section 3 of this chapter for more information.)
 - ✓ Indicate that **failure to pay workers at least time and a half whenever overtime violates the Contract Work Hours and Safety Standards law (more than 40 hours per week) makes the contractor liable for not only restitution but also liquidated damages of \$25 per day for every day each worker that exceeded 40 hours a week without being paid time and a half.** Grantees should contact their DLG Program Advisor for assistance if a violation occurs.
 - ✓ Explain that **no payroll deductions can be made that are not specifically listed in the Copeland Anti-kickback Act provisions as permissible payroll deductions. In addition, some of the permissible deductions require written permission of the employee.** An unidentified payroll deduction is a method used by unethical contractors to get their workers to “kickback” a portion of their pay. This is a particularly common problem in times of high unemployment and in areas of minority concentrations. Unspecified payroll deductions are a serious discrepancy and should be resolved prior to further contractor payments.
 - ✓ Explain debarment proceedings relative to violation of labor standards and equal opportunity requirements. Obtain any outstanding documents including Contractor/Subcontractor Eligibility Certifications Regarding Debarment, Suspension and Other Responsibilities.
- Contractor’s Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/guidebooks/4812
[LR](#)
-

- ✓ Provide contractor with posters for the site, such as “Davis Bacon Act,” “Notice to All Employees Working on Federal or Federally Financed Construction Projects,” “Safety and Health Protection on the Job,” and “Equal Employment Opportunity is the Law.” These posters are referenced in the text box to the right. Inform the contractor that it is his/her responsibility to employ only eligible subcontractors who have certified eligibility in a written subcontract containing federal labor standards and equal opportunity provisions. (See Chapter 5, Attachment 5-4.)
- ✓ Provide the contractor with a copy of the “Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects.” This guide can be downloaded at: <https://www.hud.gov/sites/documents/4812-LRGUIDE.PDF>.
- ✓ Provide handouts explaining everything covered and obtain the contractor’s signature to document receipt.
- ✓ The grantee should also describe the compliance monitoring that will be conducted during the project, and indicate that discrepancies and underpayments discovered as a result of compliance monitoring must be resolved prior to making further payment to the contractor. Remind the contractor that labor standards provisions are as legally binding as the technical specifications, and failure to pay specified wages will result in contractor payments being withheld until all such discrepancies are resolved.

Attachment 6-7 (a-d):
Contracting Posters
Also available online at
https://www.hud.gov/program_of_fices/davis_bacon_and_labor_standards/olrmk13

Following the pre-construction conference, the grantee should prepare and maintain a pre-construction conference report. This report is meant to record the minutes of the meeting. A sample Pre-construction Report Format is provided as Attachment 6-8.

Attachment 6-8:
Pre-Construction Report Format

Notice to Proceed

Following execution of the contract documents and completion of the pre-construction conference, issue a Notice to Proceed to each prime contractor to begin performance of the work. The Notice to Proceed must establish the construction start date, the scheduled completion date, and provide the basis for assessing liquidated damages. The Notice to Proceed must include the name of the contractor and the amount of the contract. The construction period and basis for assessing liquidated damages must be consistent with those sections of the contract documents. A sample Notice to Proceed is provided as Attachment 6-9. **The Notice to Proceed must also be sent to DLG following execution.**

Attachment 6-9:
Notice to Proceed

Contract File Review

The grantee should also review each contract file and associated compliance file to make sure documentation is complete at the time of contract award. The following list of Construction Contract file requirements identifies the items that should already be located in the contract file. Note that Section 3 of this chapter provided a listing of labor standards and equal opportunity requirements, so they are not repeated below but must be reviewed as well.

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- ✓ Preliminary design and cost estimates;
 - ✓ Final design documents and cost estimates;
 - ✓ Evidence that all necessary land or easement acquisition has been completed prior to advertising for bids;
 - ✓ Bid documents;
 - ✓ Approval of bid documents by authorities having jurisdiction over the project, as appropriate;
 - ✓ Tear sheet or affidavit documenting the advertisement for bids;
 - ✓ Addenda, if any, and evidence of timely distribution to plan holders;
 - ✓ Signed minutes of public bid opening;
 - ✓ Certified tabulation of bids;
 - ✓ Recommendation for Award;
 - ✓ Notice of Contract Award/Council or Fiscal Court Approval;
 - ✓ Recommended pre-construction conference report;
 - ✓ Executed contract and subcontract documents;
 - ✓ Certification of Insurance/Bonding; and
 - ✓ Notice to Proceed.

Section 6-E. Payroll Review Requirements

Once construction is underway, the general contractor must obtain weekly payrolls (including signed Statements of Compliance) from all subcontractors as they work on the project. The payrolls must be reviewed by the general contractor to ensure that there are no discrepancies or underpayments. Remember that the prime contractor is responsible for the full compliance of all subcontractors on the project and will be held accountable for any wage restitution that may be found. This includes underpayments and potentially liquidated damages that may be assessed for overtime violations.

Grantees must obtain copies of all general contractor and subcontractor weekly payrolls (accompanied by the Statements of Compliance), and review them to ensure that there are no discrepancies or underpayments in accordance with HUD guidelines. See Attachment 6-10: Payroll Falsification Indicators, for HUD guidance on detecting falsification through frequent payroll review and interview comparison.

[Attachment 6-10:
Payroll Falsification Indicators](#)

Certified payroll reports must be submitted by the contractor to the grantee within seven to eleven working days of the end of the payroll period. A Payroll Form and Statement of Compliance is provided as Attachment 6-11. Note that an employee's full social security number and address are not to be included on these certified payroll reports. Instead, an alternative individual identity number should be used, such as the last four digits of the employee's social security number or an employee ID. This form does not have to be used, but alternative payroll documentation must include all of the same elements in order to

[Attachment 6-11: Payroll
Form/Statement of Compliance
\(WH 347\)](#)

determine compliance with applicable regulations. And a Statement of Compliance must accompany each payroll submission.

Payroll reports must be reviewed by the grantee upon receipt so that any necessary corrective action can be initiated before the problem multiplies. Payroll forms must be initialed by the grantee to indicate that they have been reviewed.

In addition to the falsification indicators described in the HUD guidance, items to be spot-checked should include:

- ✓ The correct classification of workers;
- ✓ A comparison between the classification and the wage determination to determine whether the rate of pay is at least equal to the rate required by the determination;
- ✓ A review to ensure that work by an employee in excess of 40 hours per week is being compensated for at rates not less than one and one-half times the basic rate of pay;
- ✓ Review of deductions for any non-permissible deductions; and
- ✓ The Statement of Compliance (part of the payroll form in Attachment 6-11) has been completed and signed by the owner or an officer of the firm.

HUD Handbook 1344 is a good resource for labor standards information.

https://www.hud.gov/program_of_fices/administration/hudclips/handbooks/sech/13441.

Any discrepancies and/or falsification indicators must be reported to DLG, along with the steps being taken by the grantee to resolve the discrepancies. Where underpayments of wages have occurred, the grantee is responsible to make sure the correct wages are paid and that the employer will be required to pay wage restitution to the affected employees. Wage restitution must be paid promptly in the full amounts due, less permissible and authorized deductions. Grantees are required to submit a Section 5.7 Report (provided as Attachment 6-16 including instructions) whenever an employer is found to have underpaid its employees by \$1,000 or more. Grantees should contact their DLG Program Advisor for assistance if a violation occurs.

Attachment 6-16 (a – b):
Instructions and Section 5.7
Enforcement Report

Caution: Owner-operators of power equipment, like self-employed mechanics, may not submit their own payrolls certifying to the payment of their own wages *BUT* must instead be included on the responsible contractor's certified payroll report.

Section 6-F. Construction Management Requirements

General

During construction, the grantee is responsible for monitoring the labor standards and equal opportunity requirements described in this Chapter. In addition to payroll reviews and interviews, the grantee is responsible for ensuring proper construction management. This role may be fulfilled by the architect/engineer and, if so, should be included in the scope of services for that professional services contract. Construction management must include on-site inspection and general supervision of construction to check the contractor's work for compliance with the drawings and specifications, as well as quantity and quality control.

Note that written inspection reports must accompany any contractor's request for partial payment. It is also strongly recommended that monthly progress meetings be held to allow the grantee, engineer, grant administrator, and funding agencies to review the status of the project, resolve problems, and review requests for payment.

Labor Standards Requirements

Construction management requirements include conducting job site interviews with workers using Attachment 6-12: Record of Employee Interview Form.

Attachment 6-12:
Record of Employee Interview
Form (HUD Form 11)

The grantee must conduct interviews using the representative sampling technique and the interviews should include a sufficient sample of job classifications represented on the job to allow for a reasonable judgment as to compliance. At least 10 percent of the workers on-site, and a least one in each job classification working at the site, should be interviewed.

The grantee should ensure the following actions are performed:

- ✓ DLG recommends that interviews be conducted at least once during the course of each phase of construction on each project.
- ✓ Payrolls should be used to verify data obtained during on-site interviews. Check to see that employees are being paid the amounts specified in the wage decision, the amount shown on the payrolls, and the hours shown on the payrolls. Include hours of the supervisor.
- ✓ Identification and correction of any discrepancies between on-site interviews, payrolls, and wage rates.
- ✓ A fully completed and signed Record of Employee Interview form is maintained in the contract file.

Interview Protocols

The following guidelines should be observed by persons conducting job site interviews:

- ✓ The interview should take place on the job site if it can be conducted properly and privately (this is a one-on-one process).
- ✓ The interviewer should see that the wage determination and other required posters are properly displayed.
- ✓ The interviewer should observe the duties of workers before initiating interviews. Employees of both the prime and sub-contractors should be interviewed. Administrators may choose to complete the Project Wage Rate Sheet found in Attachment 6-7d. This should be posted adjacent to the wage determination and other required posters on the job site at a location readily accessible to workers.
- ✓ To initiate the interview, the authorized person shall:
 - Properly identify himself/herself;
 - Clearly state the purpose of interview; and
 - Advise the worker that information given is confidential, and his/her identity will be disclosed to the employer only with the employee's written permission.
- ✓ When conducting employee interviews, the interviewer should pay particular attention to:

Attachment 6-7d:
Project Wage Rate Sheet
(HUD Form 4720)

- The employee's full name.
- The employee's permanent mailing address.
- The last date the employee worked on that project and number of hours worked on that day. The interviewer should make it clear that these questions relate solely to work on the project and not other work.
- The employee's hourly rate of pay. The aim is to determine if the worker is being paid at least the minimum required by the wage decision.
 - The interviewer should be sure the worker is not quoting their net hourly rate or "take-home" pay.
 - If it appears the individual may be underpaid, the interviewer should closely question the worker:
 - Ask for any records.
 - Arrange to re-interview the employee.
- Enter the worker's statement of his/her classification.
- Observe duties and tools used:
 - If worker's statements and observations made by the interviewer indicate the individual is performing duties conforming to classification, indicate this on the Record of Employee Interview form.
 - If there are discrepancies, detailed statements are necessary.
- Enter any comments necessary.
- Enter date interview took place.
- ✓ If there are wage complaints, the interviewer should complete the Federal Labor Standards Complaint Intake Form (HUD Form 4731) using Attachment 6-13.
- ✓ The payroll examiner must compare information on the Record of Employee Interview form with the certified payroll submission:
 - If no discrepancies appear, "None" should be written in the comment space of the Record of Employee Interview form.
 - If discrepancies do appear, appropriate action should be initiated.
 - When necessary action has been completed, the results must be noted on the interview form.

Attachment 6-13:
Federal Labor Standards
Complaint Intake Form
(HUD Form 4731)

Wage Restitution

Where underpayments of wages have occurred, the employer will be required to pay wage restitution to the affected employees. Wage restitution must be paid promptly in the full amounts due, less permissible and authorized deductions. All wages paid to laborers and mechanics for work performed on the project including wage restitution, must be reported on a certified payroll report.

Notification to the Prime Contractor

The contract administrator will notify the prime contractor in writing of any underpayments that are found during payroll or other reviews. The notice will describe the underpayments and provide instructions for computing and documenting the restitution to be paid. The prime contractor is allowed 30 days to correct the underpayments. If wage violations are not corrected within 30 days after notification to the prime contractor, the recipient may withhold payment due to the contractor of an amount necessary to ensure the full payment of restitution. Note that the prime contractor is responsible to the contract administrator for ensuring that restitution is paid. If the employer is a subcontractor, the subcontractor will usually make the computations and restitution payments and furnish the required documentation through the prime contractor.

Computing Wage Restitution

Wage restitution is simply the difference between the wage rate paid to each affected employee and the wage rate required on the wage decision for all hours worked where underpayments occurred. The difference in the wage rates is called the adjustment rate. The adjustment rate times the number of hours involved equals the gross amount of restitution due.

Correction Payrolls

The employer will be required to report the restitution paid on a correction certified payroll. The correction payroll will reflect the period of time for which restitution is due (for example, Payrolls #1 through #6, or payrolls for a specified beginning date through a specified ending date). The correction payroll will list:

- ✓ Each employee to whom restitution is due and their work classification,
- ✓ The total number of work hours,
- ✓ The adjustment 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 to be paid.

A properly signed Statement of Compliance must be attached to the correction certified payroll.

- ✓ Generally, the contractor is not required to obtain the signature of the employee on the correction payroll to evidence receipt of the restitution payment or to submit copies of restitution checks (certified, cashiers, canceled or other, or employee-signed receipts or waivers) in order to document the payment.

Review of Corrected Certified Payroll

The contractor administrator will review the correction payroll to ensure that full restitution was paid. The prime contractor shall be notified in writing of any discrepancies and will be required to make additional payments, if needed. Additional payments must be documented on a supplemental correction payroll within 30 days.

The contractor is required to provide the employee with a Documentation of Restitution Employee Release Form (Attachment 6-17) to verify that the employee is in agreement with the amount of restitution and relinquishes all claims of underpayment.

Attachment 6-17:
Documentation of Restitution
Employee Release Form

Unfound Workers

Sometimes, wage restitution cannot be paid to an affected employee because the employee has moved or otherwise can't be located. After wage restitution has been paid to all of the workers who could be located, the employer must submit a list of any workers who could not be found and paid including name, employee identification number, last known address and the gross amount due. At the end of the project, the prime contractor will be required to establish a deposit or escrow account in an amount equal to the total amount of restitution that could not be paid. The grantee must continue to attempt to locate the unfound employee(s) for three years after completion of the project. After three years, any amount remaining in the account should be credited and/or forwarded to DLG.

Section 5.7 Enforcement Report

The U.S. Department of Labor Regulations require all federal agencies to submit a report to the Secretary of Labor regarding all enforcement actions where underpayments by a contractor or subcontractor occurred in excess of \$1,000 or where there is reason to believe that the violations were willful. The instructions for filling out the form and the form itself can be found in Attachment 6-16a and b.

Attachment 6-16 (a – b):
Instructions and Section 5.7
Enforcement Report

Liquidated Damages for Overtime Violations

As mentioned previously, failure to pay workers at least time and a half whenever overtime violates the Contract Work Hours and Safety Standards Act (more than 40 hours per week) or, if applicable, KRS 337 (more than eight hours or, if a written agreement, 10 hours per day) makes the contractor liable for liquidated damages of \$2 per day for every day each worker exceeded 40 hours a week without being paid time and a half. Grantees should contact their DLG Program Advisor for assistance if a violation occurs.

Semi-Annual Labor Standards Enforcement Reports

Grantees must submit Semi-Annual Labor Standards Enforcement Reports (HUD 4710 and 4710i) twice a year. The first report should include all contracts subject to Davis-Bacon and related acts awarded between April 1 and September 30. It is due no later than September 15. The second semi-annual report should include all contracts subject to Davis-Bacon and related acts awarded between October 1 and March 31. It is due not later than March 15. If no contracts were awarded, please fill in the agency name (city or county), the period covered and mark "not applicable" at the top of the form. The form and instructions can be found in

Labor Relations and Related Forms
http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/forms/hud4

Attachment 6-15 (a – b):
Instructions and Semi-Annual
Labor Standards Enforcement
Report (HUD 4710)

Attachments 6-15a and 6-15b. Grantees should submit the report via email to DLG.

Equal Opportunity Requirements

The grantee must also visit the construction site to ensure the project site is posted with the required Equal Employment Opportunity is the Law poster (provided in Attachment 6-7b). These visits can be done in conjunction with employee interviews for labor standards compliance. The results of each visit should be noted in the Equal Opportunity Compliance file.

Attachment 6-7b:
"Equal Employment Opportunity is
the Law" Poster

In addition, the grantee should interview each contractor during the course of work to determine compliance with the Standard KCDBG-assisted Equal Employment Opportunity Construction Contract Specifications contained in the contract.

Equal Opportunity Compliance Files

Equal opportunity compliance files must be maintained for each contractor on the project. At project completion, each equal opportunity compliance file should contain the following items:

- ✓ Verification of contractor/subcontractor eligibility concerning Section 3 and equal opportunity, as well as a written Section 3 Plan if over \$200,000 (or cross reference the contract file that includes fully executed certifications and Section 3 Plan).
- ✓ Contractor eligibility, cross-referenced from Labor Standards Compliance file.
- ✓ Correspondence concerning contractor equal opportunity compliance.
- ✓ Site visit reports indicating equal opportunity posting on site and contractor compliance with equal opportunity provisions, cross-referenced from Labor Standards Compliance file.
- ✓ Equal opportunity problems uncovered in employee interviews and evidence of resolution.
- ✓ Evidence of interview with contractor concerning equal opportunity compliance.
- ✓ Contractor Employee Breakdown Form (Attachment 6-6).

Attachment 6-6:
Sample Contractor Employee
Breakdown Form

Section 6-G. Review and Payments

Progress Payments

Upon agreement as to quantities of work completed, a contractor may submit requests for partial or progress payments. Written inspection reports must accompany the contractor's requests for partial payment. Inspection reports, copies of field measurement notes, and test results used to verify contractor's periodic pay estimate for partial payment should be attached to and filed with the periodic estimate for partial payment.

Upon receipt of certificates for partial payment and necessary documentation, the grantee must check equal opportunity and labor standards compliance files to ensure that:

- ✓ All weekly payrolls and Statements of Compliance have been received, reviewed, and any discrepancies resolved; and
- ✓ Employee interviews have been conducted as necessary, checked against payrolls and the wage rate decisions, and all discrepancies corrected.

Retainage from Progress Payments

Although retainage is not a requirement, many grantees have found it helpful to maintain 10 percent retainage from partial payments until after final inspection, in case of any unresolved problems. See below for information on how retainage is addressed in the Final Payment.

Change Orders

Change orders must be prepared by the construction inspector and/or architect/engineer. Change orders are permissible where the cumulative cost of all such orders does not exceed 20 percent of the original contract price and these changes do not constitute a major alteration of the original scope of work. If the proposed change orders will cumulatively exceed 20 percent of the original contract, the grantee must contact DLG for prior approval.

Each change order must be accompanied by a supporting statement that describes why the change is necessary, cost estimates, and any needed plans and specifications. The grantee must approve and authorize change orders before they are given to the contractor. Change orders should be kept to an absolute minimum and cannot be issued after final payment.

Final Payment

When construction work has been completed, the contractor must certify completion of work and submit a final request for payment. The grantee or the architect/engineer should make the final inspection and prepare a written report of the inspection prior to the issuance of a final certificate of payment. Before making final payment (less 10 percent retainage), the grantee must ensure that:

- ✓ All weekly payrolls and Statements of Compliance have been received, reviewed, and discrepancies have been resolved;
- ✓ Any underpayments of wages and/or liquidated damages have been appropriately handled and documented;
- ✓ All discrepancies identified through job site interviews have been resolved;
- ✓ All other required equal opportunity and labor standards provisions have been satisfied;
- ✓ All contract submissions have been received;
- ✓ All claims and disputes involving the contractor have been resolved;
- ✓ All files are complete; and
- ✓ As-built plans have been filed.

If the inspection is satisfactory, the grantee can then issue acceptance of work and final payment, less a 10 percent retainage.

Retainage from Final Payment

Within 30 days from the filing of the acceptance of the work and upon submission of a clear lien certificate by the contractor, the grantee should release the 10 percent retainage that has been withheld from each progress and final payment to the contractor (at the grantee's option).

If any claims or liens remain after the 30-day period, the grantee must take appropriate action for disposition of the retainage and all claims against the bonds in accordance with state law.

Section 6-H. Documentation Requirements

The labor standards compliance documents contain highly sensitive and confidential information. With the growing rise in identity theft and fraud, it is critical to carefully guard this sensitive information so that the person(s) or form(s) to which that information pertains is not unduly exposed to financial or personal risk. The standard compliance documents must be preserved and retained for a period of five years following the completion of work. Therefore, it is important to follow guidelines outlined in the Labor Relations Letter 2006-02 to minimize risk of improper and/or unnecessary disclosure.

- ✓ Keep sensitive materials secret at all times (in locked file cabinet, not left in areas accessible to the public);
- ✓ Do not include full Social Security Numbers or other sensitive personal identifying information on documents and records;
- ✓ Do not disclose the identity of any informant unless it is necessary and only if authorized by the informant; and
- ✓ Dispose of documents and records containing sensitive information responsibly.

At project completion, in addition to the equal opportunity file requirements described in the sections above, each contract file should contain the following labor standards compliance items:

- ✓ Wage Decision(s);
- ✓ “Nine-Day Call” documentation (ensuring wage decision is still current);
- ✓ Copies of Contractor Certifications Concerning Labor Standards (or cross reference contract file that includes executed certifications);
- ✓ Tear sheet of Bid advertisement;
- ✓ Copies of all bid responses;
- ✓ Minutes of the bid opening;
- ✓ Verification of contractor/subcontractor eligibility;
- ✓ Notice of Award;
- ✓ Executed construction contract;
- ✓ Pre-construction Conference Report;
- ✓ Notice to Proceed;
- ✓ Contractor Employee Breakdown Report;
- ✓ Weekly payrolls, Statements of Compliance, and evidence that payrolls were reviewed;
- ✓ Kentucky Prevailing Wage Overtime Agreement
- ✓ Employee interviews;
- ✓ Site visit reports;
- ✓ Engineering inspection reports;

- ✓ Evidence that the on-site interviews were checked against payrolls and the applicable wage rate decision;
- ✓ Evidence of restitution/resolution of identified discrepancies;
- ✓ Documentation of Restitution Employee Release Form (see Attachment 6-18 for a sample);
- ✓ Complaints from workers, if any, and actions taken;
- ✓ Liquidated damages assessed, appeals, if any, and outcome;
- ✓ Notice of Completion/Final Inspection;
- ✓ Construction Oversight Checklist (see Attachment 6-14 for a sample);
- ✓ Semi-Annual Labor Standards Enforcement Reports; and
- ✓ Section 5.7 Enforcement Report (see Attachment 6-16b)

Attachment 6-14:
Sample Construction Oversight
Checklist
Attachment 6-16b:
Section 5.7 Enforcement Report

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (i) Minimum Wages. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section I(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety. The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

**KY CDBG Cover Sheet for
Payroll Certification Forms**

For Prime Contractor Only:	
Prime Contractor name & address:	
Prime Contractor phone, fax, and email:	
Payroll Period:	
Date sent to Administrator:	
For CDBG Certified Administrator Only:	
CDBG Project Title & Number:	
Date of receipt:	
Received by:	
Date of review:	
Reviewed by:	

Comments:

REQUEST FOR WAGE DETERMINATION AND RESPONSE TO REQUEST

11/97

<p>FOR DEPARTMENT OF LABOR USE</p> <p><input type="checkbox"/> Use area determination issued for this area</p> <hr/> <p><input type="checkbox"/> The attached decision noted below is applicable to this project</p> <hr/> <p>Decision Number</p> <hr/> <p>Date of Decision</p> <hr/> <p>Expires</p> <hr/> <p>Supersedes Decision Number</p> <hr/> <p>Approved</p> <hr/> <p>Description of Work (Be Specific) Print or Type)</p>	<p>Mail your request to:</p> <p>Labor Compliance Specialist Kentucky Department for Local Government 100 Airport Road 3rd Floor Frankfort, Kentucky 40601</p> <hr/> <p>Grant Administrator (include email address)</p> <hr/> <p>Grant Number:</p> <hr/> <p>Department, Agency or Bureau</p> <hr/> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%; padding: 2px;">Date of Request</td> <td style="width:33%; padding: 2px;">Estimated Advertising Date</td> <td style="width:33%; padding: 2px;">Bid Opening Date</td> </tr> <tr> <td style="padding: 2px;">Prior Decision # (if any)</td> <td style="padding: 2px;">Estimated \$ Value of Contract <input type="checkbox"/> < .5 Mil <input type="checkbox"/> 1-5 Mil <input type="checkbox"/> .5-1 Mil <input type="checkbox"/> > 5 Mil</td> <td style="padding: 2px;">Type of Work <input type="checkbox"/> Bldg. <input type="checkbox"/> Hwy. <input type="checkbox"/> Resid. <input type="checkbox"/> Heavy</td> </tr> </table> <hr/> <p>Address to which wage determination should be mailed (Print or Type)</p> <hr/> <p>Location of Project (City, <u>COUNTY</u>, State, Zip Code)</p> <hr/>	Date of Request	Estimated Advertising Date	Bid Opening Date	Prior Decision # (if any)	Estimated \$ Value of Contract <input type="checkbox"/> < .5 Mil <input type="checkbox"/> 1-5 Mil <input type="checkbox"/> .5-1 Mil <input type="checkbox"/> > 5 Mil	Type of Work <input type="checkbox"/> Bldg. <input type="checkbox"/> Hwy. <input type="checkbox"/> Resid. <input type="checkbox"/> Heavy	<p>CHECK OR LIST CRAFTS NEEDED</p> <p><input type="checkbox"/> Asbestos workers <input type="checkbox"/> Boilermakes <input type="checkbox"/> Bricklayers <input type="checkbox"/> Carpenters <input type="checkbox"/> Cement Masons <input type="checkbox"/> Electricians <input type="checkbox"/> Glaziers <input type="checkbox"/> Ironworkers <input type="checkbox"/> Laborers (specify classes)</p> <hr/> <p><input type="checkbox"/> Lathers <input type="checkbox"/> Marble/tile setters, terrazzo workers <input type="checkbox"/> Painters <input type="checkbox"/> Piledrivermen <input type="checkbox"/> Plasterers <input type="checkbox"/> Plumbers <input type="checkbox"/> Roofers <input type="checkbox"/> Sheet metal workers <input type="checkbox"/> Soft floor layers <input type="checkbox"/> Steamfitters <input type="checkbox"/> Welders-rate for craft <input type="checkbox"/> Truck drivers <input type="checkbox"/> Power equipment operators (specify types)</p> <hr/> <p>Other Crafts</p> <hr/> <hr/>
Date of Request	Estimated Advertising Date	Bid Opening Date						
Prior Decision # (if any)	Estimated \$ Value of Contract <input type="checkbox"/> < .5 Mil <input type="checkbox"/> 1-5 Mil <input type="checkbox"/> .5-1 Mil <input type="checkbox"/> > 5 Mil	Type of Work <input type="checkbox"/> Bldg. <input type="checkbox"/> Hwy. <input type="checkbox"/> Resid. <input type="checkbox"/> Heavy						

**Attachment 6-3
Goals for Female and Minority Participation**

GOALS FOR FEMALES

Nationwide Goal _____ 6.9%

GOALS FOR MINORITIES

<u>Economic Area</u>	<u>Goal (%)</u>
-----------------------------	------------------------

056 Paducah, KY:

Non-SMSA Counties _____ 5.2%

Ballard; Caldwell; Calloway; Carlisle; Crittenden; Fulton;
Graves; Hickman; Livingston; Lyon; McCracken; Marshall.

057 Louisville, KY:

SMSA Counties:

4520 Louisville, KY-IN _____ 11.2%

Bullitt; Jefferson; Oldham.

Non-SMSA Counties _____ 9.6%

Breckinridge; Grayson; Hardin; Hart; Henry; Larue; Marion; Meade;
Nelson; Shelby; Spencer; Trimble; Washington.

058 Lexington, KY

SMSA Counties

4280 Lexington-Fayette, KY _____ 10.8%

Bourbon; Clark; Fayette; Jessamine; Scott; Woodford.

Non-SMSA Counties _____ 7.0%

Adair; Anderson; Bath; Boyle; Breathitt; Casey; Clay; Estill; Franklin;
Garrard; Green; Harrison; Jackson; Knott; Lee; Leslie; Letcher; Lincoln;
Madison; Magoffin; Menifee; Mercer; Montgomery; Morgan; Nicholas;
Owsley; Perry; Powell; Pulaski; Rockcastle; Russell; Taylor; Wolfe.

059 Huntington, WV:

SMSA Counties:

3400 Huntington – Ashland, WV-KY-OH _____ 2.9

Boyd; Greenup.

Non-SMSA Counties _____ 2.5

Carter; Elliott; Floyd; Johnson; Lawrence; Martin; Pike; Rowan.

067 Cincinnati, OH:
 SMSA Counties:
 1640 Cincinnati, OH-KY-IN _____ 11.0
 Boone; Campbell; Kenton.

3200 Hamilton-Middletown, OH _____ 5.0
 Non-SMSA Counties _____ 9.2
 Bracken; Carroll; Fleming; Gallatin; Grant; Lewis; Mason; Owen;
 Pendleton; Robertson.

053 Knoxville, TN
 SMSA Counties:
 3840 Knoxville, TN _____ 6.6
 Non-SMSA Counties _____ 4.5
 Bell; Harlan; Knox; Laurel; McCreary; Wayne; Whitley.

054 Nashville, TN:
 SMSA Counties:
 1660 Clarksville - Hopkinsville, TN - KY _____ 18.2
 Christian
 Non-SMSA Counties _____ 12.0
 Allen; Barren; Butler; Clinton; Cumberland; Edmonson; Logan;
 Metcalfe; Monroe; Simpson; Todd; Trigg; Warren.

080 Evansville, IN:
 SMSA Counties
 2440 Evansville, IN-KY _____ 4.8
 Henderson.
 5990 Owensboro, KY _____ 4.7
 Daviess.
 Non-SMSA Counties _____ 3.5
 Hancock; Hopkins; McLean; Muhlenberg; Ohio; Union; Webster.

From the U.S. Department of Labor "Technical Assistance Guide for Federal Construction Contractors" – Appendix E. This document is also located at http://www.dol.gov/ofccp/TAguides/TAC_FedContractors_JRF_QA_508c.pdf

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SAMPLE OUTLINE OF A PRE-CONSTRUCTION CONFERENCE

1. Applicability of Davis-Bacon to construction activity of project
2. Additional classifications
3. Who is subject to Davis-Bacon and Related Acts (DBRA)
4. Payment of Fringe Benefits
5. Use of Apprentices and Trainees
6. Copeland "Anti-Kickback" Act
7. Contract Work Hours and Safety Standards Act (CWHSSA)(Overtime Compensation)
8. Liquidated Damages (re: CWHSSA violations)
9. Supply and installation contracts
10. Exemptions of DBRA
11. Contractor's (sub's) responsibilities
12. Payrolls (It is advisable to discuss with Payroll Preparer for Company also)
 - (a) Submission Certificate from Contractor Appointing Officer or Employee to Supervise Payment of Employees (Form for Contractor to designate someone else to sign the payrolls)
 - (b) Payroll Form WH 347
 - (c) Form WH 348 (Used if Contractor is using a payroll form other than WM 347)
 - (d) IRS Employer Identification Number (or Social Security Number, if self-employed) of the contractor and subcontractor must be on the initial payroll in the upper right-hand corner of the first page.
 - (e) Submission of payrolls to the city/county
 - (f) Review of payrolls by the Grantee
 - (g) HUD 11, Employee Interview - Use of forms by Grantee

- (h) Maintaining payroll files
- (i) State monitoring of payroll files and documents
- (j) Split classifications
- (k) Working foreman

OTHER

1. Terms and conditions of contract
2. Begin and end dates
3. Change Orders
4. Bonding and insurance
5. Local ordinances, permit required etc.
6. Retention of records
7. Equal Opportunity
8. Questions and answers
9. Posters

**COMMONLY ASKED QUESTIONS
CONCERNING EQUAL OPPORTUNITY**

A PRECONSTRUCTION CONFERENCE HAND OUT

1. What are the responsibilities of the Offeror or Bidder to ensure equal employment opportunity?

The Offeror or Bidder must comply with the "Equal Opportunity Clause" and the "Standard Federal Equal Opportunity Construction Contract Specifications."

2. Are Contractors required to ensure a comfortable working environment for all employees?

Yes, it is the Contractor's responsibility to provide an environment free of harassment, intimidation and coercion to all employees and to notify all foreman and supervisors to carry out this obligation, with specific attention to minority or female individuals.

3. To alleviate developing separate facilities for men and women on all sites can a Contractor put all women on one site?

No, the Contractor must assign two or more women to each site when possible.

4. Are Contractors required to make special outreach efforts to minority and female recruitment sources?

Yes, Contractors must establish a current list of minority and female recruitment sources, notify them when employment opportunities are available including on the job training and apprenticeship programs and record responses.

5. Are any efforts made to record the number of minority and females applying for positions with Construction Contractors?

Yes, all Contractors must maintain a current file of the names, addresses and telephone numbers of all minority and female applicants and document whatever action was taken.

6. What happens if a woman or minority is sent to the union by the Contractor and is not referred back to the Contractor for employment?

If the Unions impede the Contractor's responsibility to provide equal employment opportunity, a written notification is sent to the Director.

7. What efforts are made by Contractors to create entry level positions for women and minorities?

Contractors are required to develop on-the-job training programs or participate in training programs, especially those funded by the Department of Labor, to create positions for women and minorities relevant to the Contractor's employment needs.

8. Are any efforts made by the Contractor to publicize their Equal Employment Opportunity (EEO) Policy?

Yes, the Contractor is responsible to notify unions and training programs and request their cooperation as well as to include it in any policy manual or collective bargaining agreement, and to publicize it in the company newspaper and annual report. Externally, the Contractor is responsible to include the EEO Policy in all media advertisement.

9. Are any in-service training programs provided for staff to update the EEO Policy?

At least annually a review of the EEO Policy and the affirmative action obligations are required of all personnel employees of a decision-making status. A record of the meeting including date, time, location, persons present, subject matter discussed, and disposition of the subject matter shall be maintained.

10. What recruitment efforts are made for minorities and women?

The Contractor must notify orally, and in writing, minority and female recruitment sources one month prior to the date of acceptance for apprenticeship or other training programs. The Contractor must also encourage minority and female employees to recruit members of their own group.

11. Are any measures taken to encourage promotions for minorities and women?

Yes, an annual evaluation is conducted for all minority and female personnel to encourage these employees to seek higher positions.

12. What efforts are taken to ensure that personnel policies are in accordance with the EEO Policy?

Personnel policies in regard to job practices, work assignments, etc. are continually monitored to ensure that the EEO Policy is carried out.

13. Can women be excluded from utilizing any facilities available to men?

No, all facilities and company activities are nonsegregated except for bathrooms or changing facilities to ensure privacy.

14. What efforts are made to utilize minority and female contractors and suppliers?

The prime contractor must take and document affirmative steps to subcontract with minority- and women-owned businesses.

15. If a Contractor participates in a business related association which does not comply with affirmative action standards does that show his/her failure to comply?

No, the Contractor's obligation to comply is his own. If he makes every effort to assume that this group has a positive impact on EEO Policy and they fail to accept this attitude, it shall not be contrived as noncompliance on the part of the contractor.

16. Would a Contractor be in violation of EEO Policy and affirmative action if he set up one set of goals to include minorities and women?

Yes. There is a single goal for minorities and a separate single goal for women. The Contractor is required to provide equal employment opportunity and take affirmative action for all minority groups, both male and female, and all women both minority and non-minority.

17. Can a Contractor hire a Subcontractor who has been debarred from Government Contracts pursuant to EEO?

No. The Contractor must suspend, terminate or cancel any subcontractor who is in violation of the EEO Policy.

18. What effort has been taken by the Contractor to monitor all employment to ensure the company EEO Policy is being carried out?

The Contractor must designate a responsible individual to keep accurate records of all employees which includes specific information required by the government.

SAMPLE CONTRACTOR EMPLOYEE BREAKDOWN

EXECUTIVE ORDER 11246

To Be Completed by the Contractor

Complete information on all employees expected to work on this contract.

<u>Employee Name</u>	<u>Race</u>	<u>Sex</u>	<u>Job Classification</u>	<u>Salary/ Wage Rate</u>	<u>Section 3 Employee (yes or no)</u>
--------------------------	-------------	------------	---------------------------	------------------------------	---

Certification:

I (will/will not) be hiring additional employees for work on this project. For all hiring that does occur, I will comply with the minority and female employment goals specified in the contract.

Signature

Title

Date

Project Wage Rate Sheet

U.S. Department of Housing and Urban Development
Office of Labor Relations

PROJECT NAME:			WAGE DECISION NUMBER/MODIFICATION NUMBER:			
PROJECT NUMBER:			PROJECT COUNTY:			
WORK CLASSIFICATION	BASIC HOURLY RATE (BHR)	FRINGE BENEFITS	TOTAL HOURLY WAGE RATE	LABORERS FRINGE BENEFITS:		\$ TOTAL WAGE
				GROUP #	BHR	
Bricklayers			\$			\$
Carpenters			\$			\$
Cement Masons			\$			\$
Drywall Hangers			\$			\$
Electricians			\$			\$
Iron Workers			\$			\$
Painters			\$	OPERATORS FRINGE BENEFITS:		\$ TOTAL WAGE
				GROUP #	BHR	
Plumbers			\$			\$
Roofers			\$			\$
Sheet Metal Workers			\$			\$
Soft Floor Layers			\$			\$
Tapers			\$			\$
Tile Setters			\$	TRUCK DRIVERS FRINGE BENEFITS:		\$ TOTAL WAGE
				GROUP #	BHR	
OTHER CLASSIFICATIONS						
			\$			\$
			\$			\$
			\$			\$
ADDITIONAL CLASSIFICATIONS (HUD Form 4230-A)						
WORK CLASSIFICATION	BASIC HOURLY RATE	FRINGE BENEFITS	TOTAL HOURLY WAGE RATE	DATE OF HUD SUBMISSION TO DOL	DATE OF DOL APPROVAL	
			\$			
			\$			
			\$			
			\$			

PRE-CONSTRUCTION REPORT FORMAT
(Sample)

Project Name: _____

Project Number: _____

Wage Determination Number: _____

Location: _____

Description: _____

Contractor: _____

Contract Amount: _____

Date of Conference: _____

Place of Conference: _____

Attendees (Name & Title): _____

Summary of items covered: (Must include Equal Opportunity, Section 3, Labor Standards, the contractor's role and responsibility, the City/County's role and responsibilities, reporting requirements and sanctions. Use additional pages as necessary.)

SAMPLE NOTICE TO PROCEED

TO: Contractor/DLG
FROM: City of _____
DATE:
SUBJECT: Notice to Proceed with Construction Contract # _____

(Project Name), located at (address) was awarded to (Name of Contractor, address and name of contact person and #), in the amount of (Contract Amount), on (date). Contractor is hereby notified to commence work set forth in the contract on or before (date).

All work is to be done in accordance with plans, specifications and conditions provided in the contract.

The project must be fully complete within _____ consecutive calendar days after (date). The date of completion of all work is, therefore (date). Contractor will pay as liquidated damages, the sum of \$_____ for each consecutive calendar day thereafter as specified in paragraph 9 of the Information for Bidders and under such conditions as provided in paragraph 19 of the General Conditions.

Please acknowledge receipt of this Notice by signing the space below and returning a copy to this office.

Please advise if there are any questions.

Sincerely,

_____, Mayor/Judge/Subrecipient
CEO

Acceptance of Notice

Receipt of the above Notice to Proceed is hereby acknowledged by _____, this _____ day of _____, 20__.

BY: _____

TITLE: _____

Record of Employee Interview

U.S. Department of Housing and Urban Development Office of Labor Relations

OMB Approval No. 2501-0009
(exp. 10/31/2010)

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. The information is collected to ensure compliance with the Federal labor standards by recording interviews with construction workers. The information collected will assist HUD in the conduct of compliance monitoring; the information will be used to test the veracity of certified payroll reports submitted by the employer. **Sensitive Information.** The information collected on this form is considered sensitive and is protected by the Privacy Act. The Privacy Act requires that these records be maintained with appropriate administrative, technical, and physical safeguards to ensure their security and confidentiality. In addition, these records should be protected against any anticipated threats or hazards to their security or integrity that could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom the information is maintained. **The information collected herein is voluntary, and any information provided shall be kept confidential.**

1a. Project Name			2a. Employee Name			
1b. Project Number			2b. Employee Phone Number (including area code)			
1c. Contractor or Subcontractor (Employer)			2c. Employee Home Address & Zip Code			
			2d. Verification of identification? Yes <input type="checkbox"/> No <input type="checkbox"/>			
3a. How long on this job?	3b. Last date on this job before today?	3c. No. of hours last day on this job?	4a. Hourly rate of pay?	4b. Fringe Benefits? Vacation Yes <input type="checkbox"/> No <input type="checkbox"/> Medical Yes <input type="checkbox"/> No <input type="checkbox"/> Pension Yes <input type="checkbox"/> No <input type="checkbox"/>		4c. Pay stub? Yes <input type="checkbox"/> No <input type="checkbox"/>
5. Your job classification(s) (list all) --- continue on a separate sheet if necessary						
6. Your duties						
7. Tools or equipment used						
8. Are you an apprentice or trainee?		Y <input type="checkbox"/> N <input type="checkbox"/>	10. Are you paid at least time and 1/2 for all hours worked in excess of 40 in a week?		Y <input type="checkbox"/> N <input type="checkbox"/>	
9. Are you paid for all hours worked?		Y <input type="checkbox"/> N <input type="checkbox"/>	11. Have you ever been threatened or coerced into giving up any part of your pay?		Y <input type="checkbox"/> N <input type="checkbox"/>	
12a. Employee Signature			12b. Date			
13. Duties observed by the Interviewer (Please be specific.)						
14. Remarks						
15a. Interviewer name (please print)			15b. Signature of Interviewer		15c. Date of interview	

Payroll Examination

16. Remarks	
17a. Signature of Payroll Examiner	17b. Date

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of Labor Relations
FEDERAL LABOR STANDARDS COMPLAINT INTAKE FORM

HUD FORM 4731
OMB Approval No. 2501-0018
 (Exp. 08/31/2010)

Name of complainant	Social Security Number
Current address of complainant (Street/City/State/Zip Code)	Permanent address, if different from current address
Telephone (including area code) (Home/Cell/Other)	E-Mail address
Project name, location and contract/project number	Prime contractor company name
Employer (company) name	Employer: name of owner/responsible party
Employer address	Employer: contact information (Telephone/Cell/Other)

Check one: Current employee Former employee Other (specify) _____

Period employed on the project

From: _____ To: _____

Occupation/job title: _____

Duties performed (be specific) _____

Tools used and/or equipment operated _____

Wage Rate: \$ _____ per Hour Day Week Piece Other (specify): _____

Hours usually worked on the project

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

Usual start and stop times Start work time: _____ End work time: _____

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of Labor Relations
FEDERAL LABOR STANDARDS COMPLAINT INTAKE FORM

HUD FORM 4731
 OMB Approval No. 2501-0018
 (Exp. 08/31/2010)

Name of complainant	Social Security Number
---------------------	------------------------

	Yes	No		Yes	No
Were meal breaks taken? If yes, how long were the breaks?	<input type="checkbox"/>	<input type="checkbox"/>	Did the employer keep time records?	<input type="checkbox"/>	<input type="checkbox"/>
Paid Overtime (time and ½) after 40 hours?	<input type="checkbox"/>	<input type="checkbox"/>	Did the complainant keep time records?	<input type="checkbox"/>	<input type="checkbox"/>
Paid for all hours worked?	<input type="checkbox"/>	<input type="checkbox"/>	Does complainant have other personal records (pay stubs, log books, etc.) he/she can provide?	<input type="checkbox"/>	<input type="checkbox"/>
Was/is the complainant an Apprentice?	<input type="checkbox"/>	<input type="checkbox"/>	Were fringe benefits paid?	<input type="checkbox"/>	<input type="checkbox"/>

If fringe benefits were paid, check all that apply:

- Cash in lieu of fringe benefits
 Life insurance
 Pension
 Health insurance
 Dental insurance
 Holiday/Sick/Vacation

Identify other fringe benefits paid

Names of others affected by the alleged violation(s)

Names of others who can verify/attest to the complainant's allegations

- Continuation sheets attached**
 Complainant's personal interview attached

Complaint taken by:

Name (print clearly)	Phone number (including area code) and E-mail address
Title	Agency, office
Signature	Date

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. The information is considered sensitive and will not be released without your approval. Provision of this information is voluntary. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget (OMB) control number. HUD and local agencies administering HUD-assisted programs must enforce Federal wage and reporting requirements on covered HUD-assisted construction and maintenance work. Enforcement activities include collecting information from laborers and mechanics and other interested parties regarding information about their employment on covered projects.

SAMPLE CONSTRUCTION OVERSIGHT CHECKLIST

Project Name: _____

Date of Bid Advertisement: _____ Date of Bid Opening: _____

Labor Standards Designee: _____

Contract Amount: _____ Date Work Initiated: _____

Contractor: _____

Address: _____

Minority: _____ Section 3: _____ Female: _____

Contact Person: _____

Telephone: _____

Subcontractor(s): _____

Address: _____

1.	PRE-ADVERTISEMENT/BID PACKAGE REVIEW	Date/By
	▪ State and/or Federal Wage rate determination(s) requested	_____
	▪ Wage rate determination(s) received	_____
	▪ Wage rate determination(s) reviewed by engineer or architect	_____
	▪ Additional classifications needed/requested	_____
	▪ Davis-Bacon provisions (over \$2,000)	_____
	▪ Contract Work Hours and Safety Standards Clauses (over \$100,000)	_____
	▪ Copeland Anti-Kickback clause (over \$2,000)	_____
	▪ Employment of Apprentices/Trainees clause	_____
	▪ Title VI clause	_____
	▪ E.O. 11246 standard clause (above \$10,000)	_____

- 3-paragraph Equal Opportunity provisions (less than \$10,0000) _____
- Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (E.O. 11246- \$10,000 or more) _____
- Standard Federal Equal Employment Opportunity Construction Contract Specifications and Goals and Timetables (E.O. 11246 - \$10,000 or more) _____
- Section 109 clause _____
- Section 3 clause (Over \$100,000) _____
- Age Discrimination Act of 1975 _____
- Rehabilitation Act of 1973 _____
- Section 402 Veterans of Vietnam Era (if over \$10,000) _____
- Nonsegregated Facilities clause _____
- Clean Air/Water (\$100,000) _____
- Energy Efficiency _____
- Flood Insurance, if applicable _____
- Lead-Based Paint clause _____
- 24 CFR Part 85 Bonding Insurance Provisions (\$100,000) _____
- Access to Records/Maintenance of Records clauses _____
- General Administrative Provisions _____
- Review by City/County Attorney _____
- Review by outside agencies (specify) _____
- "9 Day" call to DLG verifying status of wage determination _____
- IFB sent to minority firms/minority business office _____
- Advertisement scheduled 7-21 days prior to bid opening _____
- Addenda sent out to all bidders more than 72 hours prior to bid opening _____

2. PRE-AWARD

- Minutes of Bid Opening _____
- Tabulation of Bids _____
- Recommendation for Award _____
- Verification of Eligibility of Contractor _____
- Prime Contractor _____
- Subcontractor(s) _____
- Written Section 3 plan for all contracts in excess of \$100,000 _____
- Date of State Release of Funds _____
- Council/Fiscal Court Authorization of Contract Award _____

3. PRE-CONSTRUCTION

- Executed Contract _____
- Contractor’s Certification Concerning Labor Standards and Prevailing Wage Requirements _____
- Contractor’s Certification of Equal Employment Opportunity _____
- Contractor’s Certification regarding Section 3 and Segregated Facilities _____
- Contractor’s Employee Breakdown Form _____
- List of subcontractors and Minority/Section 3 status obtained _____
- Executed Subcontract(s) _____
- Subcontractor’s Certification of Equal Employment Opportunity _____
- Subcontractor’s Certification regarding Section 3 and Segregated Facilities _____
- Pre-Construction Conference held _____
- Pre-Construction Conference Report filed in project Labor Standards Enforcement file, cross-referenced in project E.O. Enforcement file _____
- Contractor Established own Equal Opportunity file (E.O. 11246) _____
- Requested and received additional wage _____

classifications for any classifications not included on wage determination _____

- If apprentices are to be used on contract, received copy of contractor’s apprentice program from State Bureau of Apprenticeship and Training _____
- If trainees are to be used on contract, received copy of contractor’s trainee program certification from SBAT _____
- Bonding/Insurance on file with city/county _____
- Contract Labor Standards Enforcement file established _____
- Notice to Proceed issued to Contractor/DLG _____

4. CONSTRUCTION/ENFORCEMENT

- Payroll & Statement of Compliance
Received Reviewed Discrepancies: Document of attached sheet, including resolutions and notice to State

Week 1
 Week 2
 Week 3
 Week 4
 (etc.)

Date by

- Project Inspection

Month 1 _____
 Month 2 _____
 Month 3 _____
 Month 4 _____

Complaints, if any, and actions taken _____
 Correspondence concerning Contractor _____

E.O. Compliance

Project Inspection Checklist

- A. Project Site Posting
- 1) Wage Decision _____
 - 2) Notice to Employees (W.H. 1321) _____
 - 3) Safety & Health Protection on Job _____
 - 4) Equal Employment Opportunity Requirements (E.O. 11246) _____

B. Employee Interviews

File Employee Interview form for each interview conducted. All classifications represented on the job must be included in interviews.

- C. Inspectors report written _____
- (Re: posting of site, contractor compliance with E.O. specification)

5. PROJECT COMPLETION

- Files review to determine completeness,
- Establish all required restitutions have been made and are adequately documented

- Copy of As-Built Plans Received

- Notice of Completion

Public reporting burden for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. The information is considered non-sensitive and does not require special protection. This information is required to obtain benefits. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

All Federal agencies administering programs subject to Davis-Bacon wage provisions are required by Department of Labor (DOL) regulations (29 CFR Part 5, Section 5.7(b)) to submit a report of all new covered contracts/projects and all enforcement activities each six months. In order for HUD to comply with this requirement, it must collect contract and enforcement information from local agencies that administer HUD-assisted programs subject to Davis-Bacon requirements. HUD requests that local agencies complete and submit a Semi-annual Enforcement Report each six months.

Local agencies and HUD must retain a copy of the Semi-annual Enforcement Report in its files.

*Please follow these instructions while compiling the **Semi-Annual Labor Standards Enforcement Report for Local Contracting Agencies (HUD Programs) (form HUD-4710).***

Introduction

Department of Labor (DOL) Regulations 29 CFR §5.7(b) require Federal agencies administering programs subject to Davis-Bacon and Related Act (DBRA) and Contract Work Hours and Safety Standards Act (CWHSSA) labor standards to furnish a Semi-Annual Labor Standards Enforcement Report to the Administrator of the Wage and Hour Division. Some HUD programs are administered by state and local agencies for labor standards compliance. HUD must collect information from such agencies in order to capture enforcement activities for all HUD programs in its reports to DOL.

Reporting Periods: **Period 1 October 1 through March 31**
Period 2 April 1 through September 30

Report Format: Each agency report consists of two parts:

Part I concerns contracting activity for work awarded during the reporting period;

Part II concerns enforcement activity for all contracts, regardless of the award date.

The HUD Labor Relations staff for your area will send a courtesy reminder shortly before the due date about preparing the report and will remind you of the date your report is due. However, you should maintain accurate records throughout the year of relevant contract information so that you can submit the report timely.

Definitions and Guidance

Part I - Contracting Activity - This part concerns only contracts that were **awarded** during this period. *Do not* include contracts that were awarded prior to this period even though the contracts may still be underway. *Do* include work subject to purchase order or other form of agreement, even if there is no formal contract award.

Item 1. Enter the total number of prime contracts subject to DBRA/CWHSSA **awarded** during this period. Track contracts by award or start of construction - **do not** track by bid opening date. Public Housing Authorities (PHAs), Tribally-designated Housing Entities (TDHEs)/Indian Housing Authorities (IHAs): Include force account work that is subject to DBRA/CWHSSA.

Item 2. Enter the total dollar amount of the contracts and/or PHA/TDHE/IHA force account work reported in Item 1.

Item 3. List each project/contract name, brief descriptive information, number or unique identifier, dollar amount, the wage decision and modification number in the contract, bid opening date, contract award

date, and construction start date. Identify which milestone date triggered the wage decision "lock-in" (bid opening date, contract award date or start of construction date, as appropriate). If the project was not subject to sealed bids, indicate "NA" for bid opening date and proceed to identify the other dates.

Part II - Enforcement Activity - This part concerns *all* enforcement activity no matter when the contract was awarded or construction began.

Item 4. Enter the number of **employers** (contractors, subcontractors, lower-tier subcontractors) against whom complaints were received during the report period. List the names of the employers against whom complaints were received and the projects involved.

Item 5. Enter the number of employers that were referred to HUD Labor Relations or DOL staff for investigations, for hearings on appeal and/or debarment hearings. List the employer, project, and agency (HUD or DOL) to which the case was referred, and the reason for referral - investigation, appeal hearing (DOL Regulations 29 CFR Part 5, Section §5.11) and/or debarment (DOL Regulations 29 CFR Part 5, Section §5.12) hearing.

Item 6. Enter information relative to wage restitution that was **collected and/or disbursed** during the report period. This includes restitution disbursed by the agency; restitution reported on certified payroll correction reports, amounts collected but not disbursed because workers could not be found. Report straight time wage restitution separate from Contract Work Hours and Safety Standards Act (CWHSSA) overtime wage restitution. Also list liquidated damages collected for CWHSSA overtime violations.

Agency Name:	Agency Type: <small>[e.g., CDBG, PHA, TDHE/IHA]</small>	State:	LR2000 Agency ID #: <small>(HUD Use Only)</small>
Period Covered: Check One and Enter Year(s)			
<input type="checkbox"/> Period 1: October 1, ____ to March 31, ____	<input type="checkbox"/> Period 2: April 1, ____ to September 30, ____		
Agency Contact Person:	Agency Contact Phone/E-mail:		

PART I - CONTRACTING ACTIVITY*
Pertains ONLY to projects awarded during the reporting period.

1. Number of prime contracts subject to the Davis-Bacon and Related Acts (DBRA) and/or the Contract Work Hours and Safety Standards Act (CWHSSA) awarded this period
Note: Do not include contracts included in previous semi-annual reports

2. Total dollar amount of prime contracts reported in item 1 above \$

3. List for each contract awarded this period:

Project Name/Number	Contract Amount	Wage Decision Number	Wage Decision Lock-In Date
EXAMPLE: "Boy's Club Renovation # CD54005-65"	"\$0,000,000.00"	"FL040001/Mod 3, 6/25/04, Building"	"07/02/04 bid open date" ◀ Lock

*Use additional pages if necessary

WHAT IS THE LOCK-IN DATE? For contracts entered into pursuant to competitive bidding procedures, the bid opening date "locks-in" the wage decision **provided** that the contract is awarded within 90 days. If the contract is awarded more than 90 days after bid opening, the contract award date 'locks-in' the wage decision. For contracts, purchase orders or other agreements for which there is no bid opening or award date, use the construction start date as the lock-in date. However, for projects receiving assistance under Section 8 of the U.S. Housing Act of 1937 or contracts involving a project wage determination, the lock-in rules may vary from above. See Department of Labor Regulations, 29 CFR, Part 1, Section 1.6 and/or HUD Handbook 1344.1, or consult the HUD Labor Relations staff.

WHAT IT ISN'T: Do not use the wage decision publication date, unless that happens to correspond to one of the trigger events described above. If you are not sure about any of this, please feel free to contact the Labor Relations staff in your state or region.

Agency Name:	Agency Type: <small>[e.g., CDBG, PHA, TDHE/IHA]</small>	State:	LR2000 Agency ID #: <small>(HUD Use Only)</small>
Period Covered: Check One and Enter Year(s)			
<input type="checkbox"/> Period 1: October 1, _____ to March 31, _____		<input type="checkbox"/> Period 2: April 1, _____ to September 30, _____	
Agency Contact Person:		Agency Contact Phone/E-mail:	

PART II - ENFORCEMENT ACTIVITY*

Pertains to all projects, not just contract(s) awarded during the reporting period.

4. Number of employers against whom **complaints** were received (list employers and projects involved below):

Employer	Project(s)
-----------------	-------------------

5. (a) Number of cases (employers) referred to HUD Labor Relations for investigation or §5.11 hearing (list referrals below):

(b) Number of cases (employers) referred to the Department of Labor (DOL) for investigation or §5.11 hearing (list referrals below):

Employer	Project	HUD or DOL	Invest. Or Hearing
-----------------	----------------	-------------------	---------------------------

6. (a) **Number of workers for whom wage restitution was collected/dispursed:**
Report only once; if you previously reported workers for whom restitution was collected, do not report the same workers when funds are dispursed. Include workers to whom restitution was paid directly by the employer.

(b) **Total amount of straight time wage restitution collected/dispursed during this period:** \$
Report only once; if you report funds collected, do not report the disbursement. Include restitution amounts paid directly by the employer as reported on correction certified payrolls.

(c) **Total amount of CWHHSA overtime wage restitution collected/dispursed during this period:** \$
Report only once; if you report funds collected, do not report the disbursement. Include restitution amounts paid directly by the employer as reported on correction certified payrolls.

(d) **Total amount of liquidated damages collected:** \$

* Use additional pages if necessary

Submission Requirements for Labor Standards

Date: July 10, 1992

Letter No. LR-92-02

Subject: Submission requirements for §5.7 Labor Standards Enforcement Reports (Davis-Bacon and Related Acts)

U. S. Department of Labor (DOL) Regulations (29 CFR 5.7) require Federal agencies to submit a report to the Secretary of Labor on all enforcement actions where underpayments by a contractor or subcontractor total \$1,000 or more, *or* where there is reason to believe that the violations are aggravated or willful. These reports must be furnished to the DOL within 60 days after the completion of the investigation. (Note that the \$1,000 threshold refers to the underpayments of a single employer to his/her *entire* workforce and not to individual employees.)

HUD Handbook 1344.1 (REV-1, CHG-1) separates the reports into two categories: those which may be submitted to the DOL by the HUD Regional Labor Relations Officer and those that must be submitted through Headquarters. The reporting distinction is made based upon three criteria. A report may be submitted directly to the DOL by the Regional Office if the following conditions exist:

- 1) There is no reason to believe that the violations were aggravated or willful; and
- 2) Full restitution and required payments (e.g., liquidated damages) have been made; and
- 3) No further action (e.g., debarment) is recommended.

Where the Regional Office submits the report directly to the DOL, a copy of the report must be provided to Headquarters Labor Relations.

In *all* other cases, the report must be submitted to the DOL through Headquarters Labor Relations. (See Handbook, Chapter 6, *Reports*.) **Note** that *all* referrals for §5.11(b) hearings, *all* recommendations for debarment, and *all* referrals for decisions concerning the assessment of liquidated damages for CWHSSA overtime violations *must* be accompanied by a detailed §5.7 report.

Contracting agencies (e.g., PHAs, CDBG recipients, etc.) are also required to submit reports of enforcement activity [see Handbook, Chapter 3, 3-4(g)]. Enforcement reports from contracting agencies must be forwarded to the DOL *through HUD* in accordance with these guidelines. This requirement should be discussed during training sessions and made a part of routine technical assistance.

Timing of the Report

DOL regulations require submission of enforcement reports within 60 days after the completion of the investigation. "Investigation" for the purpose of this discussion is broadly defined as ranging from routine payroll reviews to "full-scale" investigations. Additionally, in this use "investigation" is meant to include all actions taken by the agency or contractor toward disposition of the case including settlement by restitution or refusal to pay and/or a request for a hearing under §5.11(b). Therefore, the §5.7 enforcement report should not be prepared until *after* final disposition at the local level (e.g., restitution, request for a hearing, request for a waiver or reduction of CWHSSA liquidated damages) has been reached. It is not necessary,

however, to wait until all of the underpaid workers are located or until disbursement is completed to prepare the report.

Where the report must be submitted to the DOL *through* Headquarters, the Regional Office must furnish the report to this office (Headquarters) sufficiently in advance of the due date to ensure timely submission to the DOL (i.e., within 60 days after completion of the investigation). Consequently, these reports must be received in this office not later than *forty-five (45) days* after completion of the investigation which will allow fifteen (15) days for Headquarters review and transmittal to DOL. (See also Handbook, Chapter 4, *HUD Labor Standards Investigations*.)

Content of the Report

The amount of detail needed in the report and any exhibits is directly related to the purpose the report will serve. Each report should contain basic coverage information, a description of the violation(s), and the disposition of the case, and must be accompanied by a schedule of the wages found due. A report submitted directly to the DOL by the Regional Office (i.e., where restitution has been paid, and there is no evidence of willful or aggravated action with respect to the violations, and no administrative sanctions are recommended) can be brief. Reports that refer a request for a hearing or that recommend debarment must be much more detailed in narrative and must be accompanied by exhibits which, together, are sufficient to substantiate the violations and document the investigative actions of the agency. Judgment must be used to determine the amount of detail and documentation that is appropriate in each case.

A sample format for §5.7 labor standards enforcement reports is attached. The basic format should be adequate in most cases where restitution has been paid and no further administrative action is recommended. Modifications may be made to appropriately reflect the circumstances of specific cases. The format will need to be expanded where a more detailed report is required (e.g., debarment recommendations, §5.11(b) hearing requests).

The LRAP software currently in development is expected to contain an enforcement report component. If necessary, the instructions contained in this Letter will be modified to ensure consistency.

**DOCUMENTATION OF RESTITUTION
EMPLOYEE RELEASE FORM**

DATE: _____

PROJECT NAME: _____

PROJECT NUMBER: _____

PROJECT LOCATION: _____

I, _____, certify that I have received restitution in the gross amount of \$ _____ from _____, certified check # _____. This reimbursement is for all back wages that were due to me as a result of underpayment, and in accepting this money I relinquish all claims of underpayment.

Employee Signature

Last 4 Digits of Social Security #

Address

City, State and Zip

Telephone Number

COUNTY OF _____)
COMMONWEALTH OF KENTUCKY)

Subscribed and sworn to before me this _____ day of 20 _____.

Notary Public
Kentucky State at Large

My commission expires:

Kentucky Prevailing Wage Overtime Agreement

KRS 337.540 (1) requires that in order for an employer to permit any laborer, workman or mechanic working on a public works project to work in excess of eight (8) hours, but not more than ten (10) hours except as provided in KRS 337.540, in a calendar day the employer and employee shall enter into an agreement in writing.

In compliance with Kentucky Revised Statues, the undersigned employee agrees to work four (4), ten- (10) hour days at straight time on this Kentucky Prevailing Wage project when requested by the undersigned contractor. The contractor agrees to pay one and one half time the basic hourly rate of pay for any time worked by the undersigned employee in excess of ten (10) hours in one calendar day or forty (40) hours per week.

This agreement will pertain to the following project:

Employee Name (Print)

Contractor Name (Print)

Employee Signature

Contractor Signature & Title

Date

Date

Chapter 7: Fair Housing and Equal Opportunity

Introduction

This chapter summarizes the key regulations and requirements of fair housing and equal opportunity laws applicable to KCDBG projects. To be in compliance, the grantee must adhere to all the basic tenets of fair housing and equal opportunity regulations. To demonstrate support for ensuring these tenets, grantees must endorse in attitude and deed all regulations for fairness in the provision of KCDBG funded programs and 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 KCDBG projects. No person shall be subjected to discrimination because of: race, color, religion, sex, disability, familial status or national origin, all of which are collectively referred to as the “protected classes,” which protects all people.

- ✓ HUD regulations revising the CDBG regulations that took effect in March 2012 also provide for fair housing to persons regardless of sexual orientation or gender identity (actual or perceived).
- ✓ An amendment to Executive Order 11246 also extended coverage to these classes in 2014 and further guidance was issued in September of 2016 (more information later in this chapter).
- ✓ In September 2016, HUD issued guidance formalizing legal standards regarding sexual harassment in housing and how the Fair Housing Act applies to ensure that local nuisance or crime-free housing ordinances to not lead to discrimination.
- ✓ HUD also issued guidance in September 2016 regarding Fair Housing Act protections for persons with Limited English Proficiency (LEP).

This chapter is broken down into three broad areas: Fair Housing and Nondiscrimination; Accessibility; and Equal Opportunity. The fourth section of this chapter is dedicated toward appropriate record keeping and monitoring. Exhibit 7.1 at the end of this chapter provides the grantee with references to the major regulations and requirements covering fair housing and equal opportunity.

Section 7-A. Fair Housing and Nondiscrimination

When the assurances were signed as a part of the grantee’s application for KCDBG funds, a commitment was made for the grantee to perform the following activities to further fair housing and ensure nondiscrimination:

- ✓ Maximize choice within the community’s total housing supply;
- ✓ Lessen racial, ethnic and economic concentrations of housing;
- ✓ Facilitate desegregation and racially inclusive patterns of occupancy and use of public facilities;
- ✓ Provide for equal access in HUD-funded programs and facilities/buildings; and
- ✓ Administer the KCDBG project in a manner to affirmatively further fair housing. The regulations identify fair housing responsibilities for both states and local grant recipients.

Grantees should be aware that fair housing provisions apply to the locality as a whole and not just those activities that are KCDBG-funded; and that implementing fair housing activities is an essential part of the KCDBG responsibilities.

Fair housing actions should increase housing opportunities and affirmatively promote fair housing throughout the entire housing market at all income levels. These activities may include independent actions by the grantee or cooperative ventures with housing related industries, such as mortgage lenders, home builders, and local non-profits working in housing. The grantee is expected to take progressive actions to further fair housing with each KCDBG project. Grantees should include the fair housing logo on all published materials marketing their housing programs.

Further, provisions regarding equal access (as previously mentioned on page 1 of this chapter) apply to KCDBG-funded facilities and buildings that may or may not involve housing (e.g., shelters, service facilities, etc.).

Tip: Review this chapter along with your local policies on fair housing and equal opportunity and update, as necessary. Follow up with DLG staff on any questions.

Fair Housing Activities

Grantees are required to designate a fair housing and equal opportunity coordinator to be the prime liaison with DLG. This coordinator will review all plans and activities for compliance to suggest strategies and actions that can be undertaken to comply with the spirit and intent of the law.

Grantees are required to pass a fair housing resolution as part of evidentiary materials prior to release of grant funds (as outlined in Chapter 1: Project Administration). The resolution should be published in a newspaper of general circulation or posted in prominent locations throughout the community. (See Attachment 7-1: Fair Housing Resolution for sample language.)

[Chapter 1: Project Administration](#)
[Attachment 7-1:
Fair Housing Resolution](#)

Grantees must also undertake one or more activities to affirmatively further fair housing depending upon local conditions and needs to ensure that all citizens in your community are aware that affirmatively furthering fair housing is a priority. Provided below is a list of the types of activities that should be undertaken to satisfy the requirement of promoting fair housing and equal opportunity. Discretion is left at the local level to determine the appropriateness of the activity(ies) that are chosen.

- ✓ Counseling services,
- ✓ Market the fair housing resolution,
- ✓ Creation of human rights commission,
- ✓ Education programs,
- ✓ Use of HUD affirmative marketing plans,
- ✓ Assistance to fair housing groups,
- ✓ Assistance to minorities in locating to non-minority areas,
- ✓ Voluntary affirmative lending plans,
- ✓ Voluntary affirmative realtor plans,

- ✓ Voluntary affirmative homebuilder plans,
- ✓ Local compliance and monitoring process, and
- ✓ Advertising the benefits of an open community.

Nondiscrimination

The grantee must assure that all KCDBG-funded activities undertaken as part of the project are conducted in a manner that will not cause discrimination on the basis of race, color, religion, sex, disability, familial status, or national origin. Also, effective March 2012, the CDBG regulations (24 CFR Part 570) were revised such that the definition of a household includes unrelated individuals regardless of perceived sexual orientation, gender identify or marital status. Segregated facilities, services or benefits, or different treatment are prohibited. For facilities or buildings that have physical limitations or configurations that require and/or that are permitted to have shared sleeping quarters or bathing facilities, refer to 24 CFR Part 5, Federal Register Notice FR 5863-F-02 published September 21, 2016. This notice provides guidance on measures to ensure that recipients and subrecipients, owners, operators, and managers of shelters and other buildings and facilities and providers of services grant equal access to such facilities and services to individuals in accordance with an individual's perceived gender identity.

Grantees must demonstrate compliance with Title VI of the Civil Rights Act of 1964 and KRS 344.015. All organizations that receive pass-through federal funding from DLG must comply with DLG's (refer to the link provided) or its own Title VI Implementation Plan. To meet the requirements of compliance, grantees have two options.

DLG's Title VI Plan can be found at:
https://kydlgweb.ky.gov/Documents/CDBG_cities/2021%20DLG%20Title%20VI%20Plan.pdf

- ✓ Option 1: The grantee can adopt the plan created by DLG. To do so, grantees must complete Attachment 7-2: Title VI Self-Survey and Statement of Assurance. In addition, the following items MUST be retained by the grantee with your completed Civil Rights Title VI Self-Survey: (1) Nondiscrimination Policy; and (2) Compliance Assurance, including a copy of all contracts used to provide direct services to clients and a copy of all contracts used to assure that subcontractors or vendors are clearly aware of your agency's commitment to Title VI.

Attachment 7-2:
Title VI Self-Survey and Statement
of Assurance

- ✓ Option 2: Though most organizations have chosen to adopt the DLG plan, a grantee may create its own Title VI Implementation Plan and submit it to DLG for approval. The standards for preparing a Title VI Implementation Plan are provided in 45 KAR 1:080.

Regardless of which option the grantee chooses, it must submit its chosen Title VI Self Survey and Plan to DLG as part of evidentiary materials and maintain a copy of Title VI documents for review by the general public and DLG, HUD or its representatives.

In addition to the specific Title VI requirements, the grantee should take care to ensure the following equal opportunities are made available:

- ✓ Access to any advantage arising out of CDBG projects/activities is not denied solely on the basis of race, color, religion, sex, disability, familial status or national origin alternatively, offered for the

enjoyment of a segment of the population in such a way as to intentionally exclude any member of these protected groups.

- ✓ HUD issued regulations regarding equal access for lesbian, gay, bisexual and transgender (LGBT) persons in February 2012. This includes a general provision which requires housing constructed with or using HUD funds be made available without regard to sexual orientation, gender identity or marital status.

Fair Housing for LGBT Persons:
https://www.hud.gov/LGBT_resources

- ✓ Selection of sites and locations for facilities and improvements do not have an exclusionary or discriminatory effect.
- ✓ Evaluation criteria and administrative practices do not have a discriminatory effect.
- ✓ Affirmative action to overcome the effects of past discrimination.

- ✓ An Equal Employment Opportunity Poster must be displayed in a prominent place at the office of the grantee. The poster may be obtained by calling the Kentucky Commission on Human Rights.

Kentucky Commission
on Human Rights
1-800-292-5566
TDD 502-595-4084

- ✓ A Fair Housing Poster must be displayed in a prominent place at the office of the grantee (see link to poster provided at right).
- ✓ An “Equal Access Regardless of Sexual Orientation, Gender Identity or Marital Status” Poster must be displayed at CDBG-funded shelters, housing, facilities and other buildings to ensure that individuals are aware of their rights to equal access.

Fair Housing Posters:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opportunity/marketing

- ✓ Grantees may use Attachment 7-3: Equal Opportunity Checklist to ensure their agency is following all required equal opportunity elements. It is also recommended that grantees have equal opportunity procedures for staff to refer to. (See also Chapter 4 and 5: Procurement and Contracting for detailed guidance on Section 3 concerning employment and business opportunities for low-income residents of the project area.) Suggested elements of equal opportunity procedures include but are not limited to the following:

Attachment 7-3:
Equal Opportunity Checklist
Chapters 4 and 5

- Develop a nondiscrimination checklist to review policies, plans and actions, and documented reviews.
- Develop a network of information points that serve minority, elderly, women, disabled persons and ethnic groups and make sure that information about project services, facilities and improvements is given to these groups for dissemination in addition to normal newspaper/public notice channels.
- Incorporate discussion of the issue of nondiscrimination into decision processes concerning project activities and recipients and document consideration of the issue.
- Develop and maintain a database for the project area that captures information about population characteristics.

- Develop a grievance procedure to handle the complaints the grantee receives. The procedure should be a formal written procedure and should be made available to the citizens. Each complaint should be addressed in a formal response to the complainant. Each complaint and the resolution to the complaint must be well documented in the project files.

Although assurances have been signed relative to nondiscrimination in project implementation, it is still necessary to go beyond the assurance and prove compliance. Both Title VI and Section 109 prohibit discrimination, denial of program benefits, and exclusion from participation in the administration of the project.

Housing Activities and Fair Housing

Grantees undertaking housing projects and activities must ensure fair housing rules are followed in the provision of housing services and assistance. Opportunities for purchase or rental, terms and conditions, advertising and marketing information, and availability of real estate services should not discriminate.

Some of the actions to ensure fair housing in housing activities are listed below.

- ✓ Verifying that a copy of the state’s Analysis of Impediments (AI) to Fair Housing Choice or Assessment of Fair Housing (AFH) (if/when applicable) is reviewed periodically to ensure actions are taken by the local grantee to address the barriers identified in the AI. If the grantee has adopted its own AI, this document should be used to ensure actions have been taken. http://kydlgweb.ky.gov/FederalGrants/16_FedGrantsHome.cfm
- ✓ Marketing information concerning housing services and activities should be disseminated through agencies and organizations that routinely provide services to protected groups. Limited English Proficiency (LEP) requirements must be taken into account and incorporated as appropriate.
- ✓ Criteria for selecting recipients of housing services or assistance should be evaluated for any discriminatory practices or effect.
- ✓ Posters and other information should be disseminated and posted for all CDBG-funded programs and facilities.
- ✓ Policies guiding the provisions of relocation housing and services for persons displaced by housing activities should be evaluated for discriminatory effect.
- ✓ Legal documents used by grantees and lending institutions should be reviewed and revised if necessary to eliminate any discriminatory intent or practice.

Tip: Review all documents to ensure fair housing language and logos are used. Also, be alert for situations where potential fair housing or nondiscrimination may occur.

Section 7-B. Accessibility

This section of the chapter reviews the requirements grantees must follow to be in compliance with accessibility requirements of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973 (Section 504). Collectively, the accessibility laws and implementing regulations prohibit discrimination

based on disability and establish requirements for physical accessibility in connection with federally-funded housing and non-housing activities.

Section 504 provides that no otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation in (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving federal funding assistance.

Attachment 7-4:
Section 504 Checklist

Specifically, Section 504 imposes requirements related to:

- ✓ Program accessibility;
- ✓ Communications;
- ✓ Accessible design and construction for certain housing and non-housing activities;
- ✓ Grantee self-evaluation of programs, services, and activities to ensure programmatic and physical accessibility to persons with disabilities; and
- ✓ Nondiscrimination in employment.

For the purposes of compliance with Section 504, “accessible” means ensuring that programs and activities, when viewed in their entirety, are accessible to and usable by individuals with disabilities.

The Fair Housing Act also prohibits discrimination in the housing market based on disability, and imposes design and construction requirements to enhance accessibility in the built environment.

Program Accessibility

Existing housing and non-housing programs administered by the grantee and its funded entities (e.g., subrecipients, developers) must be accessible to persons with disabilities. Program accessibility means that a program, when viewed in its entirety, is readily accessible to and usable by persons with disabilities. This means that persons with disabilities must: (1) have an equal opportunity to participate in and benefit from the program, and (2) be offered the same range of choices and amenities as those offered to persons that do not have disabilities. Grantees ensure that their programs and services are readily accessible to and usable by persons with disabilities to the maximum extent feasible. In other words, the grantee must take steps to provide the necessary access to persons with disabilities, unless the actions would constitute an undue financial and administrative burden, or require a fundamental alteration in the nature of the program.

Examples of steps to ensure program accessibility include:

- ✓ Conduct meetings and program-related marketing and other activities in accessible locations.
- ✓ House program in-take offices in accessible locations.
- ✓ Ensure program-related communications are accessible to persons with disabilities (see Communications section below for more detail).
- ✓ In housing activities, distribute accessible units throughout projects and sites, and make them available in a sufficient range of sizes and amenities so as not to limit choice. Make accessible units available to persons with disabilities first.
- ✓ Make reasonable accommodations to persons with disabilities. A reasonable accommodation is a change, adaptation or modification to a policy, program, service, or workplace that allows a qualified

person with a disability to participate fully in a program, take advantage of a service, or perform a job. What is reasonable can only be determined on a case-by-case basis; however the following examples are often considered reasonable accommodations:

- A federally-assisted housing provider has a policy of not providing assigned parking spaces. A tenant with a mobility impairment, who has difficulty walking, is provided a reasonable accommodation by being given an assigned accessible parking space in front of the entrance to his unit.
- A federally-assisted housing provider has a policy of requiring tenants to come to the rental office to pay their rent. A tenant with a mental disability, who is afraid to leave her unit, is provided a reasonable accommodation by being allowed to mail her rent payment.
- A federally-assisted housing provider has a no-pets policy. A tenant, who uses a wheelchair and has difficulty picking up items off the ground, is allowed to have an assistive animal that fetches things for her as a reasonable accommodation to her disability.
- An older tenant has a stroke and begins to use a wheelchair. Her apartment has steps at the entrance and she needs a ramp to enter the unit. Her federally-assisted housing provider pays for the construction of a ramp as a reasonable accommodation to the tenant's disability.

Communication

Communication is an important component of program accessibility. Persons with impairments to hearing, vision, speech, or mobility may have special communication needs. To the maximum extent feasible, grantees must provide program information in ways to ensure that persons with these types of disabilities are able to access and enjoy the benefits of any program or activity receiving KCDBG funds.

Grantees must furnish auxiliary aids and services, as necessary, to ensure effective communication with persons with disabilities. These may include:

- ✓ For persons with hearing impairments:
 - Qualified sign language interpreters;
 - Note takers;
 - Telecommunication devices for deaf persons (TDDs);
 - Telephone handset amplifiers;
 - Assertive listening devices (devices that increase the sound in large group settings);
 - Flashing lights (where aural communication is used, such as warning bells);
 - Video text displays (devices that display text that is simultaneously being spoken can be used where a public address system provides information);
 - Transcription services; and
 - Closed and open captioning.
- ✓ For persons with vision impairments:
 - Websites that comply with Section 508;

- Qualified readers;
- Written materials translated into alternative formats (i.e., Braille, audio tape, large print);
- Aural communication (Bells or other sounds used where visual cues are necessary); and
- Audio description services (through a headset, a narrator describes what the visually impaired person cannot see).

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

Limited English Proficiency

Title VI of the Civil Rights Act of 1964 is the federal law that protects individuals from discrimination on the basis of their race, color or national origin in programs that receive federal financial assistance. The Fair Housing Act, as amended, further prohibits discrimination against protected classes.

In certain situations, failure to ensure persons who have Limited English Proficiency (LEP) can effectively participate in, or benefit from, federally assisted programs may violate Title VI's and the Fair Housing Act's prohibition against national origin discrimination. Specifically, housing providers are prohibited from using LEP selectively or as an excuse for intentional housing discrimination. In addition, landlords are prohibited from using LEP in a way that causes an unjustified discriminatory effect.

In addition, persons who, as a result of national origin, do not speak English as their primary language and who have limited ability to speak, read, write or understand English may be entitled to language assistance under Title VI to receive a particular service, benefit or encounter.

DLG has completed a four-factor analysis to ensure meaningful access for LEP persons.

- ✓ The number or portion of LEP persons served or encountered in the eligible service area.
- ✓ The frequency with which LEP individuals come in contact with the designated KCDBG grantees.
- ✓ The nature and importance of the program, activity or service provided by the program.
- ✓ The resources available to recipient and the cost.

Additionally, all KCDBG recipients will be required to use the same four-factor analysis prior to the release of funds.

DLG has developed a Language Access Plan (LAP) for persons with Limited English Proficiency (LEP), which is available on DLG's website. The LAP will serve as the guide for determining which language assistance measures DLG will undertake to guarantee access to the KCDBG programs by LEP persons. This guidance may be followed by grantees; however, grantees are required to ensure that LAPs address local limited English proficiency data and needs.

DLG Language Access Plan (LAP):
https://kydlgweb.ky.gov/Documents/CDBG_cities/2021%20DLG%20Language%20Access%20Plan.pdf

Size of Language Group	Recommended Provision of Assistance
1,000 or more in the eligible population in the market	Translated vital documents.

area or among current beneficiaries.	
More than 5% of the eligible population or beneficiaries and more than 50 in number.	Translated vital documents.
More than 5% of the eligible population or beneficiaries and 50 or less in number.	Translated written notice of right to receive free oral interpretation of documents.
5% or less of the eligible population or beneficiaries and less than 1,000 in number.	No written translation is required.

Grantees are not required to take any actions that would result in a fundamental alteration in the nature of a program or activity or undue financial and administrative burden. Grantees finding themselves in this situation should contact DLG for additional guidance.

Accessibility in Housing and Non-Housing Activities

Certain housing and non-housing facilities that are constructed or rehabilitated with KCDBG funds must be designed and constructed to be accessible.

Housing Activities

KCDBG-funded housing is subject to the accessibility requirements of both Section 504 and the Fair Housing Act, as amended. For housing purposes, an accessible dwelling unit is on an accessible route and has accessible features inside.

HUD CPD Notice 00-09
 Accessibility Notice: Section 504 of
 the Rehabilitation Act of 1973 and
 the Fair Housing Act

Under Section 504:

- ✓ For newly constructed multi-family rental housing containing five or more units and substantial rehabilitation of multi-family rental housing with 15 or more units:
 - A minimum of five percent of total dwelling units (but not less than one unit) must be made accessible for individuals with mobility impairments;
 - An additional two percent of dwelling units (but not less than one) must be made accessible for persons with hearing or vision impairments.
- ✓ Units that are made accessible must be located on an accessible route (either on the ground floor, or on a floor that is served by an elevator).
- ✓ When alterations to a unit are not substantial, any alterations that are made to the multifamily dwelling unit must be made to be accessible to and usable by individuals with disabilities.
- ✓ A rehabilitation project is considered substantial when the rehabilitation costs are 75 percent or more of the replacement cost of the complete facility.
- ✓ Accessible features must meet the requirements of the Uniform Federal Accessibility Standard (UFAS).

Under the Fair Housing Act:

-
- ✓ All newly constructed units in buildings with four or more units that are on the ground level or can be reached by an elevator must be made accessible.
 - ✓ The accessibility standard is outlined in the Fair Housing Act. This standard is often referred to as “adaptable,” and is generally a less stringent standard of accessibility than UFAS.

Uniform Federal Accessibility Standards
<https://www.access-board.gov/aba/ufas.html>

Non-Housing Activities

All of Section 504's nondiscrimination, program accessibility, and reasonable accommodation requirements that apply to housing facilities and programs apply equally to the operation of non-housing facilities or programs. “Facility” is defined under Section 504 as any portion of a building, equipment, roads, walkways, parking lot or other real property. “Accessible” for non-housing purposes means that a facility or portion of a facility can be approached, entered, and used by individuals with physical handicaps.

HUD CPD 05-10, issued Nov 5, 2005, “Accessibility for Persons with Disabilities to Non-Housing Programs funded by CDBG”,
http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_15258.pdf

Non-housing programs as well as existing facilities in which they are situated must be readily accessible to and usable by persons with disabilities, in accordance with the UFAS standard. In order to make its facilities accessible, a grantee may need to:

- ✓ Relocate programs to accessible facilities or accessible portions of facilities;
- ✓ Acquire or build new facilities that are accessible; or
- ✓ Selectively alter facilities to make them accessible to persons with mobility or sensory impairments.

State and local governments are also subject to Title II of the Americans with Disabilities Act of 1990 (ADA), which prohibits discrimination against persons with disabilities. Title II requires that facilities that are newly constructed or altered by, on behalf of, or for use of a public entity, be designed and constructed in a manner that makes the facility readily accessible to and useable by persons with disabilities. Title II also requires accessibility of newly constructed or altered streets, roads, highways, and pedestrian walkways.

ADA information is available at
www.ada.gov

Self-Evaluation

DLG has conducted a self-evaluation of its programs, services, and activities to determine if they are programmatically and physically accessible to persons with disabilities. In turn, it requires each of its grantees to conduct a self-evaluation as well.

If a grantee has not already performed a Section 504 self-evaluation of programs, services, and activities to determine if they are programmatically and physically accessible to people with disabilities, they must conduct such evaluation and document all needs. If a grantee has already performed a self-evaluation, a new one is not required, unless facilities have been altered.

24 CFR 8.51

Grantees can complete the DLG self-evaluation guide, provided as Attachment 7-5, to adopt and use in their own programs.

Attachment 7-5:
Section 504 Self Evaluation

Grantees should also involve persons with disabilities in these evaluations.

While performing the self-evaluation, grantees should conduct a careful inspection of the following to determine if they are free from discriminatory effects and practices:

- ✓ Employment and personnel policies and practices;
- ✓ Programs and activities;
- ✓ Benefits and service delivery; and
- ✓ Contractual agreements.

Tip: Conduct a “walk-through” of the process required for participation in the service or program to assess its accessibility. Analyze the physical path traveled, as well as the administrative requirements, service delivery, eligibility criteria, and application procedures.

The self-evaluation (along with the transition plan discussed below) must be submitted to DLG as part of the evidentiary materials (see Chapter 1: Project Administration).

Chapter 1:
Program Administration

In the course of the self-evaluation, if the grantee identifies any policies and practices that are found to be discriminatory or contrary to Section 504 requirements, it must take steps to remedy the discrimination.

Transition Plan

If structural barriers have been identified during the self-evaluation process and cannot be removed with nonstructural solution, a transition plan must be completed and made available for public review and comment.

The plan must address the following items:

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

Additional guidance for completing a transition plan is provided in Attachment 7-6. The grantee is not necessarily required to make every part of an existing facility accessible if that is not structurally possible, but grantees must address how persons with disabilities will be assured access. The transition plan must involve persons with disabilities and/or representative organizations. The transition plan must be sent to DLG as part of evidentiary materials (refer to Chapter 1).

Attachment 7-6:
Section 504 Transition Plan
Chapter 1: Project Administration

Special Requirements for Grantees with 15 or More Employees

There are two additional requirements for Section 504 compliance for grantees with 15 or more full or part-time employees:

- ✓ Designation of responsible employee and adoption of grievance procedures:
 - At least one person must be designated to coordinate 504 and related compliance efforts. The agency coordinator should be designated in writing and identified in any written notices.
 - A grievance procedure must also be adopted incorporating due process standards and allowing for prompt local resolution of any complaints of discrimination based on disability. Existing grievance procedures can often be adapted to satisfy this requirement. A sample Grievance Procedure is provided as Attachment 7-7.
 - Any individual or authorized representative who believes that they have been denied opportunities or treated differently due to their race, color, national origin, sex, age disability, religion, familial status, sexual orientation and gender identity may file a complaint. The complaint may be filed with DLG, the Kentucky Human Rights Commission or HUD. More information concerning complaints is provided as Attachment 7-8 to this Chapter.
- ✓ Notification to participants, beneficiaries, applicants and employees of their nondiscriminatory provisions. See 24 CFR 8.54 for specific details. In summary, the grantee must provide notice regarding the following:
 - The grantee must publish in a newspaper of general circulation the notice “Policy of Non-Discrimination on the Basis of Disability Status,” which can be found as Attachment 7-9.
 - To document this requirement, the Section 504 Compliance File should contain the printer’s affidavit for the public notice “Policy of Non-Discrimination on the Basis of Disability Status” and other evidence of compliance with the notification policy. To ensure this notice reaches the visually and mobility impaired, it is also recommend to have the notice placed on local radio and/or television stations.
 - The policy must be submitted to DLG as part of evidentiary materials (see Chapter 1: Project Administration).
 - Grantees must include the same language of their policy of nondiscrimination (mentioned in the first bullet) in all material used for recruitment or general information.
 - Grantees must ensure that all members of the population with visual or hearing impairments are provided with the information necessary to understand and participate in the programs offered (e.g., TDD or TTY services, large print on outreach materials and application documents, etc.).

Attachment 7-7: Grievance Procedures for Complaints

Attachment 7-8: Sample Fair Housing Complaint Information

24 CFR 8.54

Attachment 7-9: Policy of Non-Discrimination on the Basis of Disability Status

Methods for ensuring participation may include qualified sign language and oral interpreters, readers or the use of taped and Braille materials.

Tip: Review program and projects with an eye toward accessibility compliance. Modify program procedures and housing project work plans as necessary.

Section 7-C. Employment and Contracting

Employment

Nondiscrimination is a requirement of grantees with regard to 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. NOTE that for federally-funded construction contracts and subcontracts, Executive Order 13672 amended Executive Order 11246 in April of 2015 to include sexual orientation and gender identity as protected classes in terms of hiring and employment on such contracts and subcontracts.

Affirmative action and equal employment opportunity policies are fundamental aspects. Steps that can be taken by grantees to prevent discrimination in employment include the following:

- ✓ Review of jurisdictional employment policies and procedures for discriminatory intent or practice and document review.
- ✓ Advertise employment opportunities and/or to recruit employees for project-related positions.
- ✓ Develop and maintain employment data that indicates staff composition by race, sex, handicap status and national origin.

Specifically, Section 504 has a number of general prohibitions against employment discrimination. Grantees must ensure that the following items are adhered to:

- ✓ No qualified individual with a disability shall, solely on the basis of their disability be subject to discrimination in employment under any program or activity that receives federal assistance.
- ✓ Any grantee cannot legally limit, segregate or classify applicants or employees in any way that negatively affects their status or opportunities because of disability.
- ✓ In pre-employment and employment activities, discrimination based on a disability must not occur and reasonable accommodations must be made to the physical or mental limitations of otherwise qualified individuals unless it creates undue hardship for the grantee. HUD regulations specify that an employer is prohibited from discrimination in the following instances:
 - Recruiting, advertising and processing of applications;
 - Hiring, upgrading, promoting, tenure, demotion, transfer, layoffs, termination right or return from layoffs, illness and rehiring;
 - Rates of pay and any other forms of compensation;
 - Job assignments, classifications and descriptions, organizational structures, lines, progression and seniority lists;
 - Leaves of absence, sick leave or any other leave;
 - Fringe benefits available by virtue of employment;

-
- Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities and selection for leaves of absence for training;
 - Employer sponsored activities, including social or recreation programs; and
 - Any other term, condition or privilege of employment.
- ✓ Grantees may not participate in a contractual or other relationship that subjects qualified disabled applicants or employees to discrimination.

Reasonable accommodation in employment, as mentioned in the above list, is determined on a case-by-case basis. It means reasonable modifications on the job or in the workplace to enable a disabled person to perform the job for which she/he is qualified.

It is important for grantees to remember that the essence of Section 504 provides for equal opportunity and not the same level of achievements. Section 504 does not require the hiring or promotion of someone simply because she/he has a disability.

Procurement and Contracting

Procurement and resulting contracting is another area of grant administration that must be nondiscriminatory. The grantee must ensure nondiscrimination in the solicitation, advertising and awarding of contracts for all of the protected classes with the addition of sexual orientation and gender identity. Bid specifications and/or evaluation criteria used to review bids must not be discriminatory. See Chapter 4: Procurement and Chapter 5: Contracting for more detailed information and guidance.

Chapter 4: Procurement
Chapter 5: Contracting
Executive Order 11246 as
amended by Executive Order
13672

Section 7-D. Record Keeping and Monitoring

Compliance with Federal and state laws is the responsibility of each recipient. DLG is required to monitor grantees for compliance with fair housing and equal opportunity laws and requirements. This monitoring is facilitated when records documenting compliance are maintained appropriately by recipients. DLG requires that the records demonstrating compliance with these requirements be kept on a current basis. Records must be maintained for five years following final close-out of the grant. Chapter 1: Project Administration also provides guidance on record keeping. All grantees in joint projects must undertake Fair Housing and Equal Opportunity activities as well as maintain full documentation and files.

Chapter 1: Project Administration

Fair Housing Records

The following records must be maintained by the recipient in a separate equal opportunity and fair housing file:

- ✓ Documentation of policies, procedures and practices that ensure non-discrimination of all protected classes and comply with any applicable laws, regulations, policy guidance or other requirements.
- ✓ Documentation of the action(s) the recipient has taken to affirmatively further fair housing, including records on funds provided, if any, for such actions.

- ✓ Demographic data (actual survey or latest census data) depending on the project undertaken may include:
 - The population of the jurisdiction of the unit of general local government receiving KCDBG funds;
 - The minority population of the locality (number and percentage);
 - The target area population;
 - The minority population of the target area (number and percentage);
 - The number of disabled, elderly households, and female-headed households in the target area; and
 - A map of the locality showing the locations of assisted housing units, concentrations of minority population, concentrations of low and moderate income, and the target area.

Direct Benefit Records

As part of the KCDBG application, the grantee is required to submit statistical information on the persons benefiting from the project. It is important that this information be maintained and updated throughout the implementation of the project. Even if the project activities meet the “presumptive benefit” test for proving LMI benefits and surveys have not been conducted or statistical data on beneficiaries has not been collected, benefit data for fair housing and equal opportunity purposes must be maintained.

Data must be collected and retained on beneficiaries according to the statistical categories listed on the Project Beneficiary Profile Form that is part of the Project Completion Report (PCR) (Attachment 13-2 of Chapter 13). This information is necessary both in proving compliance with fair housing and equal opportunity laws and in meeting closeout requirements when the project is completed. The Project Benefit Profile will assist the grantee in maintaining specific data on project beneficiaries. The grantee may choose to conduct local surveys or use census data for documentation. These forms are to be maintained throughout the length of the project and updated as significant progress is made. In addition, documentation for each person benefiting must be included in the project files.

Attachment 13-2:
Project Completion Report

For direct benefit activities (i.e., housing and economic development job creation activities), grantees must also provide data on the extent to which persons have applied for benefits and participated in or benefited from any program or activity funded in whole or in part with KCDBG funds. Records must be kept by race, ethnicity and gender of heads of households.

Employment Records

- ✓ Data on employment of the local government that is carrying out an activity funded in whole or in part with KCDBG funds. The data to be maintained in the files includes:
 - A description of the local government work force in percentage by race, gender, job title, and hire date.
 - The percentage of minorities in the jurisdiction of the unit of general local government that is receiving KCDBG funds and the percentage of minorities working for that unit of general local government.

Attachment 7-10:
Local Government Employment
Work Force Analysis

- The number of project area residents employed with KCDBG funds. Data should show the percentage by race and gender of the personnel in any department, office, or agency of the unit of local government using KCDBG funds to employ staff. (A sample Local Government Employment Work Force Analysis form is provided as Attachment 7-10 to this Chapter). For example, if KCDBG funds are being used to pay a portion of a bookkeeper's salary in the accounting department of the city, then employment data should be available for the department. Note this data is not required for any public or private entity performing services under contract to the unit of general local government; e.g., an Area Development District (ADD) or engineering firm that is administering a KCDBG project under a contract with a local government.
- Government hiring practices and policies.
- Affirmative Action Plan (if applicable).
- ✓ Documentation of the affirmative actions the grantee has taken to overcome the effects of prior discrimination as determined through a formal compliance review or court proceeding, where the recipient has previously discriminated against persons on the grounds of race, color, religion, sex, disability, familial status, national origin, sexual orientation, or gender identity in administering a program or activity funded in whole or in part with KCDBG funds.

Section 504 Records

- ✓ A copy of the self-evaluation;
- ✓ A copy of the transition plan;
- ✓ A list of interested persons who were consulted;
- ✓ A description of areas and buildings examined and any problems identified;
- ✓ A description of modifications made and remedial steps taken to comply with the regulations; and
- ✓ Evidence that new or substantial rehab multi-family projects were constructed/rehabilitated to meet 504 standards.

Monitoring

The designated fair housing and equal opportunity coordinator and/or officers should review compliance requirements on an annual basis.

Grantees will be monitored by DLG on a periodic basis. Proper notification of a monitoring visit will be provided, however; it is important for grantees to keep all records and files in “monitoring readiness” condition at all times. Some of the areas DLG staff will review to determine if grantees meet compliance with all fair housing and equal opportunity requirements and laws are listed below:

- ✓ A check of the availability and adequacy of employment records;
- ✓ Identification of programs and activities assisted through KCDBG funding and assessment of program impact on protected groups;

- ✓ An examination of procurement procedures and awards to assess the utilization of minority and/or female owned enterprises and businesses located in the project area or owned in substantial part by project area residents;
- ✓ A review of voluntary efforts to promote fair housing; and
- ✓ An examination of the extent to which various protected groups have been impacted by relocation activities.

HUD FHEO Compliance and Monitoring

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

It is important for grantees to keep organized records and document their Section 504 activities.

A complaint can be made by any individual or authorized representative of that individual who believes they have been denied opportunities or treated differently, due to their race, ethnicity, gender, disability, or age.

This complaint would be filed with FHEO under the Housing Discrimination Form 903.1 (see website at right). The complainant’s identity will be held in confidence unless written authorization is given. The time period for filing complaints is within 180 days of the alleged Act. Grantees should have copies of this form available to the public.

Housing Discrimination Form 903.1:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/online-complaint

A person who believes his/her rights have been violated may file in federal court. The remedy through court action may include the award of damages, back pay, seniority and as with any equal opportunity action, attorney fees, or injunction against the noncomplying project.

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

Exhibit 7.1

Federal and State Laws and Regulations (included amendments)	Fair Housing & Nondiscrimination	Accessibility	Equal Employment & Contracting
Title VI of the Civil Rights Act of 1964: This Act provides that no person shall be excluded from participation in, denied program benefits, or subject to discrimination based on race, color and/or national origin under any program or activity receiving federal financial assistance.	X		

Federal and State Laws and Regulations (included amendments)	Fair Housing & Nondiscrimination	Accessibility	Equal Employment & Contracting
Title VII of the Civil Rights Act of 1968 (The Fair Housing Act): This Act prohibits discrimination in housing on the basis of race, color, religion, sex and/or national origin. This law also requires actions that affirmatively promote fair housing.	X	X	
Restoration Act of 1987. This Act restores the broad scope of coverage and clarifies the application of the Civil Rights Act of 1964. It also specifies that an institution that receives federal financial assistance is prohibited from discriminating on the basis of race, color, national origin, religion, sex, disability or age in a program or activity that does not directly benefit from such assistance.	X		
Section 109 of Title 1 of the Housing and Community Development Act of 1974: This section of Title 1 provides that no person shall be excluded from participation in (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 under Title I of the Act.	X		X
KRS Chapter 344.015(2) and 45 KAR 1:080 Section 1(7) and Section 2: These regulations require that all state agencies receiving federal funds submit an annual Title VI compliance report and any implementation updates to the Auditor of Public Accounts and the Commission on Human Rights Commission not later than July 1 of each year. Title VI of the Civil Rights Act of 1964 pertains to the delivery of services by recipients of federal funds.	X		
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, strengthened punishment for acts of housing discrimination, expansion of the Justice Department jurisdiction to bring suit on behalf of victims in federal district courts, and created 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.	X		

Federal and State Laws and Regulations (included amendments)	Fair Housing & Nondiscrimination	Accessibility	Equal Employment & Contracting
<p>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.</p>	X		
<p>The Age Discrimination Act of 1975: This Act provides that no person shall be excluded from participation in, denied program benefits, or subject to discrimination on the basis of age under any program or activity receiving federal funding assistance. Effective January 1987, the age cap of 70 was deleted from the laws. federal law preempts any state law currently in effect on the same topic including: KRS 18A.140; KRS 344.040; 101 KAR 1:350 paragraph 11; 101 KAR 1:375 paragraph 2(3); 101 KAR 2:095 paragraphs 6 and 7.</p>	X		
<p>Section 504 of the Rehabilitation Act of 1973: It is unlawful to discriminate based on disability in federally assisted programs. This section provides that no otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation in (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.</p>	X	X	X
<p>The Americans with Disabilities Act of 1990 (ADA): This Act 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. Kentucky adopted this Act in 1992 with the enrollment and passage of Senate Bill 210.</p>	X	X	X

Federal and State Laws and Regulations (included amendments)	Fair Housing & Nondiscrimination	Accessibility	Equal Employment & Contracting
Executive Order 11063: This Executive Order provides that 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.	X		
Executive Order 11259: This Executive Order provides that the administration of all federal programs and activities relating to housing and urban development be carried out in a manner to further housing opportunities throughout the United States.	X		
Section 106(d)(5)(B) of the Housing and Community Development Act of 1974: This Act provides that grantees will conduct its programs and administer CDBG to affirmatively further fair housing.	X		
The Equal Employment Opportunity Act: This 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.			X
The Immigration Reform and Control Act (IRCA) of 1986. Under IRCA, 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 employment eligibility of anyone to be hired, which includes completing the Employment Eligibility Verification Form (I-9).			X

Federal and State Laws and Regulations (included amendments)	Fair Housing & Nondiscrimination	Accessibility	Equal Employment & Contracting
<p>The Uniform Guidelines on Employee Selection Procedures adopted by the Equal Employment Opportunity Commission in 1978: This manual 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.</p>			X
<p>The Vietnam Era Veterans’ Readjustment Act of 1974 (and 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.</p>			X
<p>Executive Order 11246 as amended by Executive Order 13672: This Executive Order applies to all federally-assisted construction contracts and subcontracts. It provides that contractors and subcontractors shall not discriminate in hiring or employment on the basis of race, religion, color, national origin, sex, sexual orientation, gender identify, age or disability.</p>			X
<p>The Kentucky Civil Rights Act (KRS Chapter 344): This is the state corollary to the Federal Civil Rights Act and prohibits discrimination in employment, housing, accommodation, etc. The Kentucky Commission on Human Rights enforces the Act.</p>	X	X	X

Federal and State Laws and Regulations (included amendments)	Fair Housing & Nondiscrimination	Accessibility	Equal Employment & Contracting
24 CFR Part 5 Equal Access in Accordance with an Individual's Gender Identity in Community Planning and Development Programs (FR 5863-F-02)			
24 CFR Part 100 Quid Pro Quo and Hostile Environment Harassment and Liability for Discriminatory Housing Practices under the Fair Housing Act (FR 5248-F-02)			
Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Enforcement of Local Nuisance and Crime-Free Housing Ordinances against Victims of Domestic Violence, Other Crime Victims and Others who Require Police or Emergency Services (9/13/16)	X	X	
Office of General Counsel Guidance on Fair Housing Act Protections for Persons with Limited English Proficiency (9/15/16)			

Fair Housing Resolution

LET IT BE KNOWN TO ALL PERSONS OF City/County of _____ that discrimination in the sale, rental, leasing, financing of housing or land to be used for construction of housing or in the provision of brokerage services because of race, color, religion, sex or national origin is prohibited by Title VIII of the 1968 Civil Rights Act (Federal Fair Housing Law).

It is the policy of City/County of _____ to implement programs to ensure equal opportunity in housing for all persons regardless of race, color, religion, sex or national origin. The Fair Housing Amendments Act of 1988 expanded coverage to include disabled persons and families with children and HUD 2012 regulations expanded coverage to sexual orientation or gender identity. Therefore, the City/County does hereby pass the following Resolution.

BE IT RESOLVED that within available resources the City/County will assist all persons who feel they have been discriminated against because of race, color, religion, sex, sexual orientation, gender identity, national origin, disability or familial status to seek equity under Federal and state laws by filing a complaint with the U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, Compliance Division.

BE IT FURTHER RESOLVED that the City/County shall publicize this Resolution and through this publicity shall encourage owners of real estate, developers and builders to become aware of their respective responsibilities and rights under the Federal Fair Housing Law and amendments and any applicable state or local laws or ordinances.

SAID PROGRAM will at a minimum include: (1) printing and publicizing of this policy and other applicable fair housing information through local media and community contacts; (2) distribution of posters, flyers, and any other means that will bring attention of those affected, the knowledge of their respective responsibilities and rights concerning equal opportunity in housing; and (3) prepare an analysis of impediments to fair housing choice and actions to mitigate such impediments.

EFFECTIVE DATE

This resolution shall take effect _____.

Attest

Chief Elected Official

Instructions for Compliance with Civil Rights Title VI

The Department for Local Government (DLG) has and will continue to take a proactive approach to fully implement procedures to eliminate discrimination on the basis of race, color or national origin.

In accordance with KRS 344.015, DLG developed a Title VI Implementation Plan. All organizations that receive pass-through federal funding from DLG must comply with this Implementation Plan. To ensure that DLG meets its compliance responsibility, procedures have been established to provide monitoring of Title VI compliance activities and complaint processing in all programs.

To meet the requirements of compliance, your organization has two options. Your organization can adopt the plan created by DLG. To ensure full compliance with DLG's Implementation Plan, the following items **MUST** be retained by the grantee with your completed Civil Rights Title VI Self-Survey:

- Nondiscrimination Policy
- Compliance Assurance, including:
 - A copy of all contracts used to provide direct services to client, and.
 - A copy of all contracts used to assure that subcontractor or vendors are clearly aware of your agency's commitment to Title VI.

NOTE: Please ensure that a local Title VI coordinator is identified in question 5 of the Self-Survey.

In addition to the Self-Survey, your agency must complete the enclosed Statement of Assurance. Full compliance cannot be achieved unless all of these items are included.

Though most organizations have chosen to adopt the DLG plan, your organization may create its own Title VI implementation plan and submit it to DLG for approval. Regardless of which option your organization chooses, you must maintain a copy of Title VI documents for review by the general public and DLG, HUD or its representatives.

If you have questions about Title VI or completing the required documentation, you may contact DLG at 1.800.346.5606.

CIVIL RIGHTS TITLE VI SELF-SURVEY

1. Date of Survey: _____

2. Type of Survey: Initial Update Other: _____

3. Name of Facility/Agency: _____
 Street Address: _____
 City, State, Zip: _____
 County: _____

4. Administrative Head: _____
 Title: _____

5. Name of Local Title VI Coordinator: _____
 Street Address: _____
 City, State, Zip: _____
 Phone Number: _____

6. Advisory Group or Advisory Board:
 - a. What is the racial composition of the advisory group or advisory board?
 Total: _____ Number of white: _____ Number of non-white: _____
 - b. How are members selected?

 - c. What is the length of the term for members that serve on the advisory group or board?

7. Nondiscrimination Policies: Does your Agency have a written policy stating that services will be provided to all persons without regard to race, color or national origin?
 Yes No

 If yes, attach a copy (**FOR INITIAL SURVEY ONLY**).

8. Posters: Are posters containing Title VI information prominently displayed within the facility?
 Yes No

a. Do these posters show the name of the Local Coordinator to whom complaints should be referred?

Yes No

9. Records: Are permanent records kept of all Title VI complaints?

Yes No

10. Complaints: If applicable, describe below any complaints received in this reporting period:

Name of Complainant	Race	Charge	Findings

11. Dissemination: Is Title VI disseminated to your employees and your clients/grantees?

Yes No

If yes, describe how employees are informed:

a. Are you confident that grantees and clients are clearly aware of their rights under Title VI, including the right to file a complaint?

Yes No

b. Are new employees clearly informed about their specific responsibilities to clients under Title VI?

Yes No

c. Are staff members periodically reoriented or refreshed on information detailing their Title VI responsibilities?

Yes No

If yes, state by whom and how:

12. Compliance Assurance: Do all contracts that provide direct services to clients contain a Title VI statement of compliance?

Yes No

If yes, attach a copy of the Title VI statement included in such contract (***FOR INITIAL SURVEY ONLY***).

13. Are you confident that each of your subcontractors or vendors, if any, is clearly aware of your agency's commitment to Title VI?

Yes No

If yes, attach a copy of information used to ensure subcontractors or vendors are aware of your agency's commitment to Title VI (***FOR INITIAL SURVEY ONLY***).

14. Are all physical areas (i.e., exits, waiting rooms, dining areas, restrooms, etc.) provided and used without regard to the race, color or national origin of clients?

Yes No

If no, identify the areas that are not used jointly and explain why: _____

TITLE VI - STATEMENT OF ASSURANCE

Name of Grantee

HEREBY AGREES THAT it will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by the Regulations of the U.S. Department of Housing and Urban Development, Department of Justice (28 CFR Parts 42 and 50), Kentucky Department for Local Government (DLG), and any requirements or directives issued pursuant to that Act and the Regulations of DLG, to the effect that, no person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program or activity for which the Grantee received Federal financial assistance from DLG; and **HEREBY GIVES ASSURANCE THAT** it will immediately take any measures necessary to effectuate this agreement.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal financial assistance, grants and loans of Federal funds, reimbursable expenditures, grants or donations of Federal property and interest in property, details of Federal personnel, the sale and lease of and the permission to use Federal property or interest in such property or the furnishing of services without consideration or at nominal consideration, or at a consideration which is reduced for the purpose of assisting the Grantee, or in recognition of the public interest to be served by such sale, lease, or furnishing of services to the Grantee, or any improvements made with federal financial assistance extended to the Grantee by DLG.

BY ACCEPTING THIS ASSURANCE, the Grantee agrees to compile data, maintain records and submit reports as required to permit effective enforcement of Title VI, and permit authorized DLG personnel during normal working hours to review and copy such records, books and accounts as needed to ascertain compliance with Title VI. If there are any violations of this assurance, DLG shall have the right to seek administrative and/or judicial enforcement of this assurance and suspend future assistance.

This assurance is binding on the Grantee, its successors, transferees and assignees as long as it receives assistance from DLG. In the case of real property, this assurance is binding for as long as the property is used for a purpose for which this assistance was intended. In the case of personal property, this assurance applies for as long as the Grantee retains ownership or possession of the property. The person or persons whose signatures appear below are authorized to sign this assurance on the behalf of the Grantee.

Signature of Grantee's Authorized Official

Date

Title of Authorized Official

Grantee's Address:

No other funds or benefits may be disbursed under these programs unless this assurance is completed and filed as required by existing regulations.

EQUAL OPPORTUNITY CHECKLIST

Date/By

COMMUNITY EEO OFFICER APPOINTED

SECTION 3

- Plan
 - Grantee Section 3 Action Plan
 - Contractor / Subcontractor Section 3 Plans
- Good Faith Efforts (May cross reference with procurement files)
 - List of local businesses/contractors
 - List of job applicants
 - Newspaper advertisements:
 - Job vacancies
 - Procurements
 - Letters to business inviting bids
 - Other

PROJECT BENEFIT – TITLE VI

- Project Benefit Forms
 - By activity
- Documentation
 - Surveys
 - Income Verifications
 - Census data
 - Personal applications

EMPLOYMENT RECORDS

- Personnel Policies
 - Adopted
 - Hiring procedures
 - Training procedures
 - Promotion procedures
 - Statement of Equal Opportunity
 - “Essential function of jobs” identified

- | | <u>Date/By</u> |
|---|----------------|
| - <u>Employee Information Maintained By:</u> | |
| - Name | _____ |
| - Job classification (EEO-4 categories) | _____ |
| - Job status (hired, promoted) | _____ |
| - Salary range | _____ |
| - Race | _____ |
| - National origin | _____ |
| - Sex | _____ |
| - Age | _____ |
| - Disability | _____ |
| - <u>EEO Poster</u> | |
| - <u>Affirmative Action Plan</u> (optional) | |
| - Adopted | _____ |
| - Workforce analysis | _____ |
| - Goals and timetables | _____ |
| - <u>Minority Business Enterprise</u> (may cross reference with procurement /bid files) | |
| - Semi-annual contract & subcontract activity reports | _____ |
| - List of minority businesses and contractors | _____ |
| - Recruitment documentation (letters, bid ads, etc.) | _____ |
| - Contact with State Division of Minority Business | _____ |
| - Other | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

SECTION 504 CHECKLIST

- I. A. TDD (Telecommunications Device for the Deaf) Installed. Number: _____ Yes ___ No ___
- B. TDD# communicated to the public. Yes ___ No ___
- C. TDD# included on all correspondence. Yes ___ No ___

- II. A. Self-Evaluation Checklist Yes ___ No ___
- B. Handicapped groups/individuals involved. Yes ___ No ___
- List: _____
- _____
- _____
- _____

- C. Areas Evaluated: _____
- _____
- _____
- _____

- III. Transition Plan for Structural changes/time change for compliance
- A. Includes schedule for implementation. Yes ___ No ___
- B. Includes name of person responsible for implementation. Yes ___ No ___
- C. Includes persons/groups who assisted. Yes ___ No ___
- List: _____
- _____
- _____
- _____
- D. Date Adopted _____
- E. Are facilities now accessible. Yes ___ No ___

- IV. Public Notice (15 or more employees)
- Date
Published/Broadcasted
- A. Media Name _____
- _____
- _____
- _____
- B. Non-discrimination statement included. Yes ___ No ___
- C. 504 Coordinator identified. Name: _____
- D. Notice communicated to visually or hearing impaired. Yes ___ No ___
- Explain Response: _____
- _____
- _____
- _____

- V. Grievance Procedure (15 or more employees)
- A grievance procedure for disabled persons (employees or citizens) as part of the personnel policies. Yes ___ No ___

SECTION 504
SELF-EVALUATION

GENERAL REQUIREMENTS

- A self-evaluation must be prepared by the grantee in consultation with individuals with disabilities or organizations representing them.
- Recipients with 15 or more employees must keep on file for at least five years:
 - A list of interested persons consulted;
 - A description of areas examined and any problems identified; and
 - A description of modifications made and remedial steps taken.
- The self-evaluation and transition plans must be dated.

ELEMENTS

- Evaluation of current policies and practices relative to the 504 regulations.
- Modification of any policies and practices that do not meet the 504 requirements.
- Corrective action to remedy any discrimination found.

AREAS TO BE EVALUATED (All areas listed below may not apply)

- Buildings or facilities for physical accessibility.
- Program outreach and communication.
- Eligibility and admission criteria and practice.
- Distribution and occupancy policy and practice.
- Percentage of accessible units.
- Employment (including pre-employment).
- Complaint processing procedures.

SECTION 504
THE TRANSITION PLAN

GENERAL REQUIREMENTS

- A Transition Plan is mandatory if structural changes to facilities are needed to achieve program accessibility.
- The Plan must be developed with the assistance of individuals with disabilities or organizations representing them.
- A copy of the plan must be made available for public inspection.

CONTENTS OF THE PLAN

- Identification of the physical obstacles that limit accessibility.
- Detailed description of methods that will be used to make facilities accessible.
- Schedule for each step of the process. All structural changes must be made within six months of project funding.
- Name of the person responsible for implementation of the plan.
- Names of persons or groups who assisted with the plan.

**GRIEVANCE PROCEDURE FOR COMPLAINTS RELATING TO SUSPECTED
ALLEGATIONS OF DISCRIMINATION ON THE BASIS OF HANDICAPPED STATUS
IN _____, KENTUCKY**

Any person ___(Employee or Citizen)___ who believes that he/she has been subjected to discrimination as prohibited by Section 504 of the Rehabilitation Act of 1973 and pursuant regulations at 24 CFR Part 8 published in the Federal Register on June 2, 1988, may personally or by a representative, file a complaint with the ___(Mayor or Judge/Executive)___, ___(Name of Local Government)___, Kentucky. A person who has not personally been subjected to discrimination may also file a complaint.

When any person, ___(Employee, Citizen or Applicant)___ who believes he/she has been adversely affected by an act or decision by ___(Name of Local Government)___, Kentucky, and that such act or decision was based on handicapped status, he/she will have the right to process a complaint or grievance in accordance with the following procedure.

Step One: An aggrieved person must submit a written statement to the ___(Executive Authority)___ setting forth the nature of the discrimination alleged and facts upon which the allegation is based.

Step Two: The ___(Executive Authority)___ shall contact the complainant no later than fifteen (15) days after receiving the written statement to establish an informal meeting with the objective of resolving the matter informally. However, in no case shall the informal meeting be conducted sooner than five (5) days or more than forty-five (45) days after receiving the written statement.

There shall be prepared a written documentary of the discussions at the informal meeting, which shall be preserved in the records of ___(Name of Local Government)___.

Step Three: Within fifteen (15) days of the informal meeting, if no decision has been made by the ___(Executive Authority)___, or the decision of the ___(Executive Authority)___ does not satisfy the complainant, he/she may request a hearing with the ___(Legislative Body)___ by submitting a written request to the ___(Executive Authority)___.

Step Four: In thus discussing the grievance, the complainant may designate any person of his/her choice to appear with him/her and participate in the discussion. The ___(Legislative Body)___ shall require the ___(Executive Authority)___ to participate in the discussion of the grievance, when it is brought before the ___(Legislative Body)___.

The ___(Legislative Body)___ shall issue a written decision on the matter within fifteen (15) days, and the decision shall be the final procedure for the complainant at the local level.

There shall be prepared a written documentary of the discussion at the hearing, which shall be preserved in the records of ___(Local Government)___, Kentucky.

Attachment 7-8 Fair Housing Complaint Information

Any individual or authorized representative who believes that they have been denied opportunities or treated differently due to their race, color, national origin, sex, sexual orientation, gender identity, age, disability, religion and/or familial status may file a complaint. The complaint may be filed with a number of agencies with authority to look into the matter:

- **Department of Local Government (DLG).** The individual may send a fair housing complaint to DLG within 180 days of the incident, simply telling DLG what happened. The grant administrator should work with the affected individual to resolve the complaint and, if that is not satisfactory to the individual, the administrator should assist in the preparation of the complaint and forward it to DLG.
- **The Kentucky Commission on Human Rights or Local Human Rights Commissions.** Anyone wishing to file a complaint alleging unlawful discrimination in violation of KRS 344 must file a complaint within 180 days of the alleged unlawful incident. In the case of discrimination by an employer or place of public accommodation or within one year of the alleged unlawful incident in the case of unlawful housing practices. Information on local human rights commissions may be found at <http://kchr.ky.gov/Pages/Local-HRC-in-KY.aspx> and contact for the Kentucky Commission on Human Rights is as follows:

Kentucky Commission on Human Rights
332 W. Broadway
14th Floor
Louisville, KY 40202

Phone: (502) 595.4024
Toll-free: (800) 292.5566
Fax: (502) 595.4801
TDD: (502) 595.4084

- **The U.S. Department of Housing and Urban Development (HUD) Office of Fair Housing and Equal Opportunity (FHEO).** At no cost to the individual, FHEO will investigate the complaint and try to conciliate the matter with both parties. The complainant's identity will be held in confidence unless written authorization is given provided allowing for the complainant's identity to be revealed. The time period for filing complaints ends 180 days after the alleged act. A HUD Housing Discrimination Form 903.1, which one uses to file a complaint, is provided as Attachment 9-7 to the KCDBG Implementation Handbook and is available on HUD web site.

You may file suit. An individual, at their expense, may file suit in Federal District court or state court within two years of an alleged violation or discriminatory practice. An individual may bring suit even after filing a complaint with HUD if there is not a signed conciliation agreement and an administrative law judge has not started a hearing.

It is the policy of both DLG and HUD to encourage informal resolutions as well as voluntary compliance and corrective action. Noncompliance may result in the termination of or refusal to grant Federal assistance.

POLICY OF NON-DISCRIMINATION
SECTION 504
PUBLIC NOTICE

This notice is published pursuant to the requirements of 24 CFR Part 8 Nondiscrimination Based on Handicap in Federally-Assisted Programs and Activities of the Department of Housing and Urban Development, as published in the Federal Register on June 2, 1988. Section 8.4 prohibits discrimination against qualified individuals because of their handicap status.

_____ advises the public, employees and job applicants that it does not discriminate on the basis of handicapped status in admission or access to, or treatment or employment in its programs and activities.

_____ has designated the following person(s) as the contact to coordinate efforts to comply with this requirement. Inquiries should be directed to:

Name: _____

Office: _____

Address: _____

Phone Number: _____

TDD Number: _____

Hours: _____

NOTE

This information must be communicated to the visually or hearing impaired. This may include the use of public service radio and television announcements, and telecommunications devices, the posting of notices, the publication of notices in newspapers and magazines, the placement of notices in recipient governmental publications, and the distribution of other written and taped communications to groups representing the handicapped.

LOCAL GOVERNMENT EMPLOYMENT WORKFORCE ANALYSIS

Part I

City/County _____

Total Population _____

Total Minority Population _____

Total Female Population _____

Job Category	Total Number	Females			Minorities		
		Number	%	Comm %	Number	%	Comm %
1. Officials and Administrators							
2. Professionals Para-Professional Technicians							
3. Clerical							
4. Skilled Craft							
5. Service/Maintenance							
6. Protective Services (Police, Fireman)							

WORKFORCE ANALYSIS

Part II

Employee/Classification/Salary	Dept.	Status	Sex	Race/Nat. Origin	Birth date	Disabled	Personnel Action		
							Hired	Promoted	Terminated

Workforce Analysis Instructions

This information should be compiled and updated annually with notations made, as necessary, of changes in classification, status and personnel actions.

PART I

Total Number:

List total number of persons in each job category.

Females:

- a) Number – total number of females in each job category.
- b) % - percent of females in job category compared to total number of employees in each category.
- c) Community % - percent of females in the community in each job category (per census workforce figures).

Minorities:

- a) Number – same as for females.
- b) % - same as for females.
- c) Community % - same as for females.

PART II

Employee/Classification/Salary:

List each employee by name, classification and salary.

Department:

List the department in which each employee works (e.g., police, public works, etc).

Status:

List whether each employee is full or part time.

Sex:

List the sex of each employee.

Race/National Origin:

List the race/national origin of each employee.

Birth date:

List the birth date of each employee.

Disabled:

State if employee has a disability.

Personnel Actions:

List dates when each employee was hired, promoted and terminated (if applicable).

Descriptions of Job Categories

Officials and Administrators

Occupations in which employees set broad policies, exercise overall responsibility for execution of these policies, or direct individual departments or special phases of the agency's operations, or provide specialized consultation on a regional, district or area basis. This includes: department heads, bureau chiefs, division chiefs, directors, deputy directors, controllers, examiners, wardens, superintendents, sheriffs, police and fire chiefs, and inspectors and kindred workers.

Professionals

Occupations that require specialized and theoretical knowledge that is usually acquired through college training or through work experience and other training that provides comparable knowledge such as: personnel and labor relations workers, social workers, doctors, psychologists, registered nurses, economists, dieticians, lawyers, systems analysts, accountants, engineers, employment and vocational rehabilitation counselors, teachers or instructors, police and fire captains and lieutenants and kindred workers.

Technicians

Occupations that require a combination of basic scientific or technical knowledge and manual skill that can be obtained through specialized post-secondary school education or through equivalent on-the-job training, including: computer programmers and operators, drafters, surveyors, licensed practical nurses, photographers, radio operators, technical illustrators, highway technicians, technicians (medical, dental, electronic, physical sciences), assessors, inspectors, police and fire sergeants and kindred workers.

Protective Service Workers

Occupations in which workers are entrusted with public safety, security and protection from destructive forces, including: police patrol officers, fire fighters, guards, deputy sheriffs, bailiffs, correctional officers, detectives, marshals, harbor patrol officers and kindred workers.

Paraprofessionals

Occupations in which workers perform some of the duties of a professional or technician in a supportive role, which usually require less formal training and/or experience normally required for professional or technical status. Such positions may fall within an identified pattern of staff development and promotion under a "New Careers" concept. This includes: library assistants, research assistants, medical aides, child support workers, police auxiliary, welfare service aides, recreation assistants, homemakers aides, home health aides and kindred workers.

Office and Clerical

Occupations in which workers are responsible for internal and external communication, recording and retrieval of data and/or information and other paperwork required in an office, including: bookkeepers, messengers, office machine operators, clerk-typists, stenographers, court transcribers, hearing reporters, statistical clerks, dispatchers, license distributors, payroll clerks and kindred workers.

Skilled Craft Workers

Occupations in which workers perform jobs which require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. This includes: mechanics and repairers, electricians, heavy equipment operators, stationary engineers, skilled machining occupations, carpenters, compositors and typesetters and kindred workers.

Service – Maintenance

Occupations in which workers perform duties which result in or contribute to the comfort, convenience, hygiene or safety of the general public or which contribute to the upkeep and care of buildings, facilities or grounds of public property. Workers in this group may operate machinery such as: chauffeurs, laundry and dry cleaning operatives, truck drivers, bus drivers, garage laborers, custodial employees, gardeners and groundskeepers, refuse collectors, construction laborers and kindred workers.

Chapter 8: Relocation under the URA and 104(d)

Introduction

This chapter provides detailed guidance regarding relocation under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) and Section 104(d), as well as one-for-one unit replacement requirements. It outlines the procedures that grantees should follow to ensure compliance with both the URA and 104(d). In addition, information is provided to calculate payments to displaced persons, to keep records, and comply with other relocation requirements that may be applicable to CDBG-assisted projects.

Section 8-A. Overview

Applicable Regulations

There are three major types of requirements that cover relocation (and acquisition) activities in CDBG programs:

- ✓ The URA regulations, effective February 2005 implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) of 1970, as amended (49 CFR Part 24);
- ✓ Section 104(d) of the Housing and Community Development Act of 1974 and the implementing regulations at 24 CFR Part 570.496(a) and
- ✓ 24 CFR 570.606 of the CDBG Regulations, which requires compliance with the regulations, listed above.
- ✓ An over-riding principle in the CDBG program and the URA is that the grantee shall assure that it has taken all reasonable steps to minimize displacement in implementing activities.

49 CFR Part 24

Section 104(d) and 5305(a)(11) of Title 1, Housing and Community Development Act of 1974; 24 CFR 570.496(a)

24 CFR 570.606

Tip: HUD Handbook 1378 (recently updated) is a resource available for relocation information. It can be downloaded from HUD's website at http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/cpd/13780.

Grantees should also refer to the Department of Transportation's Federal Highway Administration's Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs. It may be downloaded from the Federal Highway Administration's website at <http://www.fhwa.dot.gov/legsregs/directives/fapg/cfr4924a.htm>.

URA the HUD Way - the 8-part web-based modular training course provides basic information and resources to HUD grantees and funding recipients on URA requirements for HUD funded projects. <https://www.hudexchange.info/trainings/ura-the-hud-way/>

Overview of Requirements

Displacement results when people or a non-residential entity moves permanently as a direct result of the acquisition, demolition, or rehabilitation of property for CDBG-funded projects.

49 CFR Part 24

The Uniform Relocation Act (URA) protects all persons who are displaced by a federally-assisted project **regardless of their income**. However, Section 104(d) **only protects low/moderate income persons** (within 80% of the Area Median Income limit for their household size).

Section 104(d) requirements focus on the “loss” of low and moderate-income housing rental units) in a community through CDBG-funded demolition or conversion. Section 104(d) has two distinct components:

- ✓ **People:** 104(d) specifies relocation assistance for displaced low- and moderate-income renter households.
- ✓ **Units:** 104(d) requires one-for-one replacement of low and moderate-income dwelling units (as defined by the regulations) that are demolished or converted using CDBG or HOME funds to a use other than low-moderate income permanent housing. More information can be found later in the chapter.

24 CFR 570.496(a)

Section 8-B. Definitions

In order to understand applicable relocation requirements, it is necessary to understand some key terminology.

Who Is Displaced under the URA and CDBG?

The URA, the CDBG regulations and Section 104(d) each address specific circumstances that would qualify someone as a “displaced person.”

Under the URA, the term “displaced person” means:

- ✓ A person who moves permanently from the real property after the property owner (or person in control of the site) issues a vacate notice to the person. An owner who refuses to renew an expiring lease in order to evade the responsibility to provide relocation assistance will also trigger URA coverage for the tenant.
- ✓ The effective move date of the displaced person is based on whether:
 - If the grantee has site control at the time the grantee submits an application for KCDBG funds for the project that is later approved, then the household is considered displaced on the submission date of the application; or
 - If the grantee does not have site control when the application for KCDBG funds, the effective date will be the date the grantee obtains site control.
- ✓ A person who moves permanently from the real property after the initiation of negotiations, unless the person is a tenant who was issued a written notice of the expected displacement prior to occupying the property (otherwise known as a “Move-In Notice”)
- ✓ A person who moves permanently and was not issued a Notice of Nondisplacement after the application for KCDBG funds is approved.

49 CFR 24.2(g); Handbook 1378,
Chapter 1, Paragraph 1-4
Handbook 1378,
Chapter 8, Paragraph 8-23

Even if there was no intent to displace the person, if a Notice of Nondisplacement was not provided, HUD has taken the position that the person's move was a permanent, involuntary move for the project since the person was not given timely information essential to making an informed judgment about moving from the project.

Handbook 1378:
Chapter 1-4, Paragraph I- 4

Under CDBG, the regulations define a “displaced person” as someone who moves after a specific event occurs:

- ✓ This event establishes a presumption that a project may begin (e.g., date of submission of an application). It is presumed that displacement before this date did not occur "for the project" and is not covered by the URA, unless rebutted by convincing evidence to the contrary.
- ✓ It is also presumed that a permanent, involuntary move on or after that date is a displacement "for the project," unless the grantee or state determines otherwise.

HUD must concur in a determination to deny a person relocation benefits on this basis:

- ✓ When an owner either evicts a tenant or fails to renew a lease in order to sell a property as “vacant” to a grantee for a HUD-funded project, HUD will generally presume that the tenant was displaced “for the project.” (Evictions for serious or repeated violations of the lease are permissible, but the owner must follow state tenant-landlord laws governing eviction.)
- ✓ In cases where the tenant was not notified of their eligibility for URA benefits, the grantee is responsible for finding the displaced tenant and providing appropriate relocation assistance, unless the grantee can demonstrate that the move was not attributable to the project.
- ✓ CDBG regulations also define a “displaced person” as:
 - A tenant who moves permanently after the KCDBG-funded acquisition or rehabilitation, and the increased rent is not affordable (they are “economically displaced”).

The CDBG program regulations cover "economic displacement," while the URA is silent on this issue. If rents are increased after the KCDBG project is complete, and the new rent exceeds 30% of the tenant’s gross monthly income, they would be “economically displaced.” Generally an increase in rent within the first year or the project is seen as related to the federally funded project and may trigger “economic displacement” benefits.

Handbook 1378;
Chapter 1; Paragraph 4–5;
24 CFR 570.606(b)(2)(D)

- ✓ The URA also protects the following “displaced persons”:
- ✓ A tenant-occupant of a dwelling who receives a Notice of Nondisplacement but is required to move to another unit in the building/complex may be considered displaced, if the tenant moves from the building/complex permanently and either:
 - The tenant was not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move within the project; or
 - Other conditions of the move within the project were not reasonable.
- ✓ A tenant who moves permanently after the building has a change from residential use to a public use as a direct result of a CDBG-assisted project (for example, the building now leases units to serve

persons who were homeless or require supportive housing). Under the CDBG program, leases of 15 years or more are considered acquisitions for the purposes of the URA.

- ✓ A nonresidential tenant who receives a Notice of Nondisplacement, but moves permanently from the building/complex, if the terms and conditions under which the tenant may remain are not reasonable.

It is expected that the grantee or property owner will negotiate these terms and conditions. A tenant who believes the offer is unreasonable may relocate and file an appeal seeking assistance as a "displaced person."

When Section 104(d) is triggered:

- ✓ The term "displaced person" means any lower-income household that moves from real property permanently as a direct result of the conversion of an occupied or low- and moderate-income dwelling unit or the demolition of any dwelling unit, in connection with a KCDBG-assisted activity.

Persons Not Considered Displaced

A person does not qualify as a "displaced person" (and is not entitled to relocation assistance at URA levels), if:

- ✓ The person has no legal right to occupy the property under state or local law; or
- ✓ The person has been evicted for serious or repeated violation of the terms and conditions of the lease or occupancy agreement or other good cause, the grantee determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance; or
- ✓ The person moves into the property after the date of the application for KCDBG funds and, before moving in, was provided written notice of the project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated or suffer a rent increase) and the fact that he or she would not qualify for assistance as a "displaced person" as a result of the project. See Attachment 8-1 for a sample notice to provide to prospective tenants.

24 CFR 570.606(b)(2)(i)

49 CFR 24.2(a)(9)(ii)(k)

Handbook 1378,
Chapter 1, Paragraph 1-4 J (1)

Handbook 1378,
Chapter 1, Paragraph 1-4 J (2)
Attachment 8-1:
Notice to Prospective Tenants

49 CFR 24.2(a)(9)(ii)(C);
Prospective Tenants

Attachment 8-1: Sample Notice to
Prospective Tenants

49 CFR 24.2(a)(9)(ii)(I)

Handbook 1378,
Chapter 1, Paragraph 1-4 J (4)

People are also not considered displaced if:

- ✓ The person occupied the property for the purpose of obtaining relocation benefits.
- ✓ The person retains the right of use and occupancy of the property for life following its acquisition (life estates).
- ✓ The person is determined not to be displaced as a direct result of the project. Grantees may not make this determination on their own. Contact DLG for determination assistance.

- ✓ The person is an owner-occupant of the property who moves as a result of a voluntary acquisition and received the voluntary acquisition notice. (Refer to Chapter 5 of HUD Handbook 1378 and Chapter 9: Acquisition of this Handbook for more information on voluntary acquisition.) (**NOTE:** Tenants living in properties that are acquired via a voluntary acquisition are covered by the URA regardless of their willingness to move.)
 - Handbook 1378, Chapter 1, Paragraph 1-4 J (3)
 - Handbook 1378, Chapter 5 Chapter 9: Acquisition 49 CFR 24.2(a)(9)(ii)(E)
- ✓ The person leaves due to code enforcement, unless the code enforcement results in rehabilitation or demolition for an assisted project. An owner-occupant or tenant who is required to move permanently as a direct result of this rehabilitation or demolition may be eligible for relocation assistance.
- ✓ The person, after receiving a notice of eligibility, is notified in writing that he or she will not be displaced.
 - 49 CFR 24.2(a)(9)(ii)(G)

Such a notice cannot be delivered unless the person has not moved and the agency agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of eligibility.

- ✓ The person is an owner-occupant who voluntarily applies for rehabilitation assistance on his or her property. When the rehabilitation work requires the property to be vacant for a period of time, this assistance is considered optional. Refer to Chapter 10: Housing for more information.
 - 49 CFR 24.2(a)(9)(ii)(H)
- ✓ The person is not lawfully present in the United States unless denial of benefits would result in “exceptional and extremely unusual hardship” to a lawfully-present spouse, child, or parent. This prohibition covers all forms of relocation assistance under the URA including both replacement housing payments (RHP) and moving assistance.
 - 49 CFR 24.2(a)(9)(ii)(L)
Public Law 105-117, passed on November 21, 1997; Final Rule published on February 12, 1999

The current URA regulations include a definition of the phrase "exceptional and extremely unusual hardship," which focuses on significant and demonstrable impacts on health, safety, or family cohesion. This phrase is intended to allow judgment on the part of the grantee and does not lend itself to an absolute standard applicable in all situations. When considering whether such an exemption is appropriate, a displacing agency may examine only the impact on an alien's spouse, parent, or child who is a citizen or lawful resident alien.

An “alien not lawfully present in the United States” is defined as an alien present in the United States who has not been admitted or paroled into the United States pursuant to the Immigration and Nationality Act (8 United States C.1101 et seq) and whose stay in the United States has not been authorized by the United States Attorney General. It includes someone who is in the United States after the expiration of the period of stay authorized by the United States Attorney General or who otherwise violates the terms and conditions of admission, parole, or authorization to stay in the United States.

When a household contains some members who are present lawfully but others are present unlawfully, there are two different computation methods, one for moving expenses and one for replacement housing payments (RHP). For moving expenses, the payment is to be based on the proportion of lawful occupants to the total number of occupants. For example, if four out of five members of a family to be

displaced are lawfully present, the proportion of lawful occupants is 80 percent and that percentage is to be applied against the moving expenses payment that otherwise would have been received.

- ✓ For the RHP, the unlawful occupants are not counted as a part of the family and its size is reduced accordingly. Thus a family of five, one of whom is a person not lawfully present in the U.S., would be counted as a family of four. The comparable for the family would reflect the makeup of the remaining four persons and the Replacement Housing Payment (RHP) would be computed accordingly.

Initiation of Negotiations (ION)

The date of the Initiation of Negotiations (“ION”) serves as a milestone in determining a person’s eligibility for relocation assistance, including moving costs and a replacement housing payment. CDBG regulations establish a program-specific definition of ION as the trigger for issuance of the Notice of Eligibility for Relocation Assistance or Notice of Nondisplacement.

For CDBG programs, the term "initiation of negotiations" is defined as the following:

- ✓ If the displacement results from privately undertaken rehabilitation, demolition or acquisition, the execution of the grant or loan agreement between the grantee and the person owning or controlling the real property.
- ✓ If the displacement results from grantee demolition or rehabilitation and there is no related grantee acquisition, the notice to the person that he or she will be displaced by the project (or the person's actual move, if there is no such notice).
- ✓ When there is voluntary acquisition of real property by a grantee, the term “initiation of negotiations” means the actions described above, except that the ION does not become effective, for purposes of establishing eligibility for relocation assistance, until there is a written purchase agreement between the grantee and the owner. (See Chapter 9: Acquisition)
- ✓ Whenever real property is acquired by a grantee that has the legal power under the Eminent Domain Act of Kentucky and the acquisition is an involuntary transaction, the initiation of negotiations means the delivery of the initial written offer of just compensation by the grantee to the owner to purchase the real property for the project.

Chapter 9:
Acquisition

24 CFR 570.606
49 CFR 24.2(a)(15)

After the ION, any person who seeks to rent a unit in the project must be issued a Move-in Notice before executing a lease; otherwise, the project will incur liability for relocation costs if the persons are found to be eligible as displaced persons.

Project

The definition of what is a “project” differs for URA and for Section 104(d).

- ✓ The term project is defined under URA as an activity or series of activities funded with federal financial assistance received or anticipated in any phase. In addition, URA states that program rules will further define what is considered a project.

Handbook 1378,
Chapter 1, Paragraph 1-4 DD
49 CFR 24.2(a)(22)

- ✓ Under Section 104(d), a project is an activity or series of activities undertaken with HUD financial assistance received or anticipated in any phase. Section 104(d) benefits are triggered if the activity is a CDBG or HOME funded activity and the HUD assisted activity is part of a single undertaking.

Handbook 1378,
Chapter 7, Paragraph 7-10

- ✓ In order to determine whether a series of activities are a project, look at:
 - **Timeframe**—Do activities take place within a reasonable timeframe of each other?
 - **Objective**—Is the single activity essential to the overall undertaking? If one piece is unfinished, will the objective be incomplete?
 - **Location**—Do the activities take place on the same site?
 - **Ownership**—Are the activities carried out by, or on behalf of, a single entity?

Section 8-C. General Relocation Requirements under the URA

The URA covers all types of displaced persons, including both residents and businesses. It also covers the temporary relocation of existing occupants. The following sections of the handbook are sorted by: (1) URA requirements that apply to all persons; (2) URA requirements that apply to displaced residential occupants; (3) URA requirements that apply to temporary relocation; and (4) URA requirements that apply to commercial occupants.

Acquisition and/or relocation of mobile homes is also covered by the URA. Since there are many variables in the ownership and tenancy of mobile homes, grant administrators are asked to consult with DLG before proceeding with the acquisition or relocation of mobile homes.

Following the URA text, this chapter covers Section 104(d). A flow chart summarizing the relocation process can be found as Attachment 8-2 of this chapter.

The requirements in this section apply to all projects where the URA is triggered. The URA relocation process can differ greatly depending upon the funding used in a project and whether an involuntary sale will be involved in the process. Attachment 8-2 provides a typical relocation scenario in a flow chart indicating key dates in the process.

Attachment 8-2:
URA Relocation Flow Chart with
Trigger Dates

Planning for Relocation

If KCDBG funds will involve relocation, the grantee must develop written policies and procedures for managing the anticipated relocation caseload in the form of a “relocation plan.” The relocation plan must be submitted to DLG after the funding award as part of the evidentiaries needed for the release of funds.

Grantees are encouraged to contact DLG early in this process to consider the timing and project implications for projects potentially involving temporary or permanent relocation.

Attachment 8-3:
Guideform Residential
Antidisplacement
and Relocation Plan

These procedures must be in compliance with all elements of the Final Rule implementing changes to the URA and the Residential Antidisplacement and Relocation Plan, previously developed as part of the application for CDBG assistance.

The plan must contain two components:

- ✓ A commitment to replace all low- and moderate-income dwelling units that are demolished or converted to a use other than low- and moderate-income housing as a direct result of the use of KCDBG funds, and
- ✓ A commitment to provide relocation assistance required under Section 104(d) of the Housing and Community Development Act.

The plan must be adopted by the local governing body.

A sample of this plan is included as Attachment 8-3 of this chapter.

Advisory Services, Including Relocation Notices

The next step in the process is to provide relocation advisory services. This process requires the grantee to first personally interview the person to be displaced. The purpose of the interview is to explain the:

- ✓ Various payments and types of assistance available,
- ✓ Conditions of eligibility,
- ✓ Filing procedures, and
- ✓ Basis for determining the maximum relocation assistance payment available.

Grantees should use Attachment 8-4: Household Case Record to collect the required information for residential occupants. It is very important that all significant contact with displacees be logged into Section 5 of the Household Case Record.

Attachment 8-4:
Household Case Record

As a part of advisory services, the URA requires that all occupants receive notices informing them of their various rights.

General Information Notice

The General Information Notice (GIN) is referred to in Chapter 9 as one of the required notices when there is involuntary acquisition. This is a **very important notice!**

As soon as feasible property owners should receive a GIN and copies of the GIN for each property included in the project should be included as a part of the grant application submission. The project administrator must provide the GIN to notify each household and/or business that the potential for displacement exists, including potential acquisition of the property. Samples of the GIN are provided in Handbook 1378 as Appendix 2 and 3. The GIN also informs the occupant prior to the initiation of negotiations not to move prematurely, because doing so will jeopardize any assistance that they may be due. By providing occupants with the GIN, the grantee protects themselves from claims for relocation benefits that could have been avoided if the person would not have been displaced.

Handbook 1378: Appendix 2 and 3,
General Information Notices for
Residential Tenants

Notice of Eligibility and Notice of Nondisplacement

After grant approval, the grantee should determine who must be displaced and who will be allowed to remain in (or return to) the project.

After making these determinations, the grantee should issue the appropriate relocation notices: either a Notice of Eligibility (for relocation assistance) or a Notice of Nondisplacement.

- ✓ The Notice of Eligibility informs occupants who will be displaced of their rights and levels of assistance under the URA.
- ✓ The Notice of Nondisplacement informs occupants who will remain in or return after completion of their rights under URA and of the terms and conditions of their remaining in the property. (See Handbook 1378 Appendix 4 and 6 for samples of these notices.)

Handbook 1378, Appendix 4:
Notice of Non-displacement
Handbook 1378, Appendix 6
Notice of Eligibility for Relocation
Assistance

In addition to these notices, copies of the HUD brochures, “Relocation Assistance to Displaced Homeowner Occupants” and “Relocation Assistance to Tenants Displaced from Their Homes” should be provided to displaced persons; these brochures are available on the HUD website – see link listed in text box. Note that these two brochures are for residential relocation only. There are different requirements for relocation of businesses, farms, and nonprofit organizations. Contact DLG for guidance on non-residential relocation.

Relocation Assistance to Displaced
Homeowners Brochure
and
Relocation Assistance to Displaced
Tenants from Their Homes
Brochures on HUD website at
[https://www.hudexchange.info/pr
ograms/relocation/publications/](https://www.hudexchange.info/programs/relocation/publications/)

Notice to Move

The grantee may issue a 90-Day Move Notice after a Notice of Eligibility has been sent and when the grantee wants to establish the move-out date (see Attachment 8-12). The 90-Day Notice may **not** be issued until at least one comparable unit has been identified and presented to the residential displaced person.

Attachment 8-12:
90-Day Move Notice
Handbook 1378, Chapter 2,
Paragraph 2-3(c)
Attachment 8-13:
Tenant Assistance/Relocation
Process Flow Chart

The 90-day notice must either state a specific date as the earliest date by which an occupant will be required to move, or state that the occupant will receive a further notice, at least 30 days in advance, indicating the specific date by which to move. A flow chart summarizing the relocation process can be found as Attachment 8-13 of this chapter.

Discrimination in Relocation

Obviously, grantees must ensure that there is no discrimination in the relocation process. Individual displacees who have been discriminated against may not know how to take action on their own. Legal action is often too expensive to be a practical solution for them. The grantee must provide assistance in cases of discrimination. There are also different equal opportunity protections for businesses and additional protections for Fair Housing for displaced persons. See Chapter 7: Fair Housing of this handbook for additional information.

If a displacee has been discriminated against, there are two alternatives:

- ✓ The displacee can send a complaint to DLG within 180 days of the incident, simply telling DLG what happened. The relocation officer and grant administrator should advise the displacee of this option and assist in preparing the complaint if the displacee desires to make one. Upon receipt of the complaint, DLG may take one or more of the following steps:
- ✓ Investigate to see if the law has been broken;
- ✓ Contact the person accused of the violation and try to resolve the discrimination complaint;
- ✓ Refer the complaint to a local human rights commission for investigation and possible resolution and/or the Kentucky Commission on Human Rights (phone number 1-800-292-5566).
- ✓ Recommend that the displacee go to court.
- ✓ A suit may be filed in federal court, in which case the displacee should consult either an attorney or the local Legal Aid Society for assistance. The relocation officer should advise the displacee regarding both sources of help. If the court finds in favor of the displacee, it can stop the sale of the house or the rental of the apartment to someone else, and award the displacee damages and court costs.

Section 8-D. Residential Displacement under the URA

Residential occupants who will be displaced are entitled to receive a range of benefits under the URA. These include: (1) advisory services; (2) offer of a comparable replacement unit; (3) replacement housing payments; and (4) moving expenses. The following sections highlight each of these requirements.

Advisory Services for Displaced Households

The grantee should work with the household that will be displaced throughout the process to ensure the household is provided appropriate and required advisory services.

- ✓ Grantees must provide counseling and appropriate referrals to social service agencies, when appropriate.
- ✓ Grantees must offer or pay for transportation (e.g., taxi, rental car) to inspect comparable units or the actual unit selected by the displaced person.
- ✓ When a displacee is a minority, every effort should be made to ensure that referrals are made to comparables located outside of areas of minority concentration, if feasible.
- ✓ The grantee must provide current and continuing information on the availability, purchase price or rental cost and location of "comparable replacement dwellings." (See the section below for more information on comparable replacement dwellings.)

Comparable Replacement Dwelling Units

The grantee must make referrals to the replacement housing units (comparables) for displaced residential households. It is also recommended that the grantee inspect the comparables to determine if

they are in decent, safe and sanitary condition (including ensuring they are lead safe) prior to making referrals.

- ✓ The regulations stipulate that no person is to be displaced unless at least one, and preferably three, comparable dwellings are made available to the potential displacee. However, DLG requires the grantee to document the case file if three comparable dwellings are not identified. 49 CFR 24.204
- ✓ A comparable replacement dwelling means a dwelling which it meets local relevant housing codes and standards for occupancy;
- ✓ The replacement unit must be functionally equivalent to the displacement dwelling. The term “functionally equivalent” means that it performs the same function, and provides the same utility. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features must be present. In determining whether a replacement dwelling is functionally equivalent to the displacement dwelling, the grantee may consider reasonable trade-offs for specific features when the replacement unit is equal to or better than the displacement dwelling;
- ✓ Adequate in size to accommodate the occupants;
- ✓ If the displaced household were over-crowded, the comparable must be large enough to accommodate them.
- ✓ In an area not subject to unreasonable adverse environmental conditions;
- ✓ In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities and commercial and public facilities, and reasonably accessible to the person's place of employment;
- ✓ On a site that is typical in size for residential development with normal site improvements, including customary landscaping;
- ✓ Currently available to the displaced person on the private market (unless they are displaced from subsidized housing as described below); and
- ✓ Within the financial means of the displaced person. A replacement dwelling is considered to be within the person's financial means if a grantee pays the appropriate replacement housing payment.
- ✓ For a person receiving government housing assistance before displacement, a comparable dwelling unit that has similar government housing assistance must be offered. (For example, a comparable unit for a tenant who had a Housing Choice Voucher prior to displacement must be offered another unit where the Voucher could be used or is accepted.) When the government housing assistance program has requirements relating to the size of the replacement dwelling, the rules for that program apply.

Grantees may use Attachment 8-6: HUD Form 52580 Section 8 Existing Housing Program Inspection Checklist to determine whether a comparable unit is decent, safe and sanitary. Since replacement housing units must meet all local codes and housing standards, an inspector must be familiar with these requirements to ensure that displaced persons move to standard housing.

Attachment 8-6:
Section 8 Existing Housing
Program Inspection Checklist HUD
Form
Attachment 8-7:
Selection of Most Representative
Comparable Replacement Dwelling
for Computing an RHP

Attachment 8-7: HUD Form 40061 may be used to identify the most representative comparable replacement dwelling units for purposes of computing a replacement housing payment.

The grantee should then provide the potentially displaced household with a Notice of Eligibility for Relocation Assistance, Handbook 1378, Appendix 6. The notice must identify the cost and location of the comparable replacement dwelling(s).

Handbook 1378, Appendix 6
Notice of Eligibility for Relocation
Assistance

Replacement Housing Payments

In some instances, a comparable replacement dwelling may not be available within the monetary limits for owners or tenants. This is the purpose of the Replacement Housing Payment (RHP).

49 CFR 24.401 and 24.402
49 CFR 24.404(a)

Relocation payments are not considered “income” for purposes of the IRS or the Social Security Administration.

The revised regulations do not allow a grantee to encourage or ask a displaced person to waive their relocation assistance; however, a fully informed person may choose not to apply for financial benefits and must acknowledge that decision in writing by clearly describing the assistance for which he/she will not apply. Grantees are encouraged to contact DLG if this situation is likely to occur.

49 CFR 24.209 and 24.207(f)

Replacement Housing Assistance for 90-Day Homeowners

Only homeowner-occupants who were in residency for 90 days prior to an offer to purchase their home (“ION”) **USING INVOLUNTARY ACQUISITION** are eligible for a replacement housing payment as “displaced persons”. If homeowners were in occupancy for less than 90 days prior to the ION, they are protected by the URA as “displaced persons” but the calculation is made using the same method used for tenants.

Note: If an owner occupies a property acquired using voluntary acquisition requirements, they are NOT eligible for relocation benefits.

For involuntary acquisitions, the ION is defined as the delivery of the written offer of just compensation by the grantee to the owner.

The RHP made to a 90-day homeowner is the sum of:

- ✓ The lesser of: the cost of the comparable or the cost of the actual replacement unit.
- ✓ Additional mortgage financing cost; and
- ✓ Reasonable expenses incidental to purchase the replacement dwelling.

42 U.S.C. 4623(a)(1) and 42 U.S.C.
4624(b)

To calculate the replacement housing payment for a 90-day homeowner, grantees should use the HUD claim form in 40057. If an owner elects to become a renter, the RHP can be no more than the amount would otherwise have received as an owner. The maximum payment is \$31,000.

The displaced homeowner must purchase and occupy the replacement unit in order to qualify for a RHP as a displaced owner-occupant of 90 days.

HUD Claim Form 40057
<https://www.hud.gov/sites/documents/40057.PDF>
Claim Form for 90-day Homeowner

Replacement Housing Payments for Displaced Tenants

The amount of the replacement housing payment paid to a displaced tenant does not vary depending upon whether the household was in occupancy more or less than 90 days prior to the date of execution of the agreement.

The replacement housing payment is intended to provide affordable housing for a 42-month period. Although the URA regulations establish a \$7,200 limitation on rental assistance payments, it also requires that persons receive the calculated payment under replacement “Housing of Last Resort.” Therefore, families are entitled to the full 42 months of assistance even though the amount may exceed \$7,200. See Section 8-G Relocation Requirements under Section 104(d) to determine if applicable to your project.

42 U.S.C. 4624(a)

For all tenants, the replacement housing payment makes up (for a 42-month period) the difference between:

- ✓ The lesser of rent and estimated utility costs at the replacement dwelling or comparable unit; and
- ✓ The lesser of:
 - Thirty percent of the tenant’s average monthly gross household income (if the household is classified as low income—within 80% Area Median Income—using HUD’s income limits), or
 - The monthly rent and estimated average utility costs of the displacement dwelling.

URA cash rental assistance must be provided in installments, unless the tenant wishes to purchase a home. If the displaced tenant wishes to purchase a home, the payment must be provided in a single lump sum so that the funds can be used for a down payment, including incidental expenses.

The amount of cash rental assistance to be provided is based on a one-time calculation. The URA RHP payment is not adjusted to reflect subsequent changes in a person's income, rent/utility costs, or household size. See HUD Claim form 40058 for the claim form to use for rental assistance or down payment assistance.

HUD Claim Form 40058:
Claim for Rental Assistance or
Down Payment Assistance
<https://www.hudexchange.info/news/revised-hud-ura-relocation-claim-forms-and-brochures/>

Housing of Last Resort

When undertaking relocation activities, grantees must be sure to provide a comparable replacement dwelling in a timely manner. If the grantee cannot identify comparable replacement housing, they must seek other means of assisting displacees under the “Last Resort Replacement Housing” provisions of the regulations. This situation can occur in communities where there is a limited supply of available comparable units or when the replacement housing payment for a comparable unit exceeds the \$7,200 limit. Grantees should contact DLG to confer on how to proceed.

49 CFR 24.404

The Last Resort sections of the URA require grantees to take alternate measures to assist displaced persons to be able to afford to move to a decent, safe and sanitary comparable unit. Such alternatives include rehabilitation of, and/or additions to, an existing replacement dwelling; a replacement housing payment in excess of regulatory limits; construction of new units; relocation of a replacement dwelling; and removal of barriers to the disabled in a replacement dwelling.

Handbook 1378,
Chapter 3, Paragraph 3-6

The Replacement housing payment for 90-day occupants is limited for rental housing assistance not to exceed \$7,200. During the development of the relocation plan, whenever it has been determined that comparable replacement housing is not available within the monetary means for displaced households or occupants, the program must provide additional alternative assistance under the housing of last resort provisions. Use of last resort housing is required where an owner-occupant or tenant cannot otherwise be appropriately housed within the monetary limits. Specifically housing of last resort can be provided in several methods:

1. Replacement Housing Assistance – assistance exceeds the maximum assistance found at 49 CFR Part 401(b) or 402(a) for replacement housing payment
2. Other Last Resort Housing – construction of new housing or rehabilitation of existing housing to provide comparable, replacement dwelling units
3. Option of Displaced Person – displaced household accepts alternative housing assistance, such as housing voucher or a project-based rental subsidy (if available)

If the program makes the determination that, based on comparable, available dwelling units, relocation assistance will be provided under replacement housing of last resort, the files will need to provide a detailed discussion of the available options existing within the market and make the case for why Housing of Last Resort is required. This determination may be on a case by case basis or determined on a project-wide basis. A determination of Last Resort assistance will need to be reviewed and approved by DLG.

Early Movers: Relocation Prior to Notice of Eligibility

Some displaced persons will not wait for the grantee to locate comparable units and offer replacement housing assistance. These households may search for their own units and relocate themselves.

The implication of the early move will depend on when it occurs. If the move occurs after a General Information Notice (GIN) was sent to the household but before the Initiation of Negotiations, the household may have jeopardized their eligibility for relocation assistance.

However, after the Initiation of Negotiations, (the date that triggers eligibility for relocation assistance) relocation eligibility can be triggered for all occupants. So, it is vital that the grantee immediately send the Notice of Eligibility or Nondisplacement. If these notices are not sent in a timely or complete manner and the household moves out, HUD may require that the replacement housing be based on the actual unit they have chosen (if that exceeds a possible comparable), if that unit qualifies as decent, safe and sanitary. The budgetary consequences can be substantial.

Relocation into a Substandard Unit

If an individual locates or moves into a replacement unit that is not decent, safe and sanitary and that move occurred because the grantee was not timely in the delivery of the required URA notices, the grantee may try to upgrade the unit to the decent, safe and sanitary standard. Alternately, the grantee can offer the household the opportunity to move to a decent, safe and sanitary unit and the grantee must pay for that move.

In the event the grantee was timely in the delivery of the Notice of Eligibility but the household moved anyway to a substandard unit, the grantee must inform the displacee that if they remain in a substandard unit, they will be eligible only for moving expenses and not for replacement housing payments. The grantee must also inform the displacee that if he or she moves into standard housing within a year from the date he or she moved from the displacement dwelling and files a claim within 18 months of the date of displacement, he or she will be eligible for a replacement housing payment. A sample letter is provided as Attachment 8-8 of this chapter.

Attachment 8-8:
Sample Letter to Relocatee in a
Substandard Unit

Payment for Residential Moving and Incidental Expenses

Displaced homeowners and tenants may choose to receive payment for moving and related expenses either by:

- ✓ Commercial mover selected through competitive bids obtained by the grantee paid directly to the mover or reimbursed to the household; OR
- ✓ Reimbursement of actual expenses for a self-move, OR
- ✓ Receipt of a fixed payment based upon a schedule established by the Department of Transportation, Federal Highway Administration (FHWA), for the current payment level established for Kentucky, which is available on their website.

Fixed Residential Moving Cost
Schedule (2015):
http://www.fhwa.dot.gov/real_estate/uniform_act/relocation/moving_cost_schedule.cfm

The updated regulations at 49 CFR 24.301(b) clarified that grantees cannot allow residential self-moves based on the lower of two bids.

If reimbursement of actual expenses for a self-move is chosen, the grantee must determine that the expenses are reasonable and necessary and include only eligible expenses, which are:

49 CFR 24.301(b) and (g)(1-7)

- ✓ Transportation of the displaced person and personal property. (This may include reimbursement at the current mileage rate for personally owned vehicles that need to be moved.) Transportation costs

for a distance beyond 50 miles are not eligible, unless the Agency determines that relocation beyond 50 miles is justified.

- ✓ Packing, crating, uncrating and unpacking of the personal property.
- ✓ Storage of the personal property for a period not to exceed 12 months, unless the Agency determines that a longer period is necessary.
- ✓ Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances, and other personal property.
- ✓ Insurance for the replacement value of the property in connection with the move and necessary storage.
- ✓ The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft or damage is not reasonably available.
- ✓ Credit checks.
- ✓ Utility hook-ups, including reinstallation of telephone and cable service.
- ✓ Other costs as determined by the agency to be reasonable and necessary.

49 CFR 24.301(h)

The following are ineligible expenses:

- ✓ Refundable security and utility deposits; or
- ✓ Interest on a loan to cover moving expenses; or
- ✓ Personal injury; or
- ✓ Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the Agency; or
- ✓ The cost of moving any structure or other real property improvement in which the displaced person reserved ownership; or
- ✓ Costs for storage of personal property on real property owned or leased by the displaced person before the initiation of negotiations.

If the displaced homeowner/tenant chooses a fixed payment based upon a schedule established by the Department of Transportation, Federal Highway Administration (FHWA), the following apply:

- ✓ A person displaced from a dwelling or a seasonal residence may, at his or her discretion, choose to receive a fixed moving expense payment as an alternative to a payment for actual reasonable moving and related expenses.
- ✓ This payment is determined according to the applicable schedule published by FHWA. The most current schedule was published in 2015.
- ✓ The payment reflects the number of rooms in the displacement dwelling and whether the displaced person owns and must move the furniture. If a room or an outbuilding contains an unusually large amount of personal property (e.g., a crowded basement), the Agency may increase

www.hud.gov/relocation

Fixed Residential Moving Cost
Schedule (2015):

http://www.fhwa.dot.gov/real_estate/uniform_act/relocation/moving_cost_schedule.cfm

the payment accordingly (i.e., count it as two rooms). A current schedule is accessible on HUD’s website.

- ✓ *Occupant of Dwelling with Congregate Sleeping Space (Dormitory).* The moving expense for a person displaced from a permanent residence with congregate sleeping space ordinarily occupied by three or more unrelated persons is \$100.
- ✓ *Homeless Persons.* A displaced "homeless" person (e.g., the occupant of an emergency shelter) is not considered to have been displaced from a permanent residence and, therefore, is not entitled to a fixed moving expense payment. (Such a person may, however, be eligible for a payment for actual moving expenses.)
- ✓ In addition to the moving expenses, the updated regulations at 49 CFR 24.401(e)(4) added professional home inspection to the list of eligible incidental expenses for displaced owner-occupants only. This will only apply when a property is involuntarily acquired and owner occupied for a period of at least 90 days. 49 CFR 24.401(e)(4)
- ✓ The URA also allows grantees to pay for non-refundable security deposits but clarifies that refundable security and utility deposits are ineligible. 49 CFR 24.301(h)(12)

Section 8-E. Temporary Relocation

Agencies administering housing rehabilitation programs should establish written policies for temporary relocation of both owner-occupants and tenants.

Any temporary relocation may not exceed 12 months or the household is considered displaced. Agencies must administer their temporary relocation activities consistently and treat all people in similar circumstances the same. All terms must be “reasonable” or the temporarily-relocated household may become eligible as a “displaced person”.

Lead-Based Paint Hazards Requirements and Relocation

The Lead Safe Housing Rule, 24 CFR Part 35, contain rules concerning the temporary relocation of occupants (renters and owners) before and during hazard reduction activities. 24 CFR Part 35
24 CFR 570.608

Under the lead regulations, circumstances when temporary occupant relocation is **not required** include:

- ✓ Treatment will not disturb lead-based paint or create lead-contaminated dust; or
- ✓ Treatment of interior will be completed within one period in eight daytime hours, the site will be contained, and the work will not create other safety, health or environmental hazards; or
- ✓ Only the building’s exterior is treated; the windows, doors, ventilation intakes, and other openings near the work site are sealed during hazard reduction activities and cleaned afterward; and a lead-free entry is provided; or
- ✓ Treatment will be completed within five calendar days; the work area is sealed; at the end of each day, the area within 10 feet of the contaminant area is cleared of debris; at the end of each day,

occupants have safe access to sleeping areas, bathrooms, and kitchen facilities; and treatment does not create other safety, health or environmental hazards.

If these above conditions are not met, then the temporary relocation of the household is required. However, because the rehabilitation of owner-occupied units is considered voluntary, the relocation requirements of the URA do not apply regardless of whether the unit is being treated for lead-based paint. Any payments made on an owner-occupants' behalf would be addressed in an Optional Relocation Policy.

Again, note that the rehabilitation of tenant-occupied units is not considered voluntary and the URA requirements detailed earlier in this section apply.

Tip: Elderly residents living in units undergoing lead hazard reduction activities may waive the requirement to relocate but only if the grantee obtains a written and signed waiver. (See Attachment 8-5.)

The lead rule further requires that temporary dwellings not have lead-based paint hazards. Therefore, grantees are required to ensure that units used for temporary relocation are lead safe. This means that temporary housing units that were built after 1978 or have undergone a visual assessment and dust wipe sampling to ensure no lead hazards are present.

Attachment 8-5:
Elderly Waiver for Relocation

Temporary Relocation of Owner-Occupants in Rehabilitation Projects

An owner-occupant who participates in a CDBG grantee's housing rehabilitation program is considered a voluntary action under the URA, provided that code enforcement was not used to induce an owner-occupant to participate.

If a grantee chooses to provide temporary relocation assistance to owner-occupants, the grantee must adopt an Optional Temporary Relocation Assistance Policy.

Guidance for Owner-Occupant Temporary Relocation in Rehabilitation Projects

- ✓ The grantee should develop written policies as early as possible in the application stage so occupants can make suitable arrangements to move from of their homes with the least amount of disruption. Because the URA does not cover owner-occupants who voluntarily participate in housing rehabilitation programs, the grantee has broad discretion regarding payments to owners during the period of temporary relocation. If a grantee chooses to provide temporary relocation assistance to owner-occupants through a "voluntary" CDBG Program, the grantee must adopt an optional relocation assistance policy.
- ✓ The owner-occupant may be encouraged to stay with family or friends (noting the requirement to inspect these units to ensure the units are decent, safe and sanitary and lead-safe), but if there are circumstances in which there is no suitable alternative, and the owner would be faced with a hardship, the agency may set a policy that describes what constitutes a "hardship" and provide a certain level of financial assistance.
- ✓ An agency may negotiate with various hotels to establish an attractive rate and pay the negotiated rate on the owner's behalf. The hotel units must be decent, safe and sanitary, and cannot present a

24 CFR 570.488 and 570.606(d)(2)

lead-paint hazard to occupants. Agencies should inspect the hotel units prior to signing an agreement to use them as a resource. In addition, agencies may provide a stipend for meals if the temporary unit does not have cooking facilities.

Temporary Relocation of Tenants in Rehabilitation Projects

Tenants are protected by the URA during temporary relocation. HUD's Handbook 1378 suggests that at least 30 days advance notice be given to tenants prior to the temporary move. In addition, the tenant must be provided:

Handbook 1378,
Chapter 2, Paragraph 2-7

- ✓ Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing and any increase in monthly rent/utility costs at such housing. (They are still responsible for paying their share of the rent for the unit undergoing renovation.)
- ✓ Appropriate advisory services, including reasonable advance written notice of:
 - ✓ The date and approximate duration of the temporary relocation;
 - ✓ The address of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period;
 - ✓ The terms and conditions under which the tenant may lease and occupy a suitable, decent, safe and sanitary dwelling in the building/complex upon completion of the project; and
- ✓ The provisions of reimbursement for all reasonable out-of-pocket expenses.

Handbook 1378,
Chapter 2, Paragraph 2-7

The tenant must receive a Notice of Nondisplacement (Handbook 1378, Appendix 4) which advises a person that they may be or will be temporarily relocated.

Once it becomes evident that the tenant will need to be temporarily relocated, the grantee should send a Temporary Relocation Notice to inform households who will be temporarily relocated of their rights and of the conditions of their temporary move. (See Attachment 8-15 for a sample Temporary Relocation Notice.)

Handbook 1378 , Appendix 4:
Notice of Nondisplacement
Attachment 8-15: Sample
Temporary Relocation Notice

Tip: The Notice of Non-displacement is very important when dealing with temporary relocation because it helps prevent temporary moves from becoming permanent.

Guidance on Tenant Temporary Relocation

To assist with the temporary relocation of tenants, the grantee could encourage tenants to identify their own temporary housing (within the established guidelines), but ultimately the agency is responsible for finding suitable shelter until rehabilitation is complete. In addition, the agency could use hotel rooms and provide a meal stipend if there are no cooking facilities. The stipend could vary depending on the age of the children in the household (if any).

The terms and conditions of the temporary move must be reasonable or the tenant may become “displaced.” The grantee should be aware that the temporary unit need not be comparable, but it must be suitable for the tenant’s needs. It must be inspected, found to be decent, safe, sanitary, and lead safe. Attachment 8-6: Section 8 Existing Housing Program Inspection Checklist may be used to document the inspection. If the tenant claims to be paying rent to a friend or family member, the grantee should document that rent was paid and the housing was suitable. The tenant must be provided adequate advance notice to move out of their unit and back when rehabilitation work is complete. A good rule of thumb suggested by DLG is that temporary relocation is reasonable for six months or less. Anything in excess of one year is considered permanent displacement.

Attachment 8-6:
Section 8 Existing Housing
Program Inspection Checklist

If the owner of the property is planning to raise the rent or offer a different unit in the property (that exceeds the greater of their former rent or 30% of gross monthly income), the tenant must be notified of these changes before moving back. If the cost of rehabilitation including lead hazard control work causes the rent to be increased and creates a rent burden (“economic displacement”), the tenant is protected by the URA and could be eligible for relocation assistance.

The term “economic displacement” is used to cover households who lived in the project prior to the federally-funded activity (acquisition or rehabilitation) and whose rent is raised resulting in a move because they can no longer afford to remain.

If the rent will be increased and the household can no longer afford to stay, the grantee should treat the household as a displaced person and provide them with all of the assistance outlined under Section 8-D including: Advisory Services, Moving Expenses, and a Replacement Housing Payment as needed.

Section 8-F. Non-Residential Relocation under the URA

Displaced businesses (including non-profit organizations and farm owners) are entitled to advisory services and relocation assistance under the URA. A business is defined for this purpose as:

49 CR 24.2(a)(4)

- ✓ A for-profit business, engaged in any lawful activity involving purchase, sale of goods or services, manufacturing, processing, marketing, rental of property, or outdoor advertising when the display must be moved;
- ✓ To qualify for assistance, the business must meet the definition of a “displaced person” discussed earlier in this chapter. It must move permanently as a direct result of an assisted project involving acquisition, rehabilitation, or demolition.

Handbook 1378,
Chapter 1, Paragraphs 1-4

The URA provides coverage for business owners (whether they are on-site or not), for owner/occupants of a business, and for tenants operating a business in rented space.

Business versus Residential Assistance

URA coverage for moving expenses is similar for residential and non-residential displacees. Qualified businesses may choose

Handbook 1378,
Chapter 4, Paragraphs 4-2 and 4-5

between a fixed payment or actual moving expense. The fixed payment is based on a formula, rather than a schedule.

A displaced business is eligible to choose a fixed payment if the grantee determines that:

- ✓ The business either (a) discontinues operations, or (b) it relocates but is likely to incur a substantial loss of its existing patronage (The URA presumes this unless there is a preponderance of evidence to the contrary.); and
- ✓ The business is not part of a commercial enterprise having more than three other entities which are not being displaced by the grantee, and which are under the same ownership and engaged in the same or similar business activities; and
- ✓ The business contributed materially to the income of the displaced person; and
- ✓ The business operation at the displacement property is not solely for the rental of that real property to another property management company.
- ✓ Actual moving expenses provide for reimbursement of limited reestablishment expenses.
- ✓ There are differences between coverage for residential and non-residential displaces.
- ✓ A 90-day Notice to Move may be issued without a referral to a comparable site.
- ✓ Businesses are entitled to temporary moving expenses; however, displaced businesses are not eligible for 104(d) assistance.

Handbook 1378,
Chapter 4, Paragraph 4-3

HUD 1043 Booklet: Relocation
Assistance to Displaced
Businesses, Nonprofit
Organizations and Farms

Owners or tenants who have paid for improvements will be compensated for their real property under acquisition rules. A complete, thorough appraisal is essential to making these decisions.

Advisory Services

Non-residential moves are often complex. Grantees must interview business owners to determine their relocation needs and preferences. Displaced businesses are entitled to the following:

- ✓ Information about the upcoming project and the earliest date they will have to vacate the property;
- ✓ A complete explanation of their eligibility for relocation benefits and assistance in understanding their best alternatives;
- ✓ Assistance in following the required procedures to receive payments;
- ✓ Current information on the availability and cost to purchase or rent suitable replacement locations;
- ✓ Technical assistance, including referrals, to help the business obtain an alternative location and become reestablished;
- ✓ Referrals for assistance from state or federal programs, such as those provided by the Small Business Administration, that may help the business reestablish, and help in applying for funds; and
- ✓ Assistance in completing relocation claim forms.

Notices and Inspections

The grantee must provide a business to be displaced with written information about their rights, and provide them with a General Information Notice (GIN) tailored to the situation when a Notice of Interest is issued to the property owner. See Attachment 16(a) for a sample GIN to use for businesses (non-residential tenants). The General Information Notice should include:

- ✓ An explanation that a project has been proposed and caution the business not to move until they receive a Notice of Eligibility for Relocation Assistance. (See Attachment 8-16(b) for a sample of this notice.)
- ✓ A general description of relocation assistance payments they could receive, the eligibility requirements for these payments, and the procedures involved. The HUD Information Booklet, Relocation Assistance to Displaced Businesses, Nonprofit Organizations, and Farms (HUD 1043-CPD) includes this general information and should be given to the business.
- ✓ Information that they will receive reasonable relocation advisory services to help locate a replacement site, including help to complete claim forms;
- ✓ Information that they will not be required to move without at least 90 days' advance written notice; and
- ✓ A description of the appeal process available to businesses.

Handbook 1378,
Chapter 2, Paragraph 2-3 B
Attachment 8-16(a):
Guideform GIN Non-Residential
Tenant to be displaced

Attachment 8-16(b): Guideform
Notice of Eligibility for Relocation
Assistance—Business
Handbook 1378,
Chapter 7, Paragraph 7-7

Handbook 1378, Chapters 2 and 4,
Paragraphs 2-3 B and 4-2b

Handbook 1378,
Chapter 2, Paragraph 2-3 C

If a business must be displaced, a tailored Notice of Relocation Eligibility (NOE) must be provided as soon as possible after the ION (see Attachment 8-16(a) for a sample notice). This Notice should:

- ✓ Inform the business of the effective date of their eligibility.
- ✓ Describe the assistance available and procedures.
- ✓ If necessary, a 90-day Notice to Move may be sent after the initiation of negotiations.
- ✓ The business must be told as soon as possible that they are required to:
- ✓ Allow inspections of both the current and replacement sites by the grantee's representatives, under reasonable terms and conditions;
- ✓ Keep the grantee informed of their plans and schedules;
- ✓ Notify the grantee of the date and time they plan to move (unless this requirement is waived); and
- ✓ Provide the grantee with a list of the property to be moved or sold.

Handbook 1378,
Chapter 4, Paragraph 4-2b

Grantees need to be aware of when a property will be vacated. In many situations, the grantee must be on-site during a business move to provide technical assistance and represent the grantee's interests. In accordance with state law, any property not sold, traded or moved by the business becomes the property of the grantee.

Handbook 1378, Chapter 4,
Paragraphs 4-2b (2) and 4-2d

To be certain that the move takes place at a reasonable cost, an inventory containing a detailed itemization of personal property to be moved should be prepared and provided to the grantee. The grantee should verify this inventory and use it as a basis of comparison with bids or estimates and eventual requests for payment.

Handbook 1378,
Chapter 4, Paragraphs 4-2b (2)

Reimbursement of Actual Moving Expenses

Any displaced business is eligible for reimbursement of reasonable, necessary actual moving expenses.

Handbook 1378,
Chapter 4, Paragraph 4-2a

- ✓ Only businesses that choose actual moving expenses—versus a fixed payment—are eligible for a reestablishment expense payment.
- ✓ Grantees should not place additional hardships on businesses, but they can limit the amount of payment for actual moving expenses based on a least-cost approach.
- ✓ Businesses may choose to use the services of a professional mover or perform a self-move. Eligible expenses include:
 - Transportation of personal property;
 - Packing, crating, uncrating, unpacking of personal property;
 - Disconnecting, dismantling, removing, reassembling, and reinstalling machinery, equipment, and personal property;
 - Storage of personal property;
 - Insurance for replacement value of personal property in connection with the move and/or storage;
 - Any license, permit or certification required at the new location;
 - Professional services to plan the move, move the personal property or install the personal property at the new location;
 - Provision of utility service from the Right of Way to the business;
 - Professional services performed prior to the purchase or lease of a replacement site to determine its suitability for the displaced person's business operation including but not limited to, soil testing, feasibility and marketing studies (excluding any fees or commissions directly related to the purchase or lease of such site).
 - Impact fees or one-time heavy utility use assessments;
 - Re-lettering signs and replacing existing stationery that are obsolete due to the displacement; and
 - Reasonable costs incurred while attempting to sell items that will not be relocated.

A business is eligible for either a “Direct Loss” or “Substitute Equipment” payment if the displacee will leave or replace personal property. A business can accept either of these (but not both) for an item.

A “Direct Loss” payment can be made for personal property that will not be moved. Payments can also be made as a result of discontinuing the business of the nonprofit or farm. The business must make a good faith effort to sell the personal property (unless the grantee determines it is unnecessary) in order to be eligible for a Direct Loss payment. A Direct Loss payment is based on the lesser of:

49 CFR 24.301(g)(14)

- ✓ The fair market value of the item for continued use at the displacement site, minus the proceeds from the sale, or
- ✓ The estimated cost to move the item, with no allowance for the following: storage, or reconnecting a piece of equipment if the equipment is in storage or not being used at the acquired site. If the business is discontinuing, the cost to move is based on a moving distance of 50 miles.
- ✓ A “Substitute Equipment” payment can be made when an item used by the business, nonprofit, or farm is left in place, but is promptly replaced with a substitute item that performs a comparable function at the new site. A Substitute Equipment payment is based on the lesser of:
 - ✓ The cost of the substitute item, including installation costs at the replacement site, minus any proceeds from the sale or trade-in of the replaced item; or
 - ✓ The estimated cost to move and reinstall the item, but with no allowance for storage.

Certain costs incurred while searching for a replacement location are also eligible. Businesses are entitled to reimbursement up to \$2,500. Grantees can pay more than this if they believe it is justified.

Costs may include reasonable levels of such items as:

- ✓ Transportation;
- ✓ Meals and lodging away from home;
- ✓ Time spent while searching, based on a reasonable pay salary or earnings; and
- ✓ Fees paid to a real estate agent or broker while searching for the site. (Note that commissions related to the purchase are not eligible costs.)

Handbook 1378,
Chapter 4, Paragraph 4-4a

49 CFR 24.301 (e)

The grantee may pay other moving and related expenses that the grantee determines are reasonable and necessary and are not listed as ineligible. Payment of other reasonable and necessary expenses may be limited by the grantee to the amount determined to be least costly without causing the business undue hardship.

There may be instances where a person is required to move personal property from real property but is not required to move from a dwelling (including a mobile home), business, farm or nonprofit organization. Eligible expenses for moving the personal property are listed above.

Businesses may have personal property that is considered low value, high bulk such as stock piled sand, gravel, minerals, metals or other similar items in stock. When the personal property to be moved is of low value and high bulk, and the cost of moving the property would be disproportionate to its value in the judgment of the grantee, the allowable moving cost payment shall not exceed the lesser of:

- ✓ The amount which would be received if the property were sold at the site; or

- ✓ The replacement cost of a comparable quantity delivered to the new businesses location.

See HUD Form 4055 for a sample claim form for moving and related expenses for businesses.

HUD Form 4055
Claim for Actual Reasonable
Moving and Related Expenses—
Businesses
<https://www.hud.gov/sites/documents/40055.PDF>

Reestablishment Expenses

Only certain small businesses are eligible for reestablishment expenses, up to \$25,000. “Small businesses” for this purpose are defined as those with at least one, and no more than 500 people, working at the project site. Businesses displaced from a site occupied only by outdoor advertising signs, displays, or devices are not eligible for a reestablishment expense payment.

- ✓ Eligible items included in the \$25,000 maximum figure are:
 - ✓ Repairs or improvements to the replacement site, as required by codes, or ordinances;
 - ✓ Modifications to the replacement property to accommodate the business;
 - ✓ Modifications to structures on the replacement property to make it suitable for conducting the business;
 - ✓ Construction and installation of exterior advertising signs;
 - ✓ Redecoration or replacement at the replacement site of soiled or worn surfaces, such as paint, paneling, or carpeting;
 - ✓ Other licenses, fees, and permits not otherwise allowed as actual moving expenses;
 - ✓ Feasibility surveys, soil testing, market studies;
 - ✓ Advertisement of the replacement location;
 - ✓ Estimated increased costs of operation for the first two years at the replacement site for such items as:
 - Lease or rental charges,
 - Utility charges,
 - Personal or property taxes, and
 - Insurance premiums.
- ✓ Other reestablishment expenses as determined by the grantee to be essential to reestablishment.

Handbook 1378,
Chapter 4, Paragraph 4-3
49 CFR 24.304 and 42 U.S.C.
4622(a)(4)

Ineligible Expenses

The following are ineligible for payment as an actual moving expense, as a reestablishment expense, or as an “other reasonable and necessary expense”:

- ✓ Loss of goodwill;
- ✓ Loss of profits;

Handbook 1378,
Chapter 4, Paragraph 4-4b

-
- ✓ Personal injury;
 - ✓ Interest on a loan to cover any costs of moving or reestablishment expense;
 - ✓ Any legal fees or other costs for preparing a claim for a relocation payment, or for representing the claimant before the grantee;
 - ✓ The cost of moving any structure or other real property improvement in which the business reserved ownership;
 - ✓ Costs for storage of personal property on real property already owned or leased by the business before the initiation of negotiations;
 - ✓ Costs of physical changes to the replacement site above and beyond that required to move and reestablish the business;
 - ✓ The purchase of capital assets, manufactured materials, production supplies, or product inventory, except as permitted under “moving and related costs;” or
 - ✓ Interior and exterior finishes solely for aesthetic purposes, except for the redecoration or replacement of soiled or worn surfaces described in “reestablishment expenses.”

Handbook 1378,
Chapter 4, Paragraph 4-4c

Fixed Payments

A displaced business may select a fixed payment instead of actual moving expenses (which include reestablishment expenses) if the grantee determines that the displacee meets the following eligibility criteria:

Handbook 1378,
Chapter 4, Paragraph 4-5
49 CFR 24.305

- ✓ The nature of the business cannot solely be the rental of property to others.
- ✓ The business discontinues operations or it will lose a substantial portion of its business due to the move. (The latest regulations state that a business is presumed to meet this test unless the grantee can demonstrate it is not “location sensitive”.)
- ✓ The business is not part of an operation with more than three other entities where:
 - ✓ No displacement will occur, and
 - ✓ The ownership is the same as the displaced business, and
 - ✓ The other locations are engaged in similar business activities.
- ✓ The business contributed materially to the income of the displaced business.
- ✓ The term “contributed materially” means that during the two taxable years prior to the taxable year in which the displacement occurred (or the grantee may select a more equitable period) the business or farm operation:
 - ✓ Had average gross earnings of at least \$5,000; or
 - ✓ Had average net earnings of at least \$1,000;
 - ✓ Contributed at least 33 1/3 percent (one-third) of the owner’s or operator’s average annual gross income from all sources;

Handbook 1378,
Chapter 4, Paragraph 4-5c

- ✓ If the grantee determines that the application of these criteria would cause an inequity or hardship, it may waive these criteria.

The amount of the fixed payment is based upon the average annual net earnings for a two-year period of a business or farm operation.

Net earnings include any compensation obtained from the business that is paid to the owner, the owner's spouse, and dependents. Calculate net earnings before federal, state, and local income taxes for a two-year period. Divide this figure in half. The minimum payment is \$1,000; the maximum payment is \$40,000.

Handbook 1378,
Chapter 4, Paragraph 4-5d (1) and
42 U.S.C. 4622(c)

The two-year period should be the two tax-years prior to the tax year in which the displacement is occurring, unless there is a more equitable period of time that should be used:

- ✓ If the business was not in operation for a full two-year period prior to the tax year in which it would be displaced, the net earnings should be based on the actual earnings to date and then projected to an annual rate.
- ✓ If a business has been in operation for a longer period of time, and a different two-year period of time is more equitable within reason, the fixed payment should be based on that time period.

- ✓ When income or profit has been adjusted on tax returns to reflect expenses or income not actually incurred in the base period, the amount should be adjusted accordingly.

Handbook 1378, Chapter 4,
Paragraph 4-5d (2)

- ✓ When two or more entities at the same location are actually one business, they are only entitled to one fixed payment. This determination should be based on:

Handbook 1378, Chapter 4,
Paragraph 4-5d

- Shared equipment and premises, and
- Substantially identical or inter-related business functions and financial affairs that are co-mingled, and
- Entities that are identified to the public and their customers as one entity, and
- The same person or related persons own, control, or manage the entities.

Businesses must furnish grantees with sufficient documentation of income to justify their claim for a Fixed Payment. This might include:

- ✓ Income tax returns,
- ✓ Certified or audited financial statements,
- ✓ W-2 forms, and

- ✓ Other financial information accepted by the grantee.

Optional form HUD-40056 "Claim for Fixed Payment in Lieu of Payment for Actual Reasonable Moving and Related Expenses" (Appendix 17 of HUD Handbook 1378) may be used to claim the fixed payment. If another form is used, it should provide the same information in at least the same level of detail.

HUD Form 40056

Claim for Fixed Payment in Lieu of Payment for Actual Moving and Related Expenses—Businesses

<https://www.hudexchange.info/news/revised-hud-ura-relocation-claim-forms-and-brochures/>

Section 8-G. Relocation Requirements under Section 104(d)

The relocation requirements of Section 104(d) differ from URA requirements. The grantee is required to provide certain relocation assistance to any lower-income person displaced as a direct result of (1) the demolition of any dwelling unit, or (2) the conversion of a low- and moderate-income dwelling unit to a use other than a low- and moderate-income dwelling in connection with an assisted activity. The rules implementing the Section 104(d) relocation requirements for the State CDBG program are found at 24 CFR 570.488.

24 CFR 570.496a(c)(2) and (3)

104(d) replacement housing payments are available only to low- or moderate-income households. In addition, Section 104(d) relocation assistance is not triggered for a project, but rather for a household within a specific unit.

Eligibility

To be eligible for Section 104(d) relocation assistance, a person must meet certain criteria. Under Section 104(d), a displaced person is a lower-income tenant who moves permanently, in connection with an assisted activity, as a direct result of conversion of a low- and moderate-income dwelling unit or demolition of any dwelling unit.

24 CFR 42.305

Amount of Assistance

Under Section 104(d), each displaced household is entitled to choose either assistance at URA levels (detailed earlier in the chapter) or the following relocation assistance:

- ✓ Advisory services (same as under URA) - Includes notices, information booklets, explanation of assistance, referrals to comparable housing and counseling.
 - In general, both 104(d) and the URA require that a General Information Notice, and a Notice of Nondisplacement or a Notice of Eligibility for Relocation Assistance be provided.
 - The Notice of Nondisplacement informs residential occupants who will remain in the project area after completion of the assisted activity of their rights and of the terms and conditions of their remaining in the property.
 - The Notice of Eligibility for Relocation Assistance informs residential occupants who will be displaced of their rights and levels of assistance under 104(d). (Handbook 1378 Appendix 6 and 4, Attachments 8-9 and 8-11).

Handbook 1378 Appendix 6 and 4, Attachments 8-9 and 8-11:

- ✓ Payment for moving and related expenses (the same as under URA) - Payment for actual reasonable moving and related expenses or a moving expense and dislocation allowance based on a schedule that is available from DLG (see Attachment 8-14: Residential Moving Expense and Dislocation Allowance Schedule). Also, see Handbook 1378, Appendix 11 for the claim form to use for moving costs and related expenses.
- ✓ Security Deposits (not required under URA) - The reasonable and necessary cost of any security deposit required to rent the replacement dwelling unit.
- ✓ Credit checks (not required under URA) - Required to rent or purchase the replacement dwelling unit (also eligible under URA).
- ✓ Interim living costs (same as for URA) - The person shall be reimbursed for actual reasonable out-of-pocket costs incurred in connection with temporary relocation, including moving expenses and increased housing costs if the person must relocate temporarily because continued occupancy of the dwelling unit constitutes a substantial danger to the health or safety of the person or the public.
- ✓ Replacement Housing Assistance: The 104(d) replacement housing payment is intended to provide affordable housing for a 60-month period. There is no cap on the 104(d) replacement housing payment. As with URA, the 104(d) payment is calculated using the cost of the tenant's actual, decent, safe and sanitary replacement dwelling (including utilities) or a comparable replacement dwelling.
- ✓ The replacement housing payment makes up (for a 60-month period, not 42 months as in URA) the difference between:
 - The rent and utility costs for the actual replacement dwelling (or comparable), and
 - The tenant's Total Tenant Payment, calculated as the greater of:
 - Thirty percent of adjusted income,
 - Ten percent of gross income,
 - The welfare rent (see 24 CFR 5.628(a)(3)), and
 - Minimum rent in accordance with 24 CFR 5.630.

Attachment 8-14:
Residential Moving Expense and
Dislocation Allowance Payment
Schedule
(https://www.fhwa.dot.gov/real_e state/legislation_regulations/fr_si de-by-side/frsubd.cfm)
Handbook 1378, Appendix 11
Claim Form for Moving Costs
and Related Expenses

Note: The amount of the rent at the displacement unit is NOT used in calculating the RHP under 104(d).

Persons eligible for assistance under Section 104(d) are also eligible for URA assistance. In order for such persons to make an informed decision, grantees must determine and inform the person of the amount of replacement housing assistance available under Section 104(d) and the amount of replacement housing assistance available under the URA.

Attachment 8-11 to this Chapter summarizes the major differences between URA and Section 104(d) relocation assistance.

The grantee has the option to offer all or a portion of this 104(d) rental assistance through a Section 8 Housing Choice Voucher, if the grantee has access to a Voucher and provides referrals to

Attachment 8-11:
Summary of Major Differences
between 104(d) and URA
Relocation Assistance

comparable replacement dwelling units where the owner is willing to participate in the Section 8 Existing Housing Program.

If a person then refuses Section 8 assistance, the grantee has satisfied the Section 104(d) replacement housing assistance requirements. In such case, the displaced person may seek URA replacement housing assistance.

Cash rental assistance must be provided in installments, unless the tenant wishes to purchase a home. If the displaced tenant wishes to purchase a home, the payment must be provided in a lump sum so that the funds can be used for a down payment, including incidental expenses. The amount of cash rental assistance to be provided is based on a one-time calculation. The payment is not adjusted to reflect subsequent changes in a person's income, rent/utility costs, or household size. (Note: This guidance is also applicable under the URA.) Under 104(d), only a housing cooperative or mutual housing are eligible forms of ownership for down payment assistance.

Sample eligibility notices for Section 104(d) relocation assistance are included as Attachments 8-9 and 8-10 of this chapter. Also, the claim form for rental or purchase assistance under Section 104(d) can be found as HUD Form 40072.

Attachments 8-9 and 8-10:
Guideform Notices of Eligibility for
Section 104(d) Relocation
Assistance

HUD Form 40072:
Claim for Rental or Purchase
Assistance under Section 104(d)
[https://www.hud.gov/sites/docum
ents/40072.PDF](https://www.hud.gov/sites/documents/40072.PDF)

Total Tenant Payment (TTP)

Under the URA, a displaced person's gross monthly income and old rent are used to calculate the replacement housing payment. However, under Section 104(d), the Total Tenant Payment (TTP) is used to establish the amount of replacement housing assistance.

Handbook 1378,
Chapter 7, Paragraph 7-20

- ✓ Under Section 104(d), a displaced person is eligible for financial assistance sufficient to reduce the monthly rent and estimated average monthly utility costs for a replacement dwelling to the Total Tenant Payment (TTP).
- ✓ To receive assistance, a person must sign a release authorizing any depository or source of income to furnish the grantee information necessary to verify income. In order of acceptability, the three methods of verifying a person's income are:
 - ✓ Third party written or oral verification. Written verification should not be hand-carried by the person.
 - ✓ Review of documents, when third party verification is unavailable. Documents may include items such as pay stubs, government benefits statements like social security, and income tax returns provided they are updated to project income.
 - ✓ Notarized self-certification, unless the grantee determines notarization is unnecessary.

Handbook 1378,
Chapter 7, Paragraph 7-21(c)

Caution: The method of verifying income for the purposes of determining eligibility for housing assistance varies from what is described above. (See Chapter 10 for further guidance.)

Section 8-H. Section 104(d) One-for-One Unit Replacement

The basic concept behind the Section 104(d) requirements is that CDBG funds may not be used to reduce a jurisdiction's stock of affordable housing.

The 104(d) regulations state that: "All occupied and vacant occupiable low- and moderate-income dwelling units that are demolished or converted to a use other than as low- and moderate-income dwelling units in connection with an assisted activity must be replaced with comparable low income dwelling units."

Before obligating or expending funds that will directly result in demolition or conversion, the grantee must make public and submit to DLG the information required in the grantee's Residential Anti-displacement and Relocation Assistance Plan.

24 CFR 42.375(a)

There are four key issues in understanding the one-for-one replacement requirement.

- ✓ Which dwelling units must be replaced (and which need not be replaced)?
- ✓ What counts as a replacement dwelling unit?
- ✓ What information must be made public and submitted to the state before execution of contracts?
- ✓ What is the exception to one-for-one replacement rules?

All replacement housing must initially be made available for occupancy at any time during the period beginning one year before the grantee makes public the information required under the Residential Anti-displacement and Relocation Assistance Plan and ending three years after the commencement of the demolition or rehabilitation related to the conversion. Also, a One-for-One Replacement Summary Grantee Performance Report must be submitted before relocation activities can begin and kept updated (informing DLG of updates) for the low- and moderate-income units demolished or converted in the project. See Attachment 8-18(b) for a sample of the One-for-One Replacement Summary Grantee Performance Report.

Attachment 8-18(b):
One-for-One Replacement
Summary Grantee
Performance Report

Dwelling Units That Must Be Replaced

Grantees must replace a housing unit if the unit **meets all three conditions** listed below:

- ✓ **Condition 1:** It meets the definition of low/moderate dwelling unit. A low/mod dwelling unit is defined as a dwelling unit with a market rent (including an allowance for utilities) that is equal to or less than the Fair Market Rent (FMR) for its size. A reduced rent charged to a relative or on-site manager is not considered market rent. Fair Market rents may be found on the HUD website at <http://www.huduser.org/portal/datasets/fmr.html>.

Fair Market Rents:
<http://www.huduser.org/portal/datasets/fmr.html>

AND

- ✓ **Condition 2:** It is occupied or is a vacant occupiable dwelling unit. A vacant occupiable dwelling unit is defined as:

-
- A dwelling unit in standard condition (regardless of how long it has been vacant); or
 - A vacant unit in substandard condition that is suitable for rehabilitation (regardless of how long it has been vacant); or
 - A dilapidated unit, not suitable for rehabilitation, which has been legally occupied within three months from before the date of agreement.

AND

- ✓ **Condition 3:** It is to be demolished or converted to a unit with a market rent (including utilities) that is above the FMR or to a use that is no longer for permanent housing (including conversion to a homeless shelter).

It is important to note that the income of the particular occupant is irrelevant in one-for-one replacement. It is also important to note that local funds used to match a CDBG grant (including those in excess of the required match amount) are defined as any monies expended to support CDBG activity, which means that the use of the matching funds for the demolition or conversion of a unit that meets the criteria listed above would also trigger the Section 104(d) replacement requirements.

Criteria for Replacement Units

Replacement low- and moderate-income dwelling units may be provided by any public agency or private developer. Replacement units must meet all of the following criteria:

- ✓ Replacement units must be located within the grantee's jurisdiction and, to the extent feasible and consistent with other statutory priorities, the units shall be located within the same neighborhood as the units lost.

Applicable statutory priorities include those promoting housing choice, avoiding undue concentrations of assisted housing, and prohibiting development in areas affected by hazardous waste, flooding, and airport noise.

Replacement units must be sufficient in number and size to house no less than the number of occupants who could have been housed in the units that are demolished or converted.

- ✓ The number of occupants who could have been housed in units shall be determined in accordance with applicable local housing occupancy codes. The grantee may not replace those units with smaller units (e.g., a 2-bedroom unit with two 1-bedroom units) unless the grantee, before committing funds, must provide information to citizens and to DLG demonstrating that the proposed replacement is consistent with the housing needs of lower-income households in the jurisdiction.

Provided in standard condition and vacant; rehabilitation of occupied units toward replacement does not count. Replacement low- and moderate-income dwelling units may include units that have been raised to standard from substandard condition if:

- ✓ The unit must have been vacant for at least three months before execution of the agreement covering the rehabilitation (e.g., the agreement between the grantee and the property owner); and
- ✓ No one was displaced from the unit as a direct result of the assisted activity.

Provided within a four-year timeframe:

- ✓ Replacement units must be initially made available for occupancy at any time during the period beginning one year before the grantee's submission of the information required under 24 CFR 570.606(c) and ending three years after the commencement of the demolition or rehabilitation related to the conversion. 24 CFR 570.606(c)(1)(iii)
- ✓ This period may slightly exceed four years. However, DLG requires all replacement units to be available before the project is closed.
 - A grantee that fails to make the required submission, will lose the year before submission for counting replacement units
- ✓ Affordable for 10 years.
 - Replacement units must be designed to remain LMI dwelling units for at least 10 years from the date of initial occupancy.
 - A key factor in projecting affordability is the character of the neighborhood in which the replacement units are located (i.e., neighborhood where current market rents are moderate and projected future rents are expected to remain within future FMRs).
 - Replacement low- and moderate-income dwelling units may include, but are not limited to, public housing, existing housing receiving Section 8 project-based assistance, HOME or CDBG-funded units that have at least a 10-year affordability period.

Grantee Submission Requirements

Before a grantee executes a contract committing to provide CDBG funds for any activity that will directly result in either the demolition of low- and moderate-income dwellings units or the conversion of low- and moderate-income dwelling units to another use, the grantee must make public by posting in the Chief Elected Official's (CEO) office and submit the following information in writing to DLG for monitoring purposes:

- ✓ **Description**—A description of the proposed assisted activity.
- ✓ **Location and number of units to be removed**—The location on a map and number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than as a LMI dwelling units as a direct result of the assisted activity.
- ✓ **A time schedule** for the commitment and completion of the demolition or conversion.
- ✓ **Location and number of replacement units**—The location on a map and the number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units.
- ✓ If such data is not available at the time of the general submission, the submission shall identify the general location on an area map and the approximate number of dwelling units by size. Information identifying the specific location and number of dwelling units by size shall be submitted and disclosed to the public as soon as it is available.

Exception to One-for-One Replacement

Replacement is not required if DLG determines that enough standard, vacant, affordable housing serving the jurisdiction is available. A grantee may not execute a contract for demolition or rehabilitation of dwelling units for which an exception is sought until the exception is authorized in writing by DLG.

The one-for-one replacement requirement does not apply to the extent DLG determines, based upon objective data, that there is an adequate supply of vacant lower-income dwelling units in standard condition available on a non-discriminatory basis within the grantee's jurisdiction.

In determining the adequacy of supply, DLG will consider whether the demolition or conversion of the low- and moderate-income dwelling units will have a material impact on the ability of lower-income households to find suitable housing. DLG will consider relevant evidence of housing supply and demand including, but not limited to, the following factors:

- ✓ **Vacancy rate**—The housing vacancy rate in the jurisdiction.
- ✓ **Number of vacancies**—The number of vacant LMI dwelling units in the jurisdiction (excluding units that will be demolished or converted).
- ✓ **Waiting list for assisted housing**—The number of eligible families on waiting lists for housing assisted under the United States Housing Act of 1937 in the jurisdiction. However, DLG recognizes that a community that has a substantial number of vacant, standard dwelling units with market rents at or below the FMR may also have a waiting list for assisted housing. The existence of a waiting list does not disqualify a community from consideration for an exception.
- ✓ **Consolidated Plan**—The needs analysis contained in the State's Consolidated Plan and relevant past predicted demographic changes.
- ✓ **Housing outside the jurisdiction**—DLG may consider the supply of vacant low- and moderate-income dwelling units in a standard condition available on a non-discriminatory basis in an area that is larger than the grantee's jurisdiction. Such additional dwelling units shall be considered if DLG determines that the units would be suitable to serve the needs of lower-income households that could be served by the low- and moderate-income dwelling units that are to be demolished or converted to another use. DLG will base this determination on geographic and demographic factors, such as location and access to places of employment and to other facilities.

Procedure for Seeking an Exception

The grantee must submit a request for determination for an exception directly to DLG. Simultaneously with the submission of the request, the grantee must make the submission public and inform interested persons that they have 30 days from the date of submission to provide to DLG additional information supporting or opposing the request. If DLG, after considering the submission and the additional data, agrees with the request, DLG must provide its recommendation with supporting information to HUD.

Section 8-I. Record Keeping

Each grantee is responsible for maintaining readily available and retrievable records in sufficient detail to demonstrate compliance with the URA, 104(d) and applicable relocation program regulations, irrespective of any tasks assigned to the real property owner. These records must be maintained for a

period of five years after final project close-out, or the date a person has received all of the financial assistance due, whichever is the latest date.

Each notice that the grantee is required to provide to a property owner or occupant must be mailed certified or registered, first-class mail, return receipt requested. The return receipt must be affixed to each individual case file. If hand delivered, a written acknowledgment of receipt must be obtained from the addressee.

Attachment 8-19: Relocation File Checklist identifies all the information required for each file. Grantees should keep a copy of the checklist in front of each relocation file for tracking purposes and to facilitate state and local review.

Attachment 8-19:
Relocation File Checklist

Records on Displaced Persons

The grantee must maintain a separate case file on each residential and non-residential displaced person. The case file must contain the following:

- ✓ Identification of person, address, racial/ethnic group classification, age and sex of all members of the household, household income, monthly rent and utility costs (if the unit is a dwelling), type of enterprise (if non-residential), and person's relocation needs and preferences'

The list may be maintained manually or electronically and may be used to track progress in implementing the relocation process.

- ✓ A list of all persons occupying the real property on:
 - The date of the application for KCDBG assistance;
 - The date the applicant obtained site control, if this is not obtained until after the date the KCDBG application was made;
 - The date of Initiation of Negotiations applicable to the project. (Refer to Chapter 8, Handbook 1378 to identify the applicable date for KCDBG projects.)
- ✓ A list of all persons moving into the project after the application for KCDBG funds has been made but before the project was completed.
- ✓ Evidence that the person received a timely General Information Notice and a general description of the relocation payments and advisory services for which he/she may be eligible, basic eligibility conditions and procedures for obtaining payments.
- ✓ Evidence that the person received a timely written Notice of Eligibility for Relocation Assistance and, for those displaced from a dwelling, the specific comparable replacement and the related cost to be used to establish the upper limit of the replacement housing payment.
- ✓ Evidence of dates of personal contacts and a description of the advisory services offered and provided.
- ✓ Identification of referrals to replacement properties, date of referrals, rents/utility costs (if rental dwelling), date of availability and reason(s) person declined referral.
- ✓ Identification of actual replacement property, rent/utility cost (if rental dwelling) and date of relocation.
- ✓ Replacement dwelling inspection report and date of inspection.

-
- ✓ A copy of each approved claim form and related documentation, evidence that the person received payment and if applicable, the Section 8 Certificate or Housing Voucher.
 - ✓ A copy of any appeal or complaint filed and the grantee response. DLG also requires a separate complaint file be maintained for all general complaints.

Records of Persons Not Displaced

The grantee must also maintain information on persons not displaced:

- ✓ For each occupant who has not been displaced, the grantee must maintain evidence that the person received a timely General Information Notice indicating that he/she would not be displaced by the project.
- ✓ For each residential or non-residential occupant who was not displaced, evidence of the provision and receipt of a Notice of Nondisplacement.
- ✓ If by staying in the project there is a possibility the occupant may become “rent burdened,” there are three options available to the grantee:
- ✓ The grantee can provide additional subsidies to make the unit affordable (e.g., tenant-based rental assistance),
- ✓ The owner can elect to limit rent increases for some units where the increase would result in a rent burden, or
- ✓ If neither of the above options is feasible, the grantee must consider the occupant a displaced person and issue a Notice of Eligibility for Relocation Assistance. If the occupant moves, the occupant is considered to be displaced by virtue of the activity that caused the rent to increase.

Note: Some rent-burdened tenants may elect to remain in the project and pay the higher rent. The tenant must be fully informed (via Notice of Eligibility for Relocation Assistance) of their rights to relocation assistance and waive those rights.

For tenants occupying a dwelling, there must be evidence that the tenant received a timely offer of:

- ✓ A reasonable opportunity to lease and occupy a suitable, affordable, decent, safe and sanitary dwelling on the real property, and
- ✓ Reimbursement of any out-of-pocket expenses incurred in connection with any temporary relocation or move to another unit on the real property.
- ✓ For each occupant that is not displaced, but elects to move permanently from the real property, this documentation is especially important to ensure that the person does not have a basis for filing a claim for relocation payments as a “displaced person.”

Records of Occupants in Private Owner Rehabilitation Projects

For each private owner, multi-family rehabilitation project, the grantee must develop and maintain records identifying the name and address of:

- ✓ **Category 1:** All occupants of the real property at the time of submission of the application by the owner to the grantee;

- ✓ **Category 2:** All occupants moving into the property after the submission of the application but before completion of the project; and
- ✓ **Category 3:** All occupants immediately following completion of the project.

The grantee must be able to reconcile the available information on the persons in categories 1 and 2 above with the information on persons in category 3 so that a person reviewing the files can account for occupants (i.e., remained in occupancy, were displaced and received relocation assistance, or elected to relocate permanently even though not displaced).

Records on Voluntarily Relocated Households

The grantee must establish individual case files for each household that was temporarily relocated on a voluntary basis. At a minimum, each case file must contain the following:

- ✓ Name of homeowner or tenant being temporarily displaced;
- ✓ Address of unit being rehabilitated;
- ✓ Address of replacement dwelling unit;
- ✓ Copies of all financial records attributable to the relocatee during the temporary displacement;
- ✓ Date relocatee(s) occupied the temporary unit and returned to the rehabilitated dwelling;
- ✓ Inspections of the condition of the relocation dwelling upon evacuation and prior to occupying the temporary unit; and
- ✓ All invoices for temporary relocation costs including all utility charges during the relocation and any other charges directly attributable to the temporary displacement.

Section 8-J. Appeals

The grantee must develop an appeals procedure. It must outline the appeals process, including the grounds for filing an appeal, which appeals would be filed in the locality, appropriate time limits, and the right of appeal to DLG. These are outlined in Chapter 9: Acquisition and apply to appeals concerning relocation

Attachment 8-17:
Grievance Procedures

See Attachment 8-17 for sample grievance procedures.

GUIDEFORM NOTICE TO PROSPECTIVE TENANT
(Sample)

Grantee or Agency Letterhead

(Date)

Dear _____:

On (date) , (property owner) submitted an application to the (Grantee) for financial assistance to [acquire] [rehabilitate] [demolish] [convert] the building located at (address) . Because Federal funds are being used in this project, the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) of 1970, as amended, applies for tenants in residence at the time of application. However, as a new tenant, you will not be eligible for relocation benefits under the URA.

This notice is to inform you of the following information before you enter into any lease agreement and occupy a unit at the above address:

- You may be displaced by the project.
- You may be required to relocate temporarily.
- You may be subject to a rent increase.
- You will not be entitled to any relocation benefits provided under the URA. If you have to move or your rent is increased as a result of the above project, you will not be reimbursed for any such rent increase or for any costs or expenses incurred by you in connection with a move as a result of the project.

Please read this notification carefully prior to signing a rental agreement and moving into the project. If you should have any questions about this notice, please contact (Grantee) at (address and telephone number) . Once you have read and have understood this notice, please sign the statement below if you still desire to lease the unit.

Sincerely,

(Name and Title)

I have read the above information and understand the conditions under which I am moving into this project.

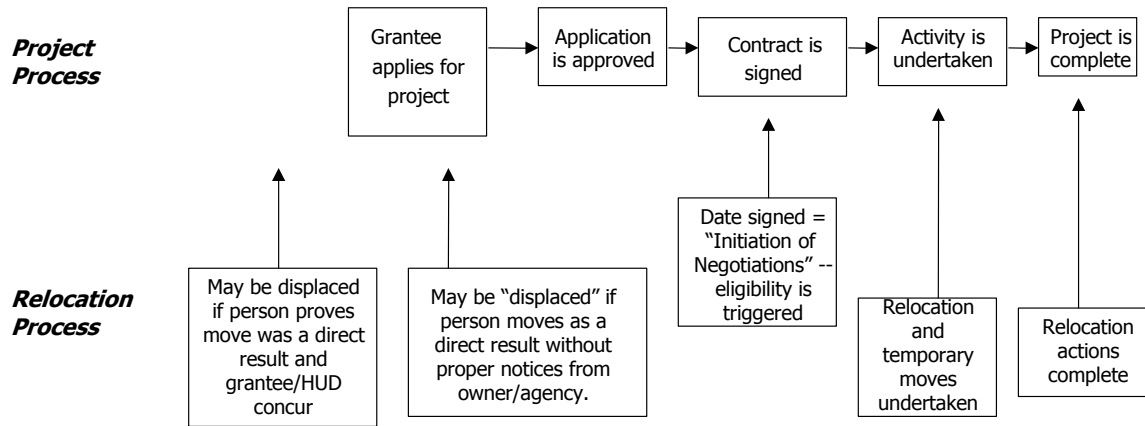
Print Name of Tenant(s)

Signature(s)

Address and Unit Number

Date

Attachment 8-2: URA Relocation Flow Chart with Trigger Dates



**Guideform Residential Antidisplacement and Relocation Assistance Plan under
Section 104(d) of the Housing and Community Development Act of 1974,
as amended
(Sample)**

The (jurisdiction) will replace all occupied and vacant occupiable low/moderate income dwelling units demolished or converted to a use other than low/moderate income housing as a direct result of activities assisted with funds provided under the Housing and Community Development Act of 1974, as amended, as described in 24 CFR 570.488a(c)(1).

All replacement housing will be provided within three years of the commencement of the demolition or rehabilitation relating to conversion. Before obligating or expending funds that will directly result in such demolition or conversion, the (jurisdiction) will make public and submit to the Department of Local Government the following information in writing:

1. A description of the proposed assisted activity;
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 as 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 10 years from the date of initial occupancy.

The (jurisdiction) will provide relocation assistance, as described in 570.488a(c)(1) to each low/moderate income household displaced by the demolition of housing or by the conversion of a low/moderate income dwelling to another use as a direct result of assisted activities.

Consistent with the goals and objectives of activities assisted under the Act, the (jurisdiction) will take the following steps to minimize the displacement of persons from their home:

[INSERT TEXT – STEPS TO BE COMPLETED BY THE JURISDICTION]

HOUSEHOLD CASE RECORD
(Sample)

1. HOUSEHOLD SURVEY DATE OF ORIGINAL INTERVIEW: _____

NAME OF INTERVIEWER: _____

Name of Occupant: _____ Racial/Ethnic Classification: _____

Address: _____ Contact in Case of Emergency:

Name: _____

Phone: Day _____ Night _____ Address: _____

Date of Original Occupancy: _____ Phone: _____

CHARACTERISTICS OF CURRENT UNIT

HOUSING COSTS OF CURRENT UNIT

# of Rooms: _____	_____		_____	
	TENANT		OWNER	
# of Bedrooms: _____	_____			
# of Bathrooms: _____	Rent: \$ _____	Monthly Mortgage: \$ _____		
Approximate Square Footage: _____	Average Utilities: \$ _____	Average Utilities: \$ _____		
Accessibility to Shopping: _____	Total Monthly Housing Costs: \$ _____	Real Property Taxes: \$ _____		
Medical: _____		Total Monthly Housing Costs: \$ _____		
Public Transit: _____				
Other Services: _____				

_____	Date Verified: _____			

5. SERVICES AND ASSISTANCE PROVIDED

<u>Date</u>	<u>Nature of Contact Assistance Provided</u>	<u>Person Providing Service</u>	<u>Result of Assistance or Contact</u>
-------------	--	---------------------------------	--

6. REPLACEMENT UNIT

Date of Move: _____ Address: _____

Area of Low-Income or Minority Concentration: Yes No

<u>INSPECTION</u>	<u>MONTHLY HOUSING COSTS</u>
-------------------	------------------------------

		<u>RENTAL</u>	<u>SALES</u>
Date Inspected: _____		Rent: \$ _____	Mortgage Payment: \$ _____
Decent, Safe and Sanitary: Yes No		Estimated Utilities: \$ _____	Real Property Tax: \$ _____
Date of the Re-Inspection: _____		Total Monthly Housing Cost: \$ _____	Estimated Utilities: \$ _____
# of Rooms: _____			Total Monthly Housing Cost: \$ _____
# of Bedrooms: _____			Sales Price: \$ _____
Accessibility to Services: _____			

7. TEMPORARY RELOCATION

DATE: _____

REASON: _____

ADDRESS: _____

RENTAL \$ _____

8. RELOCATION PAYMENTS

	TYPE	PAID	DATE AMOUNT	RECEIPT ACKNOW- LEDGED
--	------	------	----------------	------------------------------

Moving:

Fixed

Actual

Housing:

Rental

Down Payment

180 Homeowner

Rent

Other

Total

9. APPEALS

APPEAL FILED

___ Yes

___ No

TYPE OF APPEAL

___ Payments

___ Housing

___ Other

Elderly Waiver for Relocation – Sample Form

**OUR PROGRAM
STREET ADDRESS
CITY, STATE, ZIP
PHONE**

The following sample certification reflects policies that could be adopted for an elderly waiver provision. No policy should be adopted without consideration by legal counsel.

I, _____, the undersigned,

_____ choose to remain in my home while rehabilitation work by [the City of _____] is being performed.

_____ choose to relocate to another unit while the work is being performed.

I have made this choice having read and understood the following:

1. I am at least 62 years old.
2. My home was built before 1978.
3. I have received the pamphlet “Protecting Your Family from Lead in Your Home” and I am aware of the health hazards that are posed by lead-based paint.
4. I have been given a description of work that will be done in my home and understand that during the course of the work, lead hazards may be created in the work area. These hazards will be fixed before the job is considered complete.
5. I may stay in my home but I may not enter the work area while work is being performed.
6. I certify that no children under age six or women of childbearing age currently live in the unit or spend significant amounts of time in the unit.
7. I understand that allowing children under age six or women of childbearing age to visit my home while work is being done may pose a risk to their health.
8. I waive rights to all damages. I agree to hold harmless the [City of _____] for any damages due to lead poisoning that occur on these premises during the course of the work.

Signed:

Name

Date

Name

Date

Inspection Checklist

Housing Choice Voucher Program

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0169
(Exp. 07/31/2007)

Public reporting burden for this collection of information is estimated to average 0.50 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number. This collection of information is authorized under Section 8 of the U.S. Housing Act of 1937 (42 U.S.C. 1437f). The information is used to determine if a unit meets the housing quality standards of the section 8 rental assistance program.

Name of Family	Tenant ID Number	Date of Request (mm/dd/yyyy)
Inspector	Neighborhood/Census Tract	Date of Inspection (mm/dd/yyyy)
Type of Inspection <input type="checkbox"/> Initial <input type="checkbox"/> Special <input type="checkbox"/> Reinspection	Date of Last Inspection (mm/dd/yyyy)	PHA

A. General Information		Housing Type (check as appropriate) <input type="checkbox"/> Single Family Detached <input type="checkbox"/> Duplex or Two Family <input type="checkbox"/> Row House or Town House <input type="checkbox"/> Low Rise: 3, 4 Stories, Including Garden Apartment <input type="checkbox"/> High Rise: 5 or More Stories <input type="checkbox"/> Manufactured Home <input type="checkbox"/> Congregate <input type="checkbox"/> Cooperative <input type="checkbox"/> Independent Group Residence <input type="checkbox"/> Single Room Occupancy <input type="checkbox"/> Shared Housing <input type="checkbox"/> Other
Inspected Unit	Year Constructed (yyyy)	
Full Address (including Street, City, County, State, Zip)		
Number of Children in Family Under 6		
Owner		
Name of Owner or Agent Authorized to Lease Unit Inspected	Phone Number	
Address of Owner or Agent		

B. Summary Decision On Unit (To be completed after form has been filled out)			
<input type="checkbox"/> Pass <input type="checkbox"/> Fail <input type="checkbox"/> Inconclusive	Number of Bedrooms for Purposes of the FMR or Payment Standard	Number of Sleeping Rooms	

Inspection Checklist		Yes Pass	No Fail	In-Conc.	Comment	Final Approval Date (mm/dd/yyyy)
Item No.	1. Living Room					
1.1	Living Room Present					
1.2	Electricity					
1.3	Electrical Hazards					
1.4	Security					
1.5	Window Condition					
1.6	Ceiling Condition					
1.7	Wall Condition					
1.8	Floor Condition					

* Room Codes: 1 = Bedroom or Any Other Room Used for Sleeping (regardless of type of room); 2 = Dining Room or Dining Area; 3 = Second Living Room, Family Room, Den, Playroom, TV Room; 4 = Entrance Halls, Corridors, Halls, Staircases; 5 = Additional Bathroom; 6 = Other

Item No.	1. Living Room (Continued)	Yes Pass	No Fail	In-Conc.	Comment	Final Approval Date (mm/dd/yyyy)
1.9	Lead-Based Paint Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 10% of a component?				<input type="checkbox"/> Not Applicable	
2. Kitchen						
2.1	Kitchen Area Present					
2.2	Electricity					
2.3	Electrical Hazards					
2.4	Security					
2.5	Window Condition					
2.6	Ceiling Condition					
2.7	Wall Condition					
2.8	Floor Condition					
2.9	Lead-Based Paint Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 10% of a component?				<input type="checkbox"/> Not Applicable	
2.10	Stove or Range with Oven					
2.11	Refrigerator					
2.12	Sink					
2.13	Space for Storage, Preparation, and Serving of Food					
3. Bathroom						
3.1	Bathroom Present					
3.2	Electricity					
3.3	Electrical Hazards					
3.4	Security					
3.5	Window Condition					
3.6	Ceiling Condition					
3.7	Wall Condition					
3.8	Floor Condition					
3.9	Lead-Based Paint Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 10% of a component?				<input type="checkbox"/> Not Applicable	
3.10	Flush Toilet in Enclosed Room in Unit					
3.11	Fixed Wash Basin or Lavatory in Unit					
3.12	Tub or Shower in Unit					
3.13	Ventilation					

Item No.	4. Other Rooms Used For Living and Halls	Yes Pass	No Fail	In-Conc.	Comment	Final Approval Date (mm/dd/yyyy)
4.1	Room Code* and Room Location <input type="checkbox"/>				(Circle One) Right/Center/Left (Circle One) Front/Center/Rear _____ Floor Level	
4.2	Electricity/Illumination					
4.3	Electrical Hazards					
4.4	Security					
4.5	Window Condition					
4.6	Ceiling Condition					
4.7	Wall Condition					
4.8	Floor Condition					
4.9	Lead-Based Paint Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 10% of a component?				<input type="checkbox"/> Not Applicable	
4.10	Smoke Detectors					
4.1	Room Code* and Room Location <input type="checkbox"/>				(Circle One) Right/Center/Left (Circle One) Front/Center/Rear _____ Floor Level	
4.2	Electricity/Illumination					
4.3	Electrical Hazards					
4.4	Security					
4.5	Window Condition					
4.6	Ceiling Condition					
4.7	Wall Condition					
4.8	Floor Condition					
4.9	Lead-Based Paint Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 10% of a component?				<input type="checkbox"/> Not Applicable	
4.10	Smoke Detectors					
4.1	Room Code* and Room Location <input type="checkbox"/>				(Circle One) Right/Center/Left (Circle One) Front/Center/Rear _____ Floor Level	
4.2	Electricity/Illumination					
4.3	Electrical Hazards					
4.4	Security					
4.5	Window Condition					
4.6	Ceiling Condition					
4.7	Wall Condition					
4.8	Floor Condition					
4.9	Lead-Based Paint Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 10% of a component?				<input type="checkbox"/> Not Applicable	
4.10	Smoke Detectors					

Item No.	4. Other Rooms Used For Living and Halls	Yes Pass	No Fail	In-Conc.	Comment	Final Approval Date (mm/dd/yyyy)
4.1	Room Code* and Room Location <input type="checkbox"/>				(Circle One) Right/Center/Left (Circle One) Front/Center/Rear ____ Floor Level	
4.2	Electricity/Illumination					
4.3	Electrical Hazards					
4.4	Security					
4.5	Window Condition					
4.6	Ceiling Condition					
4.7	Wall Condition					
4.8	Floor Condition					
4.9	Lead-Based Paint Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 10% of a component?				<input type="checkbox"/> Not Applicable	
4.10	Smoke Detectors					
4.1	Room Code* and Room Location <input type="checkbox"/>				(Circle One) Right/Center/Left (Circle One) Front/Center/Rear ____ Floor Level	
4.2	Electricity/Illumination					
4.3	Electrical Hazards					
4.4	Security					
4.5	Window Condition					
4.6	Ceiling Condition					
4.7	Wall Condition					
4.8	Floor Condition					
4.9	Lead-Based Paint Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 10% of a component?				<input type="checkbox"/> Not Applicable	
4.10	Smoke Detectors					
5. All Secondary Rooms (Rooms not used for living)						
5.1	None Go to Part 6					
5.2	Security					
5.3	Electrical Hazards					
5.4	Other Potentially Hazardous Features in these Rooms					

Item No.	6. Building Exterior	Yes Pass	No Fail	In-Conc.	Comment	Final Approval Date (mm/dd/yyyy)
6.1	Condition of Foundation					
6.2	Condition of Stairs, Rails, and Porches					
6.3	Condition of Roof/Gutters					
6.4	Condition of Exterior Surfaces					
6.5	Condition of Chimney					
6.6	Lead Paint: Exterior Surfaces Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed 20 square feet of total exterior surface area?				<input type="checkbox"/> Not Applicable	
6.7	Manufactured Home: Tie Downs					
7. Heating and Plumbing						
7.1	Adequacy of Heating Equipment					
7.2	Safety of Heating Equipment					
7.3	Ventilation/Cooling					
7.4	Water Heater					
7.5	Approvable Water Supply					
7.6	Plumbing					
7.7	Sewer Connection					
8. General Health and Safety						
8.1	Access to Unit					
8.2	Fire Exits					
8.3	Evidence of Infestation					
8.4	Garbage and Debris					
8.5	Refuse Disposal					
8.6	Interior Stairs and Common Halls					
8.7	Other Interior Hazards					
8.8	Elevators					
8.9	Interior Air Quality					
8.10	Site and Neighborhood Conditions					
8.11	Lead-Based Paint: Owner's Certification				<input type="checkbox"/> Not Applicable	

If the owner is required to correct any lead-based paint hazards at the property including deteriorated paint or other hazards identified by a visual assessor, a certified lead-based paint risk assessor, or certified lead-based paint inspector, the PHA must obtain certification that the work has been done in accordance with all applicable requirements of 24 CFR Part 35. The Lead-Based Paint Owner Certification must be received by the PHA before the execution of the HAP contract or within the time period stated by the PHA in the owner HQS violation notice. Receipt of the completed and signed Lead-Based Paint Owner Certification signifies that all HQS lead-based paint requirements have been met and no re-inspection by the HQS inspector is required.

C. Special Amenities (Optional)

This Section is for optional use of the HA. It is designed to collect additional information about other positive features of the unit that may be present. Although the features listed below are not included in the Housing Quality Standards, the tenant and HA may wish to take them into consideration in decisions about renting the unit and the reasonableness of the rent.

Check/list any positive features found in relation to the unit.

1. Living Room

- High quality floors or wall coverings
- Working fireplace or stove
- Balcony, patio, deck, porch
- Special windows or doors
- Exceptional size relative to needs of family
- Other: (Specify)

2. Kitchen

- Dishwasher
- Separate freezer
- Garbage disposal
- Eating counter/breakfast nook
- Pantry or abundant shelving or cabinets
- Double oven/self cleaning oven, microwave
- Double sink
- High quality cabinets
- Abundant counter-top space
- Modern appliance(s)
- Exceptional size relative to needs of family
- Other: (Specify)

3. Other Rooms Used for Living

- High quality floors or wall coverings
- Working fireplace or stove
- Balcony, patio, deck, porch
- Special windows or doors
- Exceptional size relative to needs of family
- Other: (Specify)

4. Bath

- Special feature shower head
- Built-in heat lamp
- Large mirrors
- Glass door on shower/tub
- Separate dressing room
- Double sink or special lavatory
- Exceptional size relative to needs of family
- Other: (Specify)

5. Overall Characteristics

- Storm windows and doors
- Other forms of weatherization (e.g., insulation, weather stripping)
- Screen doors or windows
- Good upkeep of grounds (i.e., site cleanliness, landscaping, condition of lawn)
- Garage or parking facilities
- Driveway
- Large yard
- Good maintenance of building exterior
- Other: (Specify)

6. Disabled Accessibility

Unit is accessible to a particular disability. Yes No
Disability _____

D. Questions to ask the Tenant (Optional)

1. Does the owner make repairs when asked? Yes No
2. How many people live there? _____
3. How much money do you pay to the owner/agent for rent? \$ _____
4. Do you pay for anything else? (specify) _____
5. Who owns the range and refrigerator? (insert O = Owner or T = Tenant) Range _____ Refrigerator _____ Microwave _____
6. Is there anything else you want to tell us? (specify) Yes No

E. Inspection Summary/Comments (Optional)

Provide a summary description of each item which resulted in a rating of "Fail" or "Pass with Comments."

Tenant ID Number	Inspector	Date of Inspection (mm/dd/yyyy)	Address of Inspected Unit
Type of Inspection	Initial <input type="checkbox"/>	Special <input type="checkbox"/>	Reinspection <input type="checkbox"/>
Item Number	Reason for "Fail" or "Pass with Comments"		Rating

Continued on additional page Yes No

Previous editions are obsolete

**Selection of Most Representative
Comparable Replacement Dwelling
for Computing a Replacement Housing Payment**

**U.S. Department of Housing
and Urban Development**
Office of Community Planning
and Development

OMB Approval No. 2506-0016
(exp. 10/31/2011)

1. Agency	2. Project	3. Household	4. Select One <input type="checkbox"/> Owner <input type="checkbox"/> Tenant	5. Case Number
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Public reporting burden for this collection of information is estimated to average 1.0 hour. This includes the time for collecting, reviewing, and reporting the data. The information is being collected under the authority of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and implementing regulations at 49 CFR Part 24 and will be used for determining the most comparable and available replacement housing and its cost to be used by Agencies in computing a replacement housing payment for displaced persons. Response to this request for information is required in order to receive the benefits to be derived. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number.

Privacy Act Notice: This information is needed to determine whether you are eligible to receive a payment to help you rent or buy a new home. You are not required by law to furnish this information, but if you do not provide it, you may not receive any payment for these expenses or it may take longer to pay you. This information is being collected under the authority of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. The information may be made available to a Federal agency for review.

Factors (see back of page)	Displacement Dwelling	Comparable No.1	Comparable No.2	Comparable No.3
Address				
Type of Unit				
Stories / Style				
Lot Size				
Type of Construction				
Age (in years)				
Condition				
Area of Living Space (sq. ft.)				
No. Rooms/Bedrooms /Baths	/ /	/ /	/ /	/ /
Basement				
Parking/No. of Cars				
Type of Heating /Fuel	/	/	/	/
Type of Air Conditioning				
Neighborhood				
Transportation (distance)				
Current Work (distance)				
High School/Grade School (distance)	/	/	/	/
Neighborhood Shopping (distance)				
Religious Facility (distance)				
Sale Price or Rent/Utility Costs	\$	\$	\$	\$
Other				
Date of Inspection				
Date Available				
Most Representative Comparable Replacement Dwelling (Check "Comparable no.1, 2, or 3" and complete Comments)		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments: Include appropriate analysis and correlation of data. If Agency makes adjustment to the asking price for a comparable replacement dwelling to reflect the anticipated sale price, indicate the basis for the adjustment. For rental units, indicate utilities included in rent and provide estimates for other utility costs. Indicate availability of any housing subsidy. If condominium or cooperative, indicate required fees. (Continue on back of page)

Comments continued on back of page Yes No

Prepared By	Date (mm/dd/yyyy)	Approved by	Date (mm/dd/yyyy)
-------------	-------------------	-------------	-------------------

Comments continued on a separate page Yes No

Factors	Examples
Type of Unit	Detached, Row, End Row, Townhouse, Highrise Apartment, Mobile Home (Indicate whether this is subsidized housing)
Stories	1, 1 1/2, 2, 2 1/2, Split Level, Split Foyer
Style	Colonial, Cape, Ranch, Contemporary, Tudor, Mediterranean
Type of Construction	Frame, Masonry, Pre-Fab, Stone, Concrete Block, Concrete, Veneer (wood, brick, or aluminum siding)
Condition	Poor, Fair, Good, Very Good, Excellent
Basement	Full, Partial (1/2), None; Finished or Unfinished
Parking	Attached, Built-In, Detached, Carport Paved Open Area, Unpaved Open Area, None
Type of Heating	Forced Air, Hot Water, Electric, Heat Pump, Steam, Space Heater, Solar, None
Type of Fuel	Natural Gas, Propane Gas, Oil, Electric, Coal, Solar
Type of Air Conditioning	Central, Wall, Window, None
Neighborhood	Poor, Fair, Good, Very Good, Excellent. (Based on characteristics such as vacancy levels, quality and maintenance of dwellings, landscaping, Street Maintenance, Trash Pickup, and Nonconforming land uses)
Other	Swimming Pool, Fireplace, Patio, Porch, Greenhouse

Sample Letter to Relocatee in a Substandard Unit

Grantee or Agency Letterhead

(Date)

Dear _____:

Relocation regulations established by Federal law will not permit the City/County to make a rental assistance payment to you until you move into an apartment or house that meets their definition of a "decent, safe and sanitary" replacement unit. Your new apartment does not meet this definition because:

1. The wiring does not meet the City/County electrical code.
2. A two-bedroom apartment is too small for a family of five (two adults, one 16-year old son, one 14-year old daughter, and an 11-year old son).

In order to be eligible for a replacement housing payment, you must move into an apartment or house that meets all these requirements within one year from the date you moved from your old apartment on Ash Street. You have to move into a qualified apartment or house by (Date) to be eligible. Ms. Ellen Smith has a list of eligible houses and apartments and will help you find one and will arrange inspections of any apartments or houses you find on your own. Her telephone number is 441-4444.

If you move into a "decent, safe and sanitary" house or apartment by (Date) you would be eligible to receive rental assistance to cover the difference in the monthly cost between your old apartment and a new apartment for four years. This payment will be made in installments if you file a claim for benefits within 18 months after the date you move into a decent, safe and sanitary apartment.

If you choose to purchase a home, you would be eligible for \$_____ for downpayment assistance. You are entitled to these benefits if you move into a decent, safe and sanitary replacement unit by (Date) and file a claim within 18 months of completing the move. The City/County has already set aside money to pay you.

In order to receive these benefits, you must relocate into a standard unit. Please contact Ellen Smith. She will help you find and move into a standard unit. She is also available to answer any questions you might have about the relocation process.

Sincerely,

(Name and Title)

GUIDEFORM NOTICE OF ELIGIBILITY FOR SECTION 104(d)
RELOCATION ASSISTANCE -- LOWER INCOME RESIDENTIAL TENANT
Section 8 Assistance Available
(Sample)

Grantee or Agency Letterhead

(Date)

Dear _____:

On ____ (date)____, we notified you of proposed plans to ____ (identify project)____. On ____ (date)____, the project was approved.

This is a notice of eligibility for relocation assistance. To carry out the project, it will be necessary for you to relocate. However, you do not need to move now. You will not be required to move without at least 90 days advance written notice of the date by which you must vacate. When you do move, you will be entitled to relocation payments and other assistance. You may choose assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, or section 104(d) of the Housing and Community Development Act of 1974, as amended.

The effective date of this notice is ____ (date of initiation of negotiations)____. You are now eligible for relocation assistance, including:

- Counseling and Other Advisory Services.
- Security Deposit and Credit Checks. (Not provided under URA.) We will pay the cost of any security deposit required to rent a replacement dwelling unit and for required credit checks.
- Payment for Moving Expenses. You may choose either (1) a payment for your actual reasonable moving and related expenses, or (2) if you prefer, a fixed moving expense and dislocation allowance of \$ _____.
- Replacement Housing Assistance. You are eligible for a replacement housing payment to rent or purchase a replacement home. The payment will be based on several factors, including the cost of a "comparable replacement home" and your average household income.

Listed below are three "comparable replacement homes" that you may wish to consider:

Address	Rent and Utility Costs	Name and Tele. No. of Person to Contact
1.		
<hr/>		
2.		
<hr/>		

3.

We would be pleased to provide you with transportation to inspect these dwelling units. We believe that the unit at _____(address)_____ is the most representative of your present home. Based on the information you provided us about your income, you are eligible for rental assistance through a Section 8 (certificate or voucher)**. If you choose to accept the Section 8 assistance and rent a comparable replacement dwelling, we estimate your monthly out-of-pocket cost for rent and utilities will be approximately \$_____. We will explain to you how this assistance is calculated and assist you in completing an application for it. A Section 8 subsidy may be adjusted periodically to reflect your current income and market rents. Section 8 assistance may continue indefinitely, depending on need and congressional appropriations.

If you choose not to accept Section 8 assistance, you will be provided with a replacement housing payment under the URA. URA assistance is not adjusted to reflect future rent increases and covers only a 42-month period. If you choose assistance under the URA and rent a comparable replacement dwelling, we estimate your initial out-of-pocket cost for rent and utilities will be approximately \$_____. Your total rental assistance under the URA would be approximately \$_____ (42 x \$_____). It would be paid in (indicate number of installments or lump sum). This is the maximum replacement housing payment that you would be eligible to receive under the URA. If you rent a decent, safe and sanitary home where the monthly rent and average estimated utility costs are less than \$_____, your URA assistance would be based on the actual cost of such unit.

Contact us immediately if you do not agree that these units are comparable to your home. We will explain the basis for our selecting these units. And, if necessary, we will find other units. We will not base your payment on any unit that is not a "comparable replacement home."

Should you choose to buy (rather than rent) a decent, safe and sanitary replacement home, you would be eligible under the URA for a down payment of \$_____. Under the URA, you are not limited in the type of home you choose. Section 104(d) assistance for a down payment is available only for purchasing an interest in a housing cooperative or mutual housing association. We estimate that you are eligible for a down payment of \$_____ under section 104(d). Let us know if you would prefer to buy a replacement home, and we will help you find such housing.

I am enclosing a brochure entitled, "Relocation Assistance to Tenants Displaced From Their Homes." Please read the brochure carefully. It explains your rights and some things you must do to obtain relocation payments under the URA. With the exception of the differences explained in this letter, this information also applies to section 104(d) assistance. For example, to obtain a replacement housing payment you must move to a decent, safe and sanitary home within one year after you vacate your present home. Therefore, do not commit yourself to rent or buy a unit until we inspect it.

I want to make it clear that you are eligible for assistance to help you relocate. In addition to relocation payments and housing referrals, counseling and other services are available to you. A representative of this office will soon contact you to determine your

needs and preferences. He/she will explain your rights and help you obtain the relocation payments and other assistance for which you are eligible. If you have any questions, please contact _____ (name) _____, _____ (title) _____, at _____ (phone) _____, _____ (address) _____.

Remember, do not move before we have a chance to discuss your eligibility for assistance. This letter is important to you and should be retained.

Sincerely,

(Name and Title)

Enclosure

GUIDEFORM NOTICE OF ELIGIBILITY FOR SECTION 104(d)
RELOCATION ASSISTANCE -- LOWER INCOME RESIDENTIAL TENANT
Section 8 Assistance NOT Available
(Sample)

Grantee or Agency Letterhead

(Date)

Dear _____:

On _____ (date), we notified you of proposed plans to _____ (identify project) _____. On _____ (date), the project was approved.

This is a notice of eligibility for relocation assistance. To carry out the project, it will be necessary for you to relocate. However, you do not need to move now. You will not be required to move without at least 90 days advance written notice of the date by which you must vacate. When you do move, you will be entitled to relocation payments and other assistance. You may choose assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, or section 104(d) of the Housing and Community Development Act of 1974, as amended.

The effective date of this notice is _____ (date of initiation of negotiations) _____. You are now eligible for relocation assistance, including:

- Counseling and Other Advisory Services.
- Security Deposit and Credit Checks. (Not provided under URA.) We will pay the cost of any security deposit required to rent a replacement dwelling unit and for required credit checks.
- Payment for Moving Expenses. You may choose either (1) a payment for your actual reasonable moving and related expenses, or (2) if you prefer, a fixed moving expense and dislocation allowance of \$ _____.
- Replacement Housing Payment. You are eligible for a replacement housing payment to rent or purchase a replacement home. The payment will be based on several factors, including the cost of a "comparable replacement home" and your average household income.

Listed below are three "comparable replacement homes" that you may wish to consider:

	Address	Rent and Utility Costs	Name and Tel. No. of Person to Contact
1.	_____		
2.	_____		
3.	_____		

We would be pleased to provide you with transportation to inspect these dwelling units. We believe that the unit at _____ (address) _____ is the most representative of your present home. The rent and the estimated average cost of utility services for that unit is \$ _____. Based on the information you provided about your income, you may be eligible for rental assistance up to \$ _____ (60 x \$ _____). This is the maximum amount that you would be eligible to receive. It would be paid in (indicate number of installments or lump sum). If you rent a decent, safe and sanitary home where the monthly rent and average estimated utility costs are less than \$ _____, your rental assistance payment would be based on the actual cost of such unit.

Contact us immediately if you do not agree that these units are comparable to your home. We will explain the basis for our selecting these units. And, if necessary, we will find other units. We will not base your payment on any unit that is not a "comparable replacement home."

Should you choose to buy (rather than rent) a decent, safe and sanitary replacement home, you would be eligible under the URA for a down payment of \$ _____. Under the URA, you are not limited in the type of home you choose. Section 104(d) assistance for a down payment is available only for purchasing an interest in a housing cooperative or mutual housing association. We estimate that you are eligible for a down payment of \$ _____ under section 104(d). Let us know if you would prefer to buy a replacement home, and we will help you find such housing.

I am enclosing a brochure entitled, "Relocation Assistance to Tenants Displaced From Their Homes." Please read the brochure carefully. It explains your rights and some things you must do to obtain relocation payments under the URA. With the exception of the differences explained in this letter, this information also applies to section 104(d) assistance. For example, to obtain a replacement housing payment you must move to a decent, safe and sanitary home within one year after you vacate your present home. Therefore, do not commit yourself to rent or buy a unit until we inspect it.

I want to make it clear that you are eligible for assistance to help you relocate. In addition to relocation payments and housing referrals, counseling and other services are available to you. A representative of this office will soon contact you to determine your needs and preferences. He/she will explain your rights and help you obtain the relocation payments and other assistance for which you are eligible. If you have any questions, please contact _____ (name) _____, _____ (title) _____ at _____ (phone) _____, _____ (address) _____.

Remember, do not move before we have a chance to discuss your eligibility for assistance. This letter is important to you and should be retained.

Sincerely,

(Name and Title)

Summary of Major Differences Between 104(d) and URA Relocation Assistance

Part I. Eligibility for Assistance

SUBJECT	SECTION 104(d)	URA
Income Requirements	Only low-income Persons are assisted	Displaced persons of all incomes are eligible
Individual displaced by rehabilitation activities	Displaced persons are eligible only if the market rent (including utilities) of the unit before rehab did not exceed the Section 8 Existing Housing Fair Market Rent (FMR) and the market rent after rehab was above the FMR.	Displaced person is eligible for assistance regardless of pre- and post- rehabilitation rents.
Individual displaced by <u>conversion</u>	<i>Displaced person is eligible only if the market rent (including utilities) of the displacement unit did not exceed the FMR before conversion</i>	Displaced person is eligible for assistance by any conversion to a non-residential use.
Individual displaced by <u>demolition</u>	Displaced person eligible regardless of the pre-demolition market rent.	Displaced person eligible regardless of the pre-demolition market rent.
Individual displaced by <u>acquisition</u> only	Displaced person is not eligible.	Displaced person is eligible.

Part II. Amount of Assistance Provided

SUBJECT	SECTION 104(d)	URA
<i>Rental Assistance Term</i>	60 months	42 months
Rental Replacement Housing Payment	Amount needed to reduce new rent/utility costs to <i>Total Tenant Payment</i>	For households <u>at or below 80% AMI</u> , amount needed to reduce new rent/utility costs to the lower of: <input type="checkbox"/> old rent/utility costs <input type="checkbox"/> 30% of gross monthly income For households <u>at or above 80% AMI</u> , amount is difference between old rent/utility and new rent/utility
Use of Section 8 Rental Assistance	If Section 8 assistance and suitable referrals are offered, displaced person cannot insist on cash replacement housing payment. BUT, tenant may request cash replacement housing payment under URA.	Displaced person has the right to a cash replacement housing payment but may accept Section 8 assistance if it is offered.
Other Assistance	Assistance includes security deposit at replacement dwelling	Assistance does not include security deposits
Homeownership Assistance	<i>Limited to purchase of a cooperative or mutual housing and based on present (discounted) value of 60 monthly rental payments</i>	Not limited to cooperative or mutual housing. Payments equals 42 x monthly rental payment (i.e., is not discounted)
<i>Moving and Related Expenses</i>	Person may choose either: <input type="checkbox"/> Payment for actual moving and related expenses; or <input type="checkbox"/> Alternative allowance based on DOT Schedule	Person may choose either: <input type="checkbox"/> Payment for actual moving and related expenses; or <input type="checkbox"/> Alternative allowance based on DOT Schedule

Sample 90-day Notice to Vacate

Grantee or Agency Letterhead

(Date)

Dear _____:

As you know, the City is purchasing your home (apartment). The purchase will be completed on ____ (Date – must be no later than 60 days after date of this letter) ____. We have been in contact with you since ____ (Date) ____ to help you locate and move into suitable replacement housing. We have referred you to ____ (Number) ____ such units.

The house (apartment) you are now living in must be vacated in 90 days, by ____ (Date – must be at least 90 days after date of this letter) ____. We will send you a second notice 30 days before you must vacate.

If you have any questions or need additional assistance in completing your move, please call ____ (Contact Name) ____ at ____ (Telephone Number) ____.

Sincerely,

(Name and Title)

Sample 30-day Notice to Vacate

Grantee or Agency Letterhead

(Date)

Dear _____:

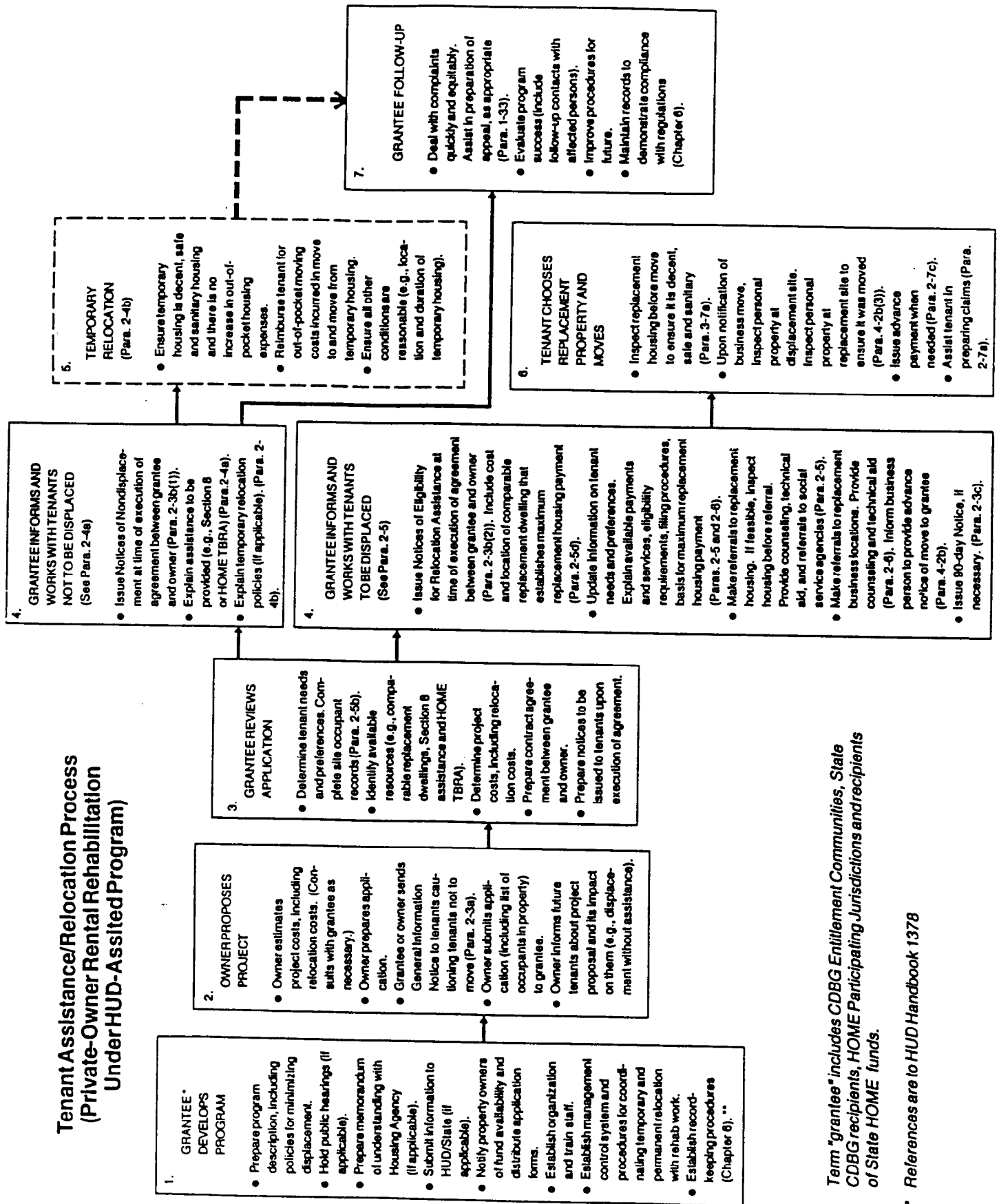
This letter is to inform you that you must vacate this house (apartment) within 30 days, on ____ (Date – must be 30 days after date of this letter, and 30 days after City has title to property) ____.

If you have any questions or need additional assistance in completing your move, please call ____ (Contact Name) ____ at ____ (Telephone Number) ____.

Sincerely,

(Name and Title)

Tenant Assistance/Relocation Process (Private-Owner Rental Rehabilitation Under HUD-Assisted Program)



• Term "grantee" includes CDBG Entitlement Communities, State CDBG recipients, HOME Participating Jurisdictions and recipients of State HOME funds.

** References are to HUD Handbook 1378

Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, Fixed Residential Moving Cost Schedule 2015 was published in the [Federal Register/Notices on Wednesday, July 24, 2015](#).

The provisions of the notice are **effective August 24, 2015** or on such earlier date as an agency elects to begin operating under this schedule.

Also available as [Adobe PDF \(203 KB\)](#) for printing. To view PDF files, you need the [Acrobat® Reader®](#).

The payments listed in the table below apply on a state-by state basis. Two exceptions and limitations apply to all States and Territories. Payment is limited to \$100.00 if either of the following conditions apply:

- (a) A person has minimal possessions and occupies a dormitory style room, or
- (b) A person's residential move is performed by an agency at no cost to the person.

Effective August 24, 2015

	Occupant Owns Furniture									Occupant does not own furnitur	
	Number of Rooms of Furniture								Add'l room		
	1 room	2 rooms	3 rooms	4 rooms	5 rooms	6 rooms	7 rooms	8 rooms		1 room/ no furn.	Add'l room no furn.
Alabama	600	800	1000	1200	1400	1600	1800	2000	200	400	50
Alaska	700	900	1125	1350	1550	1725	1900	2075	300	500	200
American Samoa	282	395	508	621	706	790	875	960	85	226	28
Arizona	700	800	900	1000	1100	1200	1300	1400	100	395	60
Arkansas	550	825	1100	1350	1600	1825	2050	2275	200	300	70
California	725	930	1165	1375	1665	1925	2215	2505	265	475	90
Colorado	675	895	1115	1270	1425	1580	1735	1890	155	385	55
Connecticut	620	810	1000	1180	1425	1670	1910	2150	150	225	60
Delaware	500	710	880	1110	1260	1410	1560	1710	160	400	60
District of Columbia	800	1000	1200	1500	1700	1900	2100	2300	200	500	100
Florida	750	900	1075	1250	1400	1550	1600	1850	300	500	150
Georgia	600	975	1300	1600	1875	2125	2325	2525	200	375	100
Guam	600	950	1300	1600	1900	2150	2400	2650	200	300	150
Hawaii	600	950	1300	1600	1900	2150	2400	2650	200	300	150
Idaho	600	800	1000	1200	1400	1600	1800	2000	200	350	100
Illinois	850	1000	1150	1250	1400	1600	1750	2050	450	650	150
Indiana	500	700	900	1100	1300	1500	1700	1900	200	400	100
Iowa	550	700	800	900	1000	1100	1225	1350	125	500	50
Kansas	400	600	800	1000	1200	1400	1600	1800	200	250	50
Kentucky	500	700	900	1100	1300	1500	1700	1900	200	350	50
Louisiana	600	800	1000	1200	1300	1550	1700	1900	300	400	70
Maine	650	900	1150	1400	1650	1900	2150	2400	250	400	100
Maryland	700	900	1100	1300	1500	1700	1900	2100	200	500	100
Massachusetts	700	850	1000	1200	1350	1500	1650	1800	250	450	150
Michigan	700	950	1150	1300	1450	1600	1750	1900	300	500	200
Minnesota	575	725	925	1125	1325	1525	1725	1925	275	450	100
Mississippi	750	850	1000	1200	1400	1550	1700	1850	300	400	100
Missouri	800	900	1000	1100	1200	1300	1400	1500	200	400	100
Montana	500	700	900	1100	1300	1500	1700	1900	200	350	100
Nebraska	390	545	700	855	970	1075	1205	1325	120	310	40
Nevada	500	700	900	1100	1300	1500	1700	1900	200	350	60
New Hampshire	500	700	900	1100	1300	1500	1700	1900	200	200	150
New Jersey	650	750	850	1000	1150	1300	1400	1600	200	200	50
New Mexico	650	850	1050	1250	1450	1650	1850	2050	200	400	60
New York	600	800	1000	1200	1400	1600	1800	2000	200	350	100

	Occupant Owns Furniture									Occupant does not own furnitur		
	Number of Rooms of Furniture									Addt'l room	1 room/ no furn.	Addt'l room no furn.
	1 room	2 rooms	3 rooms	4 rooms	5 rooms	6 rooms	7 rooms	8 rooms				
North Carolina	550	750	1050	1200	1350	1600	1700	1900	150	350	50	
North Dakota	495	715	900	1080	1265	1415	1510	1695	185	430	65	
N. Mariana Is.	282	395	508	621	706	790	875	960	85	226	28	
Ohio	600	800	1000	1150	1300	1450	1600	1750	150	400	100	
Oklahoma	700	900	1100	1300	1500	1700	1850	2000	200	350	100	
Oregon	600	800	1000	1200	1400	1600	1800	2000	200	350	100	
Pennsylvania	500	750	1000	1200	1400	1600	1800	2000	200	400	70	
Puerto Rico	350	550	700	850	1000	1100	1200	1300	100	300	50	
Rhode Island	600	850	1000	1200	1400	1600	1800	2000	150	300	100	
South Carolina	700	805	1095	1285	1575	1735	1890	2075	225	500	75	
South Dakota	500	650	800	950	1050	1200	1400	1600	200	300	40	
Tennessee	500	750	1000	1250	1500	1750	2000	2250	250	400	100	
Texas	600	800	1000	1200	1400	1600	1750	1900	150	400	50	
Utah	650	800	950	1100	1250	1400	1550	1700	150	500	100	
Vermont	400	550	650	850	1000	1100	1200	1300	150	300	75	
Virgin Islands	500	700	850	950	1150	1300	1450	1600	150	425	100	
Virginia	700	900	1100	1300	1500	1700	1900	2100	300	400	75	
Washington	600	800	1000	1200	1400	1600	1800	2000	200	300	50	
West Virginia	750	900	1050	1200	1350	1500	1650	1800	150	350	50	
Wisconsin	550	730	935	1140	1350	1560	1765	1975	260	440	105	
Wyoming	540	800	870	1020	1170	1325	1500	1670	200	370	60	

Previous Versions

- [June 2012 Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended](#)
- [June 2008 Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended](#)
- [June 2005 Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended](#)

Sample Temporary Relocation Notice (Tenant)

Grantee or Agency Letterhead

(Date)

Name of Tenant
Address
City, State, Zip

Dear _____:

In the Notice of Nondisplacement we sent you on (date)_____, we indicated that you might be required to move out of your home temporarily in order for the necessary (rehab/repairs)_____ to be completed. This notice is to inform you that you will be required to move out of your home on (date)_____ for a period of (number of months – not to exceed six months).

The conditions of your temporary move are as follows:

- You may identify your own temporary housing unit, but it must be inspected by the (Agency)_____ and found to be decent, safe and sanitary. The (Agency)_____ is also available to assist you in identifying a suitable temporary housing unit.
- If you choose to stay with a family member or friend and you pay rent during your stay, you must be able to provide the (Agency)_____ with proof of any rental payments.
- You will be reimbursed for all out-of-pocket expenses, including the cost of moving to and from the temporary unit, of changing utilities, of storage, and increased rent.
- If there are no cooking facilities in your temporary unit, you will be provided with an adequate meal stipend.

Upon completion of the required (rehab/repairs)_____, you will be allowed to return to the project. The (Agency)_____ will contact you periodically during your temporary move to update you on the status of the (rehab/repairs)_____ and to assist you with your move back to your home. In the interim, if you have any questions or concerns about the temporary relocation process, please contact (Contact Name)_____ at (Address)_____ or (Telephone Number)_____.

Please keep this notice in your files.

Sincerely,

(Authorized Signature)

GUIDEFORM GENERAL INFORMATION NOTICE
NONRESIDENTIAL TENANT TO BE DISPLACED

Grantee or Agency Letterhead

(date)

Dear _____:

_____ (City, County, State, Public Housing Authority (PHA), other) _____, is interested in _____ (acquiring, rehabilitating, demolishing) _____ the property you currently occupy at _____ (address) _____ for a proposed project which may receive funding assistance from the U.S. Department of Housing and Urban Development (HUD) under the _____ program.

The purpose of this notice is to inform you that your (*business, nonprofit organization or farm*) may be displaced as a result of the proposed project. This notice also serves to inform you of your potential rights as a displaced person under a federal law known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA). You may be eligible for relocation assistance and payments under the URA if the proposed project receives HUD funding assistance and if you are displaced as a result of acquisition, rehabilitation or demolition for the project.

- **This is not a notice to vacate the premises.**
- **This is not a notice of relocation eligibility.**

If you are determined to be eligible for relocation assistance in the future, you may be eligible for: 1) Relocation advisory services including help to find you a replacement location; 2) At least 90 days advance written notice of the date you will be required to move; 3) Payment for your moving and reestablishment expenses. You also have the right to appeal the agency's determination, if you feel that your application for assistance was not properly considered. The enclosed HUD brochure, "Relocation Assistance To Displaced Businesses, Nonprofit Organizations, and Farms" provides an explanation of this assistance and other helpful information.

(NOTE: Pursuant to Public Law 105-117, aliens not lawfully present in the United States are not eligible for relocation assistance, unless such ineligibility would result in exceptional hardship to a qualifying spouse, parent, or child. All persons seeking relocation assistance will be required to certify that they are a United States citizen or national, or an alien lawfully present in the United States.)

Please be advised that you should continue to pay your rent and meet any other obligations as specified in your lease agreement. Failure to do so may be cause for eviction. If you choose to move or if you are evicted prior to receiving a formal notice of

relocation eligibility you will not be eligible to receive relocation assistance. It is important for you to contact us before making any moving plans.

Again, this is not a notice to vacate the premises and does not establish your eligibility for relocation payments or assistance at this time. If you are determined to be displaced and are required to vacate the premises in the future, you will be informed in writing. In the event the proposed project does not proceed or if you are determined not to be displaced, you will also be notified in writing.

If you have any questions about this notice or the proposed project, please contact (name)_____, (title)_____, (address)_____, (phone)_____.

Sincerely,

(name and title)_____

Enclosure

=====
NOTES

1. The case file must indicate the manner in which this notice was delivered (e.g., personally served or certified mail, return receipt requested) and the date of delivery. (See Paragraph 2-3 I of Handbook 1378.)
2. This is a guideform. It should be revised to reflect the circumstances.

Sample Grievance Procedures

The following procedures outline the City's/County's process for affected persons to appeal the determination of eligibility and/or level of relocation benefits.

Grounds

You have the right to appeal any action of the City/County for failure to properly determine your eligibility for, or the amount of, relocation benefits or payment for incidental expenses or certain litigation expenses.

Your acceptance of the amount offered you by the City/County does not limit your right to appeal its determination and seek a larger payment.

Methods and Time Limits for Initiating an Appeal

If your appeal concerns your eligibility for, or the amount of, a payment, you must file your written appeal within 60 days after the City/County notifies you in writing of its determination on your claim.

The City/County will send you a copy of the decision, a statement of the facts and legal basis upon which it is based, a description of how any new payments or relief will be provided to you, and, if your appeal was not totally granted, a statement of your right to appeal the City's/County's decision to the Department of Local Government.

Appeal to the State of Kentucky

If the City/County denies your appeal, you are entitled to a review by the Department of Local Government. You may obtain a State review by sending a written request to the Department of Local Government within 30 days after you receive a letter containing the City's/County's decision, together with a written statement of the facts upon which the decision is based.

In a review of your appeal by the City/County or the State, you have the right to be represented by a lawyer or other counsel, and you may appeal any final decision by the State to the courts.

If you have any questions concerning these procedures, please contact (Contact Name) at (Address) or (Telephone Number) .

Occupant's Signature

Agency Representative

Occupant's Address

Date

ONE-FOR-ONE REPLACEMENT SUMMARY REPORT
INSTRUCTIONS

PART I: LOW/MOD HOUSING UNITS DEMOLISHED/CONVERTED

Column a **ACTIVITY NUMBER:** Enter the activity number from the Activity Summary form that corresponds to the activity subject to the one-for-one replacement requirement.

Column b **ACTIVITY ADDRESS:** Provide the street address for each structure in which low/mod housing units were demolished or converted to another use as a result of a CDBG-assisted activity and for which replacement is required or for which the grantee requested that HUD determine that an exception is appropriate.

Column c **DATE OF AGREEMENT:** For housing that is privately owned, enter the date that the grant or loan agreement for CDBG assistance between the grantee and the person owning or controlling the real property was executed. For housing that was owned by the grantee or subrecipient, enter the date that the contract for demolition or conversion between the grantee or subrecipient and the contractor was executed.

Column d **NUMBER OF UNITS BY BEDROOM SIZE THAT WERE DEMOLISHED OR CONVERTED:** For each structure, enter the number of units according to bedroom size that were demolished or converted and enter the total number of bedrooms in the structure that were so affected.

PART II: REPLACEMENT UNITS

Column e **REPLACEMENT ADDRESS:** Provide the street address for each structure in which housing units were provided as replacement for units demolished or converted as identified in column b above. List these structures and units adjacent to those for which they are a replacement. Do not identify housing that has not yet been made available for occupancy.

If HUD has determined that the community need not replace the units, enter "Replacement Not Required" in this column, along with the date that HUD issued a determination to that effect.

Column f **DATE UNIT AVAILABLE:** Enter the date that the unit was made available for occupancy.

Reminder: To meet the requirements, the replacement units must become available in the period beginning one year before submission of a copy of the replacement housing plan to HUD and

ending three years after commencement of the demolition or conversion.

Column g

NUMBER OF UNITS BY BEDROOM SIZE: By replacement address, enter the number of units provided according to bedroom size and the total number of bedrooms in the structure.

If the bedroom size of the replacement units is less than that of the units being replaced (viz, four 2-bedroom units replacing one 2-bedroom and two 3-bedroom units), attach a statement justifying why this is consistent with the community's needs.

**One-for-One Replacement Summary Grantee Performance Report
Community Development Block Grant Program**

Name of Grantee:						Grant Number:		Period Covered:									
								from:			to:						
Part I: Low/Mod Housing Units Demolished/Converted							Part II: Replacement Units										
a. Activity Number	b. Activity Address	c. Date of Agreement	d. Number of Units by Bedroom Size that were demolished/converted					Total	e. Replacement Address	f. Date Unit Available	g. Number of Units by Bedroom Size					Total	
			0/1	2	3	4	5+				0/1	2	3	4	5+		

RELOCATION CHECKLIST

Resident: _____ Case #: _____
Property Address: _____ Phone #: _____
Owner: _____ Owner's Phone #: _____
_____ 180-Day Owner-occupant _____ 90-Day Owner-occupant _____ Tenant

A. INFORMATION ON OCCUPANTS

- 1.A. General Government Information Notice (GIN Notice)
- 1.B. Household Case Record (# in Household: _____)
- 2. Release of Information Form A. General _____ B. Social Security
- 3. Income Verification: A. Recap _____ B. Verification(s)

B. INFORMATION ON CURRENT UNIT:

- 4. Current Unit Information
- 5. Utility Verification: A. Recap _____ B. Verification(s)
- 6. Monthly Housing Payment A. Rent _____ B. Mortgage

C. NOTICES:

- 7. Notice of Right to Continue in Occupancy (If Applicable)
- 8. Notice of Relocation Eligibility/HUD Brochure/Grievance Procedures
 - A. Renter _____ OR B. Homeowner _____
 - C. Grievance Procedures _____ D. Evidence of Receipt _____
- 9. A. 90-Day Notice to Vacate _____ B. Evidence of Receipt _____
Date to Vacate by: _____
- 10. A. 30-Day Notice to Vacate _____ B. Evidence of Receipt _____ (If applicable)
Issued 30 days after #9 & after Title is obtained to Property

D. COMPARABLES/HOUSING REFERRALS/INSPECTIONS:

- 11. Computation of Comparables/Housing Referrals List
- 12. Inspection of Each Comparable and Referral

E. REPLACEMENT DWELLING UNIT

- 13. Replacement Unit Information-Recap
- 14. Inspection of Replacement Dwelling Unit
- 15. Replacement Dwelling - Verification - Recap
 - A. Rent Payments: _____ OR B. Mortgage _____ & C. Utilities _____

F. CLAIM FORMS:

- 16. Claim for Moving & Related Expenses
- 17. Claim for Relocation Payment: Does Claim Include Last Resort?
Was Certificate/Voucher Offered? _____ Accepted? _____
 - A. Claim for Replacement Housing Payment - Homeowners
 - B. Claim for Rental Assistance or Downpayment Assistance - 42 months
 - C. Claim for Rental or Purchase Assistance - 60 months

G. RELOCATION PAYMENTS:

- 18. Recap/Copy of Cancelled Payment Checks (Both sides of check)
- 19. Acknowledgement of Receipt of Relocation Payments by Relocatee

H. OTHER:

- 20. Waiver of Relocation Benefits - Voluntary Acquisition Only
- 21. Other: _____
- 22. Other: _____

I. INFORMATION ON CONTACTS WITH RELOCATEE(S):

- 23. Contact Log

Chapter 9: Acquisition

Introduction

This chapter describes the process required to acquire real property for any program-eligible activity funded wholly or partially with KCDBG funds. (“Real property” includes land with or without structures on it.) Acquisition assisted with KCDBG funds must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) and current regulations, effective February 2005. This chapter also includes the appeals and record keeping processes for the acquisition of real property.

The following requirements apply to HUD-funded projects, which include those with KCDBG funds. There may be situations in which other federal agencies participate with KCDBG funds in a project (e.g., Rural Development). In this case, a lead agency must be designated and if it is an agency working with funds other than CDBG, that federal agency’s policies and requirements must be followed. The investment of KCDBG funds triggering the URA requirements must be comply with the requirements as outlined within this chapter no matter who is the designated the lead agency.

Section 9-A. General Acquisition Requirements

For the purposes of this handbook, “property to be acquired” refers to any kind of permanent interest such as fee simple title, land contracts, permanent easements, long-term leases (50 years or more), and rights-of-way. Temporary easements are also subject to all of the same rules as other forms of acquisition unless the temporary easement exclusively benefits the property owner (refer to Section 9-C). Grantees should also be aware that all methods of acquisition (e.g., purchase, donation, or partial donation) are covered by the URA.

49 CFR 24.106

Acquisition rules must be followed whenever:

- ✓ The grantee undertakes the purchase of property directly;
- ✓ The grantee hires an agent, private developer, etc. to act on their behalf; and
- ✓ The grantee provides a nonprofit, or for-profit entity organization with funds to purchase a property; or
- ✓ The grantee provides federal assistance to individuals who are acquiring their own home (i.e. homebuyer assistance program) or economic development assistance provided to a for-profit entity to purchase property.

Tip: HUD Handbook 1378, Chapter 5, is a resource available for acquisition information and is available at HUD’s web site:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/cpd/13780.

The URA regulations can also be downloaded from the Federal Highway Administration’s website at <http://www.fhwa.dot.gov/legsregs/directives/fapg/cfr4924a.htm>.

Note: The first step grantees should consider before undertaking any acquisition is a title search to determine the legal owner of the property.

Grantees must also adhere to environmental review requirements as they relate to acquisition including the requirements regarding options and conditional contracts. Refer to Chapter 2: Environmental Review for detailed guidance.

Chapter 2: Environmental Review

Section 9-B. Voluntary Acquisitions and Donations

Grantees must understand the critical difference between voluntary and involuntary sales to ensure compliance with all applicable rules. There are protections for sellers in both voluntary and involuntary sales. The key difference between the two types of acquisition is that when a voluntary sale occurs, **there can be no threat of eminent domain.**

Regardless of the form of acquisition used, it is strongly recommended that the grantee maintain a log of contacts with the owner in the acquisition file (see the sample in Attachment 9-1).

Attachment 9-1:
Sample Acquisition Log of Contacts

Note: The use of federal funds may not be originally anticipated during the conceptual phase or at the beginning of a project. Therefore, grantees should proceed with caution if federal resources could be introduced later in the project. Acquisition activities are subject to the URA if there is intent to acquire property for a federal or federally-assisted project at any point during the course of a project.

49 CFR 24.101

The URA recognizes three general types of purchases as potentially voluntary. Generally they are:

1. Purchases in which persons are acting on behalf of an agency with the power of eminent domain but the community states in writing it will not use this power.
 - *Example:* The grantee has identified parcel(s), but it will not use its powers to obtain the property through condemnation. The buyer must inform the seller of this fact in writing and – if the offer is not accepted – be prepared to look for another property. The property will not be taken using the condemnation process.
2. Purchases where the agency or person does not have the power of eminent domain.
 - *Example:* A nonprofit organization without the power of eminent domain is looking for properties suitable for purchase, rehabilitation, and resale. All their negotiations must be conducted in accordance with the rules for voluntary acquisition.
3. Purchases of property from government agencies (federal, state, or local) where the grantee does not have the power of eminent domain over the other entity.
 - *Example:* A nonprofit organization without the power of eminent domain selects a vacant lot that is owned by the Corps of Engineers. The nonprofit organization would never be able to purchase it if the Corps is not agreeable to their offer.

Handbook 1378,
Chapter 5, Paragraph 5-3 A

Handbook 1378,
Chapter 5, Paragraph 5-3 B

Sometimes there is confusion about what is actually considered “voluntary.” A common misconception is that “willing seller” or “amicable agreement” means a transaction is “voluntary.” This is not true under URA. The applicable requirements of the regulations at 49 CFR 24.101(b)(1)-(5) must be satisfied for a transaction to be considered voluntary.

49 CFR 24.101(b)(1)-(5)

Each type of voluntary acquisition, and the URA requirements pertaining to each, is described as follows:

- ✓ The public notice, advertisements and literature should include a description of what the grantee intends to purchase, its reasons, and any conditions of which a seller should be aware.
- ✓ The voluntary acquisition policy must state that if a mutually satisfactory agreement cannot be reached, the grantee will not buy or condemn the property for the same purpose.
- ✓ The grantee should indicate that owner-occupants are not eligible for relocation benefits in the public notice and the acknowledgement form should be attached to the purchase offer.

While owner-occupants of a property acquired through voluntary acquisition are not eligible for relocation benefits, all tenants in legal occupancy (including non-residential occupants) are protected by the URA and are eligible for relocation benefits under the URA. (See Chapter 8 for more information.)

Chapter 8:
Relocation under the URA and
104(d)

(1) Voluntary Acquisition by a Grantee or Persons Acting on Behalf of a Grantee with the Power of Eminent Domain

To be considered a voluntary acquisition by a purchaser with the power of eminent domain, the property may not be part of a planned or designated project area where substantially all the property in the area will be purchased within a specified time frame.

The search for alternative sites for the project or activity may be limited to one geographic area, but if none of the owners are willing to sell voluntarily, the grantee must be prepared to look in another area for a suitable site. Where an agency wishes to purchase more than one site within a general geographic area on this basis, all owners are to be treated in an equivalent or like manner.

If a grantee determines that a specific site is necessary for a program or activity it is planning to undertake, then the sale cannot be considered voluntary. It is assumed that, if negotiations fail, the grantee could ultimately acquire the property through condemnation. Thus, the acquisition is **not** considered voluntary.

Handbook 1378,
Chapter 5, Paragraph 5-3 A

Note: Temporary or permanent easements are only very rarely not part of a planned, designated project as defined above; therefore, easements are discussed under Section 9-C: Involuntary Easements.

If someone else, such as a private developer or realtor, is authorized to act on the grantee’s behalf in negotiating the purchase, and the grantee is prepared to intervene and use condemnation if the negotiations are unsuccessful, the acquisition is not considered voluntary.

In order to be voluntary, the grantee must meet all the requirements listed below and inform the property owner in writing that:

- ✓ Federal funds are involved in the transaction; however, the grantee will not use its power of eminent domain if negotiations fail to result in an amicable agreement; and
- ✓ The grantee's estimate of the market value for the property to be acquired as outlined below.
 - To estimate market value in a voluntary acquisition, grantees must follow specific procedures:
 - A formal appraisal is *not* required by the URA in voluntary acquisitions. However, the purchase may involve a private lender requiring an appraisal.
 - While an appraisal for voluntary transactions is **not required**, grantees may still decide that an appraisal is necessary to support their determination of market value, grantees must have some reasonable basis for their determination of market value.
 - If an appraisal is not obtained, someone with knowledge of the local real estate market must make this property specific determination and document the file.

After a grantee has established a market value for the property and has notified the owner of this amount in writing, a grantee may negotiate freely with the owner in order to reach agreement. Since these transactions are voluntary, negotiations may result in agreement for the amount of the original estimate, an amount exceeding it, or for a lesser amount.

Although not required by the regulations, it could be appropriate for grantees to apply the URA administrative settlement concept and procedures in the URA regulations to negotiate amounts that exceed the original estimate of market value (if they can demonstrate that the offer was reasonable and necessary to accomplish the project). If grantees anticipate they will offer an amount greater than market value, they must submit a request in writing and provide supporting documentation to DLG for a basis to pay an amount that is more than market value. DLG must provide approval prior to payment (cautionary note: this may establish a dangerous precedent).

Grantees cannot take any coercive action in order to reach agreement on the price to be paid for the property.

49 CFR 24.102(i)

Attachment 9-2:
Voluntary Acquisition – Agencies
with Eminent Domain Authority
Purchase Real Estate

(2) Voluntary Acquisition by Organizations without the Power of Eminent Domain (Including Nonprofits and Individuals)

Nonprofit organizations and individual buyers generally do not have the power of eminent domain. Under such circumstances, the requirements for URA are limited. In these types of purchases, the buyer, who could be a private citizen, a developer, or an organization, must inform the seller of three things in writing:

- ✓ The buyer does not have the power of eminent domain,
- ✓ Federal funds are involved in the acquisition of their real estate, and the owner will not be eligible for relocation benefits, and

Handbook 1378,
Chapter 5, Paragraph 5-3 B

- ✓ An estimate of the fair market value of the property.

After the buyer/grantee has determined the property’s market value and has notified the owner of this amount in writing, the buyer may negotiate freely with the owner in order to establish the purchase price.

If the seller refuses to accept the offer, the buyer/individual must look for another property to purchase.

The seller must be notified of the preceding information using Exhibit 5-1 from HUD Handbook 1378—Disclosures to Seller with Voluntary, Arm’s Length Purchase Offer (see Attachment 9-3 of this chapter).

Attachment 9-3: Disclosures to Sellers with Voluntary, Arm’s Length Purchase Offer

If, for any reason, the seller is not informed of these facts prior to closing, the seller should be immediately informed and allowed to withdraw from the purchase agreement without penalty.

These notice requirements may appear to only protect the seller in a voluntary transaction; however, they also help to protect the grantee from after-the-fact claims by sellers. The notice assists the grantee/ buyer to document that the owner-occupant was fully advised that their purchase price was voluntarily negotiated and they will **not** be eligible for relocation assistance. All organizations and individuals with KCDBG funds must comply with this requirement.

Tip: Homebuyers assisted with KCDBG funds to purchase a home fall under this type of acquisition. Homebuyers must provide the requisite information to the sellers of homes to be purchased.

(3) Purchases—Voluntary Acquisition of Government Property

Acquisition is considered voluntary when the property is owned by a government agency and the buyer does not have the power of eminent domain. Grantees and individual buyers do not possess the legal authority to condemn government-owned property.

49 CFR 24.101 (b)(3)

Donations of Property

Voluntary acquisition includes donations of real property; however, the owner must be fully informed of his or her rights under the URA, including the right to receive a payment for the property. In addition, the owner must acknowledge his or her URA rights and release the grantee, in writing, from its obligation to appraise the property. The grantee must keep this acknowledgement in the project file. Attachment 9-4 provides a sample form entitled "Sample Acknowledgement of Acquisition and Relocation Rights and Benefits under the Uniform Relocation Act."

Handbook 1378, Chapter 5, Paragraph 5-5

Attachment 9-4: Sample Acknowledgement of Acquisition and Relocation Rights and Benefits under the Uniform Relocation Act

Section 9-C. Involuntary Acquisitions

Note: A state agency is defined as a city, county, redevelopment agency or any other entity that has the legal power to condemn land and acquire privately-held property under the Eminent Domain Act of Kentucky.

Use of CDBG Funds and Eminent Domain

No CDBG funds may be used to support any federal, state or local projects that seek to use the power of eminent domain *unless* eminent domain is employed for a public use.

The types of projects that meet the definition of public use include: mass transit, railroads, airports, seaports or highway projects, as well as utility projects which benefit or serve the general public or other structures designated for use by the general public or which have other common carrier or public utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of an immediate threat to public health and safety or brownfields as defined in the Small Business Liability Relief and Brownfield Revitalization Act. Public use cannot include economic development projects that primarily benefit private entities.

Grantees contemplating the use of eminent domain for any use or project should contact DLG for further guidance prior to proceeding.

Easements

Temporary easements are subject to all of the same rules as other forms of acquisition with one exception. The exception is a situation where the easement is for the exclusive benefit of the property owner. For example, if a grantee obtained an easement running a sewer connection to run a line from the sewer line in the public right of way to a home being rehabilitated with CDBG funds, the easement would exclusively benefit the owner and would not be subject to the URA.

Otherwise, the URA applies. For example, if a grantee is installing a new water or sewer line and requires permanent easements from property owners along the path of the line to install the line and ensure access for maintenance and repairs over time, permanent easements will be required and subject to the URA. If a project involved building a water tower that would benefit a low- and moderate-income (LMI) area and a temporary right of way would be required for construction vehicles while it is being built, the purchase of the needed temporary easement would be covered by the URA.

Guidance on valuation/appraisals for easements may be found later in this section.

Involuntary Transaction Requirements

Involuntary transactions are those that do not meet the requirements previously described for voluntary transactions. In accordance with the requirements of the URA, for involuntary transactions, the grantee must:

Handbook 1378,
Chapter 5, Paragraph 5-4
49 CFR 24.108

- ✓ Notify the seller of the agency's interest to acquire their property;
- ✓ Obtain an appraisal in compliance with the URA and invite the seller to accompany the appraiser;
- ✓ Notify the owner and, if applicable, any tenants of their URA protections;
- ✓ Determine the fair market value of the property based on the appraised value (reviewed by a Review Appraiser)
- ✓ Offer the fair market value for the property being acquired; and

Complete the sale as expeditiously as possible. **Tip:** Voluntary transactions that fail to complete the required documentation will be held to the more stringent involuntary transaction requirements.

Section 9-D.

Notification Requirements

There are two key notices that grantees must issue when undertaking an involuntary acquisition:

- ✓ Notify the seller of the agency's interest to acquire their property by sending a Notice to Owner or a Notice of Intent to Acquire. Grantees should exercise caution if they choose to send a Notice of Intent to Acquire rather than a Notice to Owner as discussed in this section. (The Notice of Intent triggers relocation eligibility for owner-occupants and tenants.)
- ✓ After an appraisal is complete (and reviewed by a review appraiser), the grantee must determine the amount of the offer and send the owner a Notice of Just Compensation (the full amount of the determined value). This Notice establishes the definite date for relocation benefits eligibility for all persons with legal residency, including non-residential occupants.

Handbook 1378,
Chapter 5 Paragraph 5-5(A)(1)
Sample Notice to Owner

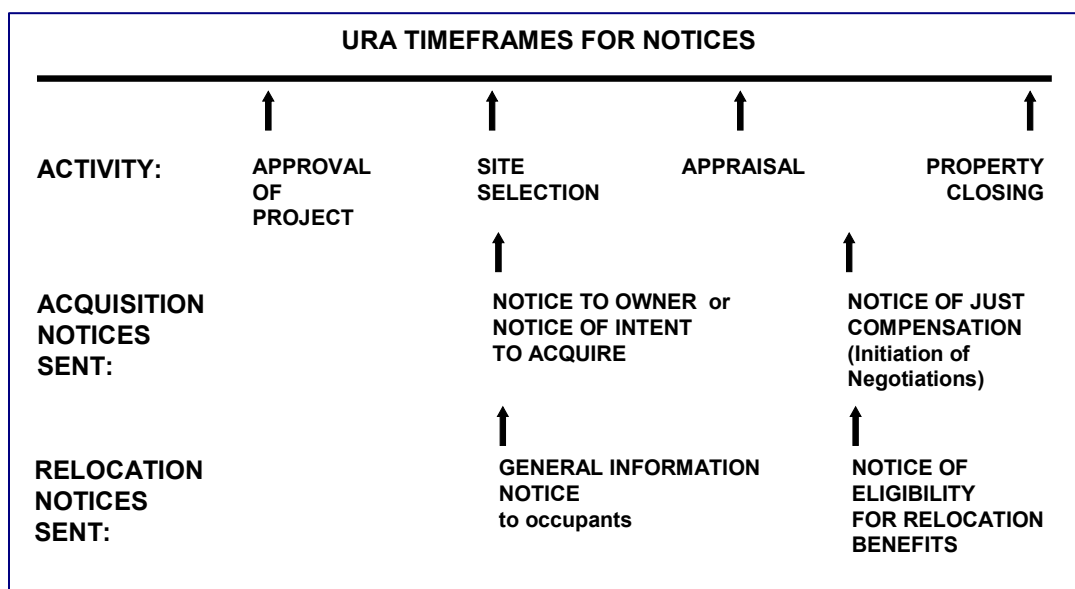
Timing of URA Coverage

It is important for grantees to know that the timing of an acquisition can trigger URA requirements. Regardless of the source of funds, **any** acquisition of property made by a state agency, on or after the date of submission of the KCDBG application for financing of an activity using that property, is subject to the URA.

49 CFR 24.6

- ✓ If an acquisition took place prior to application submission, it can be subject to the URA if DLG finds clear evidence that the purchase was done in anticipation of obtaining KCDBG funds for an activity.
- ✓ The URA also applies if an agency has reimbursed itself for the acquisition with non-federal funds (i.e., general funds) if the project's end result is a federally-assisted project.

The chart below highlights the timing of required notices. Further information on these notices follows:



Notice to Owner

The Notice to Owner should be sent as soon as feasible after a site is selected. See Attachment 9-5 for a Sample Notice to Owner, This Notice:

- ✓ Expresses the agency’s initial interest in acquiring the property.
- ✓ Informs the owner that the agency must conduct an appraisal of the property to establish fair market value, and that the owner has the right to accompany the appraiser.
- ✓ States that the owner will be offered fair market value (just compensation) and what costs will also be covered.
- ✓ Informs the owner about the protections provided by the URA.

Handbook 1378,
Chapter 5, Paragraph 5-4 A
Attachment 9-5:
Sample Notice to Owner
49 CFR 24.102(b)

Handbook 1378,
Chapter 5, Paragraph 5-4 A

The grantee should also send HUD’s brochure (HUD Form 1041-CPD) entitled, “When a Public Agency Acquires Your Property.” Refer to Attachment 9-6 of this chapter or download it from the DLG web site. The booklet explains the basic protections afforded the property owner by law.

Attachment 9-6:
“When a Public Agency Acquires Your Property” brochure

To avoid triggering eligibility for relocation benefits at this time, the Notice to Owner should advise all occupants not to move. The Notice only informs the property owner of the grantee’s initial interest in acquiring their property, but it is not a commitment to provide relocation benefits at this point. The following chapter deals with relocation and covers this Notice in detail.

Handbook 1378,
Chapters 2 and 5,
Paragraph 2-3 H and 5-4 A

Notice of Intent to Acquire

Some grantees choose to send a Notice of Intent to Acquire instead of a Notice to Owner. A Notice of Intent to Acquire (Attachment 9-7) must contain all the information included in a Notice to Owner, but would also state that the agency does intend to acquire the property, rather than expressing a preliminary statement of interest. The Notice should advise all occupants not to move.

Attachment 9-7:
Sample Notice of Intent of Acquire

Grantees should be aware that this Notice triggers eligibility for relocation benefits by occupants and there is the risk that occupants might move prior to the establishment and written offer of just compensation. Therefore, grantees should exercise caution if they choose to send a Notice of Intent to Acquire.

Handbook 1378,
Chapter 2 Paragraph 2-3 G
49 CFR 24.203 (2)(d)

Basis for the Determination of Just Compensation

The written offer to the owner contains the just compensation and summary statement and is sent after an appraisal is complete and the agency has determined just compensation.

Attachment 9-8:
Sample Statement of the Basis for
the Determination of Just
Compensation

Once this amount has been determined, this written offer should be delivered promptly. A sample is provided as Attachment 9-8.

Handbook 1378,
Chapter 5, Paragraph 5-4 L(4)
49 CFR 24.102 (d)

- ✓ The delivery date of this written offer constitutes the date that triggers relocation eligibility related to the acquisition.
- ✓ This written offer must include an offer for the full amount of the just compensation.
- ✓ A statement must be included that summarizes the basis for the offer. This summary statement should provide:
 - A statement of the amount offered as just compensation,
 - A description and location of the property to be acquired, and
 - Identification of the buildings, structures, equipment, and fixtures that are included in the offer.

49 CFR 24.102 (e)

NOTICE OF INTENT NOT TO ACQUIRE

If the grantee decides not to buy or condemn a property at any time after the Notice of Intent to Acquire or Notice to Owner has been sent to the property owner, the grantee must send written notification, “The Notice of Intent Not to Acquire” to the owner and any tenants occupying the property. This written notice must be sent within 10 days of the decision not to acquire. Sending this notice will assist in keeping all affected persons informed of the grantee’s actions. DLG provides a sample Notice of Intent Not to Acquire (See Attachment 9-9). The grantee should document the reason(s) for deciding against acquiring the property.

49 CFR 24.5

Attachment 9-9:
Sample Notice of Intent
Not to Acquire

Administering Notices

Notices should be sent by certified or registered mail, return receipt requested, or hand delivered by agency staff. Grantees must document receipt of the notices by the owner or occupant. If the owner or occupant does not read or understand English, the grantee must provide translations and assistance. Each notice must give the name and telephone number of agency staff that may be contacted for further information.

After confirming the receipt of the appropriate notices by the owner or occupant, the grantee should enter the proposed acquisition in the Site Acquisition Chart (see Attachment 9-10).

Attachment 9-10:
Sample Site Acquisition Chart

This chart provides information on:

- ✓ Number of parcels;
- ✓ Property dimensions;
- ✓ Source of title;
- ✓ Owners;
- ✓ Number of houses, businesses, vacant lots, owners and tenants; and
- ✓ The amount paid.

Use of this chart reduces time, duplication of effort, and facilitates state and local review.

Appraisals

For acquisitions requiring the estimation of fair market value, the URA requires only one appraisal and a review of this appraisal by a qualified person. The following sections describe the contents of an appraisal and appraiser qualifications.

If an acquisition is complex, potentially controversial (as with an unwilling seller or a conflict of interest involving a public official) or likely has a high value, DLG recommends that two appraisals, at a minimum, be obtained. These appraisals will be invaluable during negotiations and in court.

Waiver Valuation

An appraisal is not required under two circumstances: (1) when a property is being donated and owner has waived his/her rights; or (2) when a property has a value estimated at \$10,000 or less.

Handbook 1378, Chapter 5,
Paragraph 5-4 E

If an agency determines that a formal appraisal is not required, then the valuation process used is called a waiver valuation.

49 CFR 24.102(c)(2)

- ✓ The determination that a property has a value less than \$10,000 must be based on a review of available data by someone who has sufficient understanding of the local real estate market. This decision must be documented in the project file.

49 CFR 24.102(2)(ii)(B)
49 CFR 24.2(a)(33)

A waiver valuation is not appropriate when the following situations arise:

- ✓ The use of eminent domain is anticipated;
- ✓ The anticipated value of the proposed acquisition is expected to exceed \$10,000;
- ✓ Possible damages to the remainder property exist;
- ✓ Questions on highest and best use exist;
- ✓ The valuation problem is complex; or
- ✓ Hazardous material/waste may be present.

Handbook 1378, Chapter 5,
Paragraph 5-4 E (1)

If the agency acquiring a property offers the property owner the option of having the property appraised, and the owner chooses to have an appraisal, the agency shall obtain an appraisal and not use the waiver valuation method described above.

Easements

As outlined above, a grantee must obtain an appraisal for any property, including easements, estimated to be worth more than \$10,000. For easements worth less than \$10,000, the grantee can use the Short Form Appraisal Report for Easement Takings. This form, which is Attachment 9-11, summarizes the information that the appraiser grantee must have on file to document the estimated value of the property.

Attachment 9-11:
Short Form for Easement
Valuation (Sample)

If an owner chooses to donate the property for the easement, the grantee must document that the owner has acknowledged he/she has a right to the involuntary acquisition process, including appraisal, and that he/she is choosing to waive his/her rights under this process. Use Attachment 9-3 for this purpose.

Appraiser Qualifications

For properties estimated to be worth more than \$10,000, an appraisal must be conducted. There are several minimum requirements for appraisers, including:

- ✓ An appraiser must hold a Kentucky appraiser’s license. A copy of the license must be included in the acquisition or procurement file.
- ✓ A fee appraiser must be state licensed or certified in accordance with title XI of the Financial Institutions Reform Recover and Enforcement Act (FIRREA) of 1989.
- ✓ Appraisers, or persons performing the waiver valuation, must not have any interest—either direct or indirect—with the owner or property they are to review. This would be a conflict of interest.
- ✓ Grantees must select Kentucky licensed appraisers using proper procurement procedures. A list of Certified Real Estate Appraisers in the State of Kentucky can be found on the following Web site: <http://oop.ky.gov/>.
- ✓ No person shall attempt to unduly influence or coerce an appraiser or waiver valuation preparer regarding any valuation or other aspect of an appraisal.

49 CFR 24.103(d)(2)

49 CFR 24.102(n)(1)

✓ Persons functioning as negotiators may not supervise nor formally evaluate the performance of any appraiser or waiver valuator. (49 CFR 24.102(n)(2))

49 CFR 24.102(n)(2)

✓ No appraiser may negotiate on the agency's behalf if he or she performed the appraisal, review or waiver valuation, on the property. There is an exception for properties valued at \$10,000 or less

49 CFR 24.102 (n)(3)

Contracting for an Appraisal

In order to procure an appraiser, the grantee should request statements of qualifications from a number of local appraisers, review those qualifications, and employ only qualified appraisers.

Chapter 4: Procurement

(See Chapter 4: Procurement for more information on procurement of professional services.)

The grantee must execute a professional services contract with an independent appraiser. **The contract must include a detailed scope of services that the appraiser will perform.** See Attachment 9-12 Guide for Preparing Appraisal Scope of Work. Payment for the appraiser's services, or waiver valuation, must not be based on the amount of the resulting property value.

Attachment 9-12:
Guide for Preparing Appraisal
Scope of Work

Appraisal Process & Criteria

Appraisals must meet nationally/state-recognized industry standards. The appraiser may not use race, color, religion, or the ethnic characteristics of a neighborhood in estimating the value of residential property. The contract must also specify the content requirements of the appraisal report. (See Attachment 9-13 for a sample, while not updated, still is valid.)

49 CFR 24.103

The grantee or the appraiser must invite the property owner in writing to accompany the appraiser during inspection of the property. This notice should be given before the appraisal is undertaken. A copy of the notice should be placed in the property acquisition file along with evidence of receipt by the owner. (See Attachment 9-14 for sample notice.)

Attachment 9-13:
Sample Agreement
for Appraisal Services

At a minimum, all appraisals must contain the following:

- ✓ The purpose and function of the appraisal.
- ✓ A statement of the assumptions and limiting conditions affecting the appraisal.
- ✓ An adequate legal description of the property, any remnants not being acquired, and its physical characteristics.

Attachment 9-14:
Sample Invitation to Accompany
an Appraiser

- This should also include key information such as title information, location, zoning, present use, highest and best use, and at least a five-year sales history of the property.

Handbook 1378,
Chapter 5, Paragraph 5-4 J(11)

- ✓ An explanation of all relevant approaches to value.

- If sales data are sufficient, the appraiser should rely solely on the market approach.
- If more than one method is used, the text should reconcile the various approaches to value and support the conclusions.
- ✓ A description of comparable sales.
- ✓ A final statement of the value of the real property.
 - For partial acquisitions, the appraisal should also give a statement of the value of damages and benefits to the remaining property.
- ✓ The effective date of the valuation appraisal.
- ✓ A signature and certification of the appraiser.

Review of Appraisal

After the initial appraisal is conducted, a review must be made by a Kentucky licensed appraiser under written contract. The review must be written, signed and dated. (See Attachment 9-15 for a sample Review of Appraisal document.)

Attachment 9-15:
Sample Review of Appraisal

The review appraiser must examine all appraisals to check that the appraisal meets all applicable requirements, and to evaluate the initial appraiser’s documentation, analysis, and soundness of opinion.

49 CFR 24.104

If the review appraiser does not approve or accept an appraisal, it may be necessary to seek a second full appraisal. If the review appraiser does not agree with the original appraisal and it is not practical to do a second appraisal, the review appraiser may re-evaluate the original appraisal amount.

Establishing Just Compensation

After a review of the appraisal, the grantee must establish just compensation and present this in a written offer to the owner.

Just compensation cannot be less than the appraised market value. In determining this amount, the grantee (not the appraiser) may take into account the benefit or detriment that the upcoming project will have on any remaining property at the site.

49 CFR 24.102(d)

If the owner retains or removes any property improvements, (for example, permanent fencing) the salvage value of the improvement should be deducted from the offer of just compensation.

If an entire parcel is not being acquired, and the agency determines that the owner would be left with an uneconomic remnant, the agency must offer to purchase this remnant. An

49 CFR 24.102(k)

uneconomic remnant is defined as a parcel of real property with little or no value to the owner. An example of this might be a remnant not large enough for future use or without access to a street.

The grantee must prepare a written Statement of the Basis for the Determination of Just Compensation to be provided to the property owner (see Attachment 9-8). In addition to the initial written purchase offer, this Statement must also include:

-
- ✓ A legal description and location identification of the property;
 - ✓ Interest to be acquired (e.g., fee simple, easement, etc.);
 - ✓ An inventory of the buildings, structures, fixtures, etc., that are considered to be a part of the real property;
 - ✓ A statement of the amount offered as just compensation;
 - ✓ If there are tenant-owned improvements, the amount determined to be just compensation for the improvements and the basis for the amount;
 - ✓ If the owner keeps some of the property improvements, the amount determined to be just compensation for these improvements and the basis for the amount;
 - ✓ Any purchase option agreement should be attached; and
 - ✓ If only a part of the parcel is to be acquired, a statement apportioning just compensation between the actual piece to be acquired and an amount representing damages and benefits to the remaining portion.

Attachment 9-8:
Sample Statement of the Basis
for the Determination
of Just Compensation

A copy of this Statement should be placed in the property acquisition file.

Negotiating the Purchase

As soon as feasible after establishing just compensation, the grantee must send the owner a Written Offer to Purchase which includes the Statement of the Basis for the Determination of Just Compensation (see the sample provided as Attachment 9-16). As with all notices, receipt must be documented. If the property is occupied by a tenant, owner or business, the grantee must issue a written Notice of Eligibility for Relocation Benefits as soon as possible after the written offer to purchase (also called the “Initiation of Negotiations”) is made.

Attachment 9-16:
Sample Written Offer to Purchase

The most recent URA regulations emphasize that the agency should make reasonable efforts to conduct face-to-face negotiations with the owner or the owner’s representative. The owner may present relevant information that bears on the determination of value and may suggest modifications to the proposed terms and conditions of the purchase. The agency must give these suggestions full consideration.

49 CFR 24.102(f)

If the owner’s information or suggestions would warrant it, the agency may ask the appraiser to update the current appraisal or order another appraisal. If this results in a change in just compensation, the agency must adjust the offer.

Handbook 1378,
Chapter 5, Paragraph 5-4 M
49 CFR 24.106

The owner must be paid for costs to transfer title to the agency. These costs may be advanced instead of reimbursed, and they include recording fees, legal fees, prepayment penalties, and incidental costs.

Documentation of negotiation proceedings should be placed in the project acquisition file. Grantees should be sure to thoroughly document the justification for payment if it is more than the original offer of fair market value.

The grantee must get written pre-approval from DLG if the offer will exceed the amount determined to be fair market value.

Closing the Sale or Condemnation

Before the agency takes possession of the property, the owner must be paid the agreed-upon purchase price. If the agency is taking the property through condemnation, the agency must deposit the full amount of just compensation with the court.

Handbook 1378,
Chapter 5, Paragraph 5-4 I

Willing Seller—No Condemnation Action Taken:

If negotiations are successful in an involuntary acquisition, a contract for sale must be prepared and executed, and transfer documents secured. If payment exceeds the market value, and the grantee failed to obtain pre-approval of the amount from DLG the acquisition file must include a written justification of the amount paid. DLG will review these justifications carefully to ensure they are reasonable, and if the payment is determined to be unjustified, the payment will be disallowed.

49 CFR 24.102(j)

At the conclusion of settlement, the grantee must give the owner a Statement of Settlement Costs (see Attachment 9-17), which identifies all settlement costs regardless of whether they are paid at, before, or after closing, and must clearly separate charges paid by the owner. The Statement of Settlement Costs must be dated and certified as true and correct by the closing attorney or person handling the transaction. DLG requires that grantees must also obtain a copy of the cancelled check to document receipt for the purchase price,

Attachment 9-17:
Sample Statement
of Settlement Costs

Condemnation Procedures

If negotiations are unsuccessful, condemnation proceedings may be initiated. Condemnation is a legal action and must be carried out by a city/county attorney and the city/county governing body should authorize the proceeding by resolution.

Copies of surveys and maps of the subject property must be filed and recorded in the applicable county office. Condemnation proceedings can then be initiated in the Circuit Court of the county in which the property is located. The grantee must deposit the amount determined to be just compensation in escrow with the court.

The petition filed in Circuit Court must include:

- ✓ Detailed project narrative sufficient to support the use of eminent domain.
- ✓ A legal description of the property being sought and its current and proposed use.
- ✓ An application to the court to appoint commissioners to award the amount of compensation the owner of the property is entitled to receive.

The court will appoint three qualified commissioners to visit the property and establish its fair market value. Within 15 days of their appointment, the commissioners will return a written report to the court establishing fair market value. At this time, the court will issue a summons to the owner, which states the amount the commissioners establish as the fair market value.

The owner has 20 days from the date he or she receives the summons to respond. If the owner does not respond during this period, the court will enter an interlocutory judgment that sets the amount of compensation and conveys title. The owner can file an exception to the interlocutory judgment within 30 days from the date the judgment was entered.

All exceptions relating to compensation will be determined by jury trial in the Circuit Court. The jury will set the amount of compensation. The owner can appeal the Circuit Court judgment to the Court of Appeals.

The city/county must pay the owner's court costs as well as its own court costs. If the process moves into appeal, the amount of compensation will be the amount established by the highest court.

Appeals

Grantees must promptly review all appeals in accordance with the requirements of applicable laws and the URA. Grantees must develop written procedures to resolve disputes relating to their acquisition, relocation, and demolition activities. These written procedures must be communicated to all potentially affected parties prior to the initiation of negotiations. (Refer to Chapter 1: Project Administration for information on grievance procedures.)

49 CFR 24.10

Chapter 1: Project Administration

Who May Appeal

Any person, family, or business directly affected by the acquisition and/or relocation activities undertaken by a grantee may appeal. All appeals must be in writing and must be directed to the chief executive officer of the grantee and the highest official of the administering agency undertaking the acquisition, relocation or demolition activity. A protestor must exhaust all administrative remedies as outlined in the grantee's written procedures prior to pursuing judicial review.

Basis for Appeals

Any person, family, or business that feels that the grantee failed to properly consider his or her written request for financial or other assistance must file a written appeal with the agency personnel identified within 60 days of the date of receipt of the administering agency's written determination denying assistance.

Review of Appeals

The grantee shall designate a Review Officer to hear the appeal. The Review Officer shall be the chief administrative officer of the unit of local government or his/her designee, provided neither was directly involved in the activity for which the appeal was filed. The grantee shall consider all pertinent justification and other material submitted by the person and all other available information that is needed to ensure a fair and full review of the appeal.

49 CFR 24.10 (e)(f)(g)(h)

Promptly after receipt of all information submitted by a person in support of an appeal, the grantee shall make a written determination on the appeal, including an explanation of the basis on which the decision was made and notify the person appealing a grantee's decision.

If the appeal is denied, the grantee must advise the person of his or her right to seek judicial review of the grantee's decision.

Section 9-E. Record Keeping

The grantee must establish an acquisition program file, which contains:

- ✓ Urban Renewal/Development Plan,
- ✓ Statement of qualifications of appraisers,
- ✓ Appraisal contracts, and
- ✓ Copies of public solicitations for voluntary acquisitions.

The grantee must establish a file for each property to be acquired, and include copies of all notices and proof of receipt, along with other acquisition documents. A checklist should be kept in each acquisition file to help track the process (see Attachment 9-18).

Attachment 9-18:
Real Property Acquisition Checklist

Some suggested items to include in acquisition files are:

- ✓ Signed Waiver Donation Form (if voluntary donation)
- ✓ All appropriate notices and copy of “When a Public Agency Acquires Your Property”
- ✓ Evidence that a competitive process was utilized in selecting appraisers
- ✓ Appraisal contracts
- ✓ Appraisal and Review Appraisal Report
- ✓ Map and photos for all improved properties
- ✓ Evidence and date of personal contacts with property owner
- ✓ Evidence that the property owner was invited to accompany the appraiser
- ✓ Evidence that the appraisal was reviewed by council and just compensation established
- ✓ Written Offer to Purchase and Summary Statement of the Basis for the Offer of Just Compensation
- ✓ Evidence that the items sent to property owners were mailed certified or registered mail, return receipt requested
- ✓ Written acceptance or rejection of offer to purchase
- ✓ Written evidence of negotiation (if applicable)
- ✓ Copy of cancelled checks
- ✓ Summary Statement of Settlement Costs
- ✓ Copy of the executed and recorded deed

At the close of the acquisition, the grantee should review the project acquisition file to ensure that it contains all required documentation. Files must be kept for at least five years after full project close-out.

Replacement Housing Assistance for 90-Day Homeowners

Only homeowner-occupants who were in residency for 90 days prior to an offer to purchase their home (“ION”) **USING INVOLUNTARY ACQUISITION** are eligible for a replacement housing payment as “displaced persons.” If homeowners were in occupancy for less than 90 days prior to the ION, they are protected by the URA as “displaced persons” but the calculation method is different.

49 CFR 24.401

Note: If an owner occupies a property acquired using voluntary acquisition requirements, they are NOT eligible for relocation benefits. See Chapter 8 for details on calculating the RHP for displaced homeowners.

**VOLUNTARY ACQUISITION- AGENCIES WITH
EMINENT DOMAIN AUTHORITY**

Grantee or Agency Letterhead

(Date)

Dear _____:

(City, County, State, other) _____, is interested in acquiring property you own at (address) _____ for a proposed project which may receive funding assistance from the U.S. Department of Housing and Urban Development (HUD) under the _____ program.

Please be advised that, (City, County, State, other) _____ possesses eminent domain authority to acquire property, however, in the event you are not interested in selling your property, or if we cannot reach an amicable agreement for the purchase of your property, we will not pursue its acquisition under eminent domain. Your property is not a necessary part of the proposed project and is not part of an intended, planned, or designated project area where substantially all of the property within the area is to be acquired.

We are prepared to offer you (\$) _____ to purchase your property. We believe this amount represents the current market value of your property. Please contact us at your convenience if you are interested in selling your property.

In accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), owner-occupants who move as a result of a voluntary acquisition are not eligible for relocation assistance.

If you have any questions about this notice or the proposed project, please contact (name) _____, (title) _____, (address) _____, (phone) _____.

Sincerely,

(name and title) _____

NOTES

1. The case file must indicate the manner in which this notice was delivered (e.g., certified mail, return receipt requested) and the date of delivery
Tenant-occupants displaced as a result of a voluntary acquisition may be entitled to URA relocation assistance and must be so informed per 49 CFR 24.2(a)(15)(iv) – Initiations of negotiations, and 49 CFR 24 Appendix A - 24.2(a)(15)(iv).
2. This guideform may only be used if all of the requirements of 49 CFR 24.101(b)(1)(i)-(iv) are met.
3. This is a guideform. It should be revised to reflect the circumstances.

GUIDEFORM NOTICE
Disclosures to Seller with Voluntary, Arm's Length Purchase Offer
(Sample)

Dear _____:

This is to inform you that _____ (Agency/Person) would like to purchase the property located at _____ (Street Address or Other Property Identification), if a satisfactory agreement can be reached. We are prepared to pay \$_____ for clear title to the property under the conditions described in the attached proposed contract of sale.

Because Federal funds may be used in the purchase, however, we are required to disclose to you the following information:

1. The sale is voluntary. If you do not wish to sell, the _____ (Agency/Person) will not acquire your property. The _____ (Agency/Person) does not have the power to acquire your property by condemnation (i.e., eminent domain) [will not use the power of eminent domain to acquire the property].

2. We estimate the fair market value of the property to be \$ _____.

Since the purchase would be a voluntary, arm's length transaction, you would not be eligible for relocation payments or other relocation assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), or any other law or regulation. Also, as indicated in the contract of sale, this offer is made on the condition that no tenant will be permitted to occupy the property before the sale is completed.

Again, please understand that if you do not wish to sell your property, we will take no further action to acquire it. If you are willing to sell the property under the conditions described in the attached contract of sale, please sign the contract and return it to us.

If you have any questions about this matter, please contact _____. His/Her telephone number is _____.

Sincerely,

(Name/Title)

Enclosure

**Sample Acknowledgement of Acquisition and Relocation Rights and Benefits
under the Uniform Relocation Act (Owner-Occupant)**

I, _____, state that I have been approached by a representative of the _____ (herein known as the Agency) who has informed me of said Agency's intent to obtain a parcel (easement) across certain property(ies) owned by me.

1. I hereby acknowledge that said representative has explained to me the legal boundaries of said parcel (easement) as they are set forth in the Exhibit(s) attached to this document.

The representative of said agency has further advised me of my rights under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended:

- A. That I have the right to receive the HUD brochure, When a Public Agency Acquires Your Property, and other relocation advisory assistance (including referral to comparable, affordable, decent, safe and sanitary housing).
 - B. That I have the right to receive either payment of actual, reasonable moving and related expenses or, at my election, a moving expense and dislocation allowance.
 - C. That I have the right to a replacement housing payment to assist me in buying or renting a replacement home.
 - D. That I have the right to demand a written appraisal of the value of the parcel (easement) sought to be acquired by said Agency (if fair market value of said parcel/easement is estimated at greater than \$10,000) and that I am entitled to receive no less than Fair Market Value as established by the appraisal.
 - E. That I have the right to accompany the appraiser who prepares such appraisal when he inspects my land and that I am entitled to a written notice called an "Invitation to Accompany the Appraiser" stating the date and time at which the appraiser will examine my property and that this written document must be delivered to me by certified mail.
 - F. That I have the right to a Written Purchase Offer stating the amount of money which said Agency will pay me for this parcel (easement), and that this written purchase offer must be delivered to me by certified mail.
 - G. That I have the right to a written Statement of the Basis for the Determination of Just Compensation which explains in detail the basis of the amount offered to me by said Agency for said parcel (easement), and that this document must be delivered to me by certified mail.
2. I acknowledge that if I am unwilling to accept the purchase price offered by the Agency and to release all claims to relocation payments and other assistance, the Agency will make no further attempt to acquire my property and will not bring about my displacement from it.

Waiver - Page 2

3. I acknowledge that these rights stated above have been explained to me in detail by a representative of the Agency and that I hereby elect not to exercise these rights and agree to donate the Agency a parcel (easement) which boundaries are described in the Exhibit(s) attached to this document for the consideration of _____, which I hereby acknowledge is full and fair consideration for my donating the parcel (easement).

IN WITNESS WHEREOF, I have signed this document as my free and voluntary act this _____ day of _____, 20____.

Landowner

Witness: Executive Director

(Name of Agency)

STATE OF KENTUCKY
COUNTY OF _____

Signed and acknowledged before me this _____ day of _____, 20____,
by _____, as his/her free and voluntary act and deed.

Notary Public State at Large

My Commission expires _____, 20____.

Note: This acknowledgement covers a "voluntary acquisition" that is subject to the URA. It may be used where it is advantageous to the owner-occupant to agree to forego right to URA relocation assistance because sale of the property for the consideration offered is more attractive than the alternative – no sale of the property. All such "acknowledgments" will be monitored to ensure that each person was fully informed of his/her rights and waived those rights only for well-documented reasons.

**GUIDEFORM NOTICE TO OWNER
- INVOLUNTARY ACQUISITION -
(Threat/Use Of Eminent Domain)**

Grantee or Agency Letterhead

(date)

Dear _____:

(City, County, State, Tribe, other) _____, is interested in acquiring property you own at (address) _____ for a proposed project which may receive funding assistance from the U.S. Department of Housing and Urban Development (HUD) under the _____ program.

The purpose of this notice is to inform you of your rights under a federal law known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA). Enclosed is a HUD brochure entitled "When A Public Agency Acquires Your Property". This brochure provides useful information about the public acquisition of real property (real estate) under the URA. At this stage, your property is only under consideration for acquisition. This notice is not a contractual offer or commitment to purchase your property.

If your property is selected for acquisition, under the URA, you will have the right to receive just compensation for your property. In order to determine the amount of just compensation to be offered to you, an appraisal of your property would be required. In such a case, an appraiser will contact you to provide you an opportunity to accompany him or her on the inspection of your property. It would be in your best interest to accompany the appraiser during the property inspection so that you can point out any unique features of your property which should be considered in the valuation process and so that you can also answer any questions the appraiser may have.

For your information, (City, County, State, Tribe, other) _____ possesses eminent domain authority to acquire the property needed for this project, however, our goal is to attempt to negotiate amicable agreements for all property acquisitions prior to its use. If negotiations fail, acquisition under eminent domain may be considered.

If you have any questions about this notice or the proposed project, please contact (name) _____, (title) _____, (address) _____, (phone) _____.

Sincerely,

Sample Notice to Owner

(name and title) _____

Enclosure

NOTES.

1. The case file must indicate the manner in which this notice was delivered (e.g., certified mail, return receipt requested) and the date of delivery.
2. This is a guideform. It should be revised to reflect the circumstances.
2. A notice to owner is merely an Agency's notice informing the owner of the agency's interest in acquiring the property; it is not a commitment and does not establish relocation eligibility. Whereas a notice of intent to acquire is an Agency's written notice provided to a person to be displaced; it is a commitment and clearly establishes relocation eligibility in advance of the normal acquisition and relocation process. A notice to owner is required under 49 CFR 24.102(b) for acquisitions subject to 49 CFR part 24, subpart B.

www.hud.gov/relocation

Introduction

This booklet describes important features of the **Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970**, as amended (URA) and provides general information about public acquisition of real property (real estate) that should be useful to you.

Most acquisitions of real property by a public agency for a Federal project or a project in which Federal funds are used are covered by the URA. If you are notified that your property will be acquired for such a project, it is important that you learn your rights under this important law.

This booklet may not answer all of your questions. If you have more questions about the acquisition of your property, contact the Agency responsible for the project. (Check the back of this booklet for the name of the person to contact at the Agency.) Ask your questions before you sell your property. Afterwards, it may be too late.

General Questions

What Right Has Any Public Agency To Acquire My Property?

The Federal Government and every State government have certain powers which are necessary for them to operate effectively. For example, they have the power to levy taxes and the power to maintain order. Another government power is the power to acquire private property for public purposes. This is known as the power of eminent domain.

The rights of each of us are protected, however, by the Fifth and Fourteenth Amendments of the U.S. Constitution and by State constitutions and eminent domain laws which guarantee that if a public agency takes private property it must pay "just compensation" to the owner. The URA provides additional protections, as explained in this booklet.

Who Made The Decision To Buy My Property?

The decision to acquire a property for a public project usually involves many persons and many determinations. The final determination to proceed with the project is made only after a thorough review which may include public hearings to obtain the views of interested citizens.

If you have any questions about the project or the selection of your property for acquisition, you should ask a representative of the Agency which is responsible for the

project.

How Will The Agency Determine How Much To Offer Me For My Property?

Before making you an offer, the Agency will obtain at least one appraisal of your property by a competent real property appraiser who is familiar with local property values. The appraiser will inspect your property and prepare a report that includes his or her professional opinion of its current fair market value. After the appraiser has completed his work, a review appraiser will examine the appraisal report to assure that the estimate is fair and the work conforms with professional appraisal standards.

The Agency must offer you "just compensation" for your property. This amount cannot be less than the appraised fair market value of the property. "Just compensation" for your property does not take into account your relocation needs. If you are eligible for relocation assistance, it will be additional.

What Is Fair Market Value?

Fair market value is sometimes defined as that amount of money which would probably be paid for a property in a sale between a willing seller, who does not have to sell, and a willing buyer, who does not have to buy. In some areas a different term or definition may be used.

The fair market value of a property is generally considered to be "just compensation." Fair market value does not take into account intangible elements such as sentimental value, good will, business profits, or any special value that your property may have for you or for the Agency.

How Does An Appraiser Determine The Fair Market Value Of My Property?

Each parcel of real property is different and therefore no single formula can be devised to appraise all properties. Among the factors an appraiser typically considers in estimating the value of real property are:

- How it compares with similar properties in the area that have been sold recently.
- How much rental income it could produce.
- How much it would cost to reproduce the buildings and other structures, less any depreciation.

Will I Have A Chance To Talk To The Appraiser?

Yes. You will be contacted and given the opportunity to accompany the appraiser on his or her inspection of your property. You may then inform the appraiser of any special features which you believe may add to the value of your property. It is in your best interest to provide the appraiser with all the useful information you can in order to insure that nothing of allowable value will be overlooked. If you are unable to meet with the appraiser, you may wish to have a person who is familiar with your property represent you.

How Soon Will I Receive A Written Purchase Offer?

Generally, this will depend on the amount of work required to appraise your property. In the case of a typical single-family house, it is usually possible to make a written purchase offer within 45 to 60 days of the date an appraiser is selected to appraise the property.

Promptly after the appraisal has been reviewed (and any necessary corrections obtained), the Agency will determine just compensation and give you a written purchase offer in that amount along with a "summary statement," explaining the basis for the offer. No negotiations are to take place before you receive the written purchase offer and summary statement.

What Is In The Summary Statement Of The Basis For The Offer Of Just Compensation?

The summary statement of the basis for the offer of just compensation will include:

- An accurate description of the property and the interest in the property to be acquired.
- A statement of the amount offered as just compensation. (If only part of the property is to be acquired, the compensation for the part to be acquired and the compensation for damages, if any, to the remaining part will be separately stated.)
- A list of the buildings and other improvements covered by the offer. (If there is a separately held interest in the property not owned by you and not covered by the offer (e.g., a tenant-owned improvement), it will be so identified.)

Must I Accept The Agency's Offer?

No. You are entitled to present your evidence as to the amount you believe is the fair market value of your property and to make suggestions for changing the terms and conditions of the offer. The Agency will consider your evidence and suggestions. When fully justified by the available evidence of value, the offer price will be increased.

May Someone Represent Me During Negotiations?

Yes. If you would like an attorney or anyone else to represent you during negotiations, please inform the Agency. However, the URA does not require the Agency to pay the costs of such representation.

If I Reach Agreement With The Agency, How Soon Will I Be Paid?

If you reach a satisfactory agreement to sell your property and your ownership (title to the property) is clear, payment will be made at a mutually acceptable time. Generally,

this should be possible within 30 to 60 days after you sign a purchase contract. If the title evidence obtained by the Agency indicates that further action is necessary to show that your ownership is clear, you may be able to hasten the payment by helping the Agency obtain the necessary proof. (Title evidence is basically a legal record of the ownership of the property. It identifies the owners of record and lists the restrictive deed covenants and recorded mortgages, liens, and other instruments affecting your ownership of the property.)

What Happens If I Don't Agree To The Agency's Purchase Offer?

If you are unable to reach an agreement through negotiations, the Agency may file a suit in court to acquire your property through an eminent domain proceeding. Eminent domain proceedings are often called condemnations. If your property is to be acquired by condemnation, the Agency will file the condemnation suit without unreasonable delay.

An Agency may also decide not to buy your property, if it cannot reach agreement on a price, and find another property to buy instead.

What Happens After The Agency Condemns My Property?

You will be notified of the action. Condemnation procedures vary, and the Agency will explain the procedures which apply in your case.

Generally, when an Agency files a condemnation suit, it must deposit with the court (or in an escrow account) an amount not less than its appraisal of the fair market value of the property. You should be able to withdraw this amount, less any amounts necessary to pay off any mortgage or other liens on the property and to resolve any special ownership problems. Withdrawal of your share of the money will not affect your right to seek additional compensation for your property.

During the condemnation proceeding, you will be provided an opportunity to introduce your evidence as to the value of your property. Of course, the Agency will have the same right. After hearing the evidence of all parties, the court will determine the amount of just compensation. If that amount exceeds the amount deposited by the Agency, you will be paid the difference, plus any interest that may be provided by law.

To help you in presenting your case in a condemnation proceeding, you may wish to employ an attorney and an appraiser. However, in most cases the costs of these professional services and other costs which an owner incurs in presenting his or her case to the court must be paid by the owner.

What Can I Do If I Am Not Satisfied With The Court's Determination?

If you are not satisfied with the court judgment, you may file an appeal with the appropriate appellate court for the area in which your property is located. If you are considering an appeal, you should check on the applicable time limit for filing the appeal and consult with your attorney on whether you have a basis for the appeal. The Agency may also file an appeal if it believes the amount of the judgment is too high.

Will I Have To Pay Any Closing Costs?

You will be responsible for the payment of the balance on any mortgage and other liens on your property. Also, if your ownership is not clear, you may have to pay the cost of clearing it. But the Agency is responsible for all reasonable and necessary costs for:

- Typical legal and other services required to complete the sale, recording fees, revenue stamps, transfer taxes and any similar expenses which are incidental to transferring ownership to the Agency.
- Penalty costs and other charges related to prepayment of any recorded mortgage on the property that was entered into in good faith.
- Real property taxes covering the period beginning on the date the Agency acquires your property.

Whenever possible, the Agency will make arrangements to pay these costs directly. If you must incur any of these expenses yourself, you will be repaid--usually at the time of closing. If you later discover other costs for which you should be repaid, you should request repayment from the Agency immediately. The Agency will assist you in filing a claim. Finally, if you believe that you were not properly repaid, you may appeal the decision to the Agency.

May I Keep Any Of The Buildings Or Other Improvements On My Property?

Very often, many or all of the improvements on the property are not required by the Agency. This might include such items as a fireplace mantel, your favorite shrubbery, or even an entire house. If you wish to keep any improvements, please let the Agency know as soon as possible.

If you do arrange to keep any improvement, the Agency will deduct only its salvage value from the purchase price you would otherwise receive. (The salvage value of an item is its probable selling price if offered for sale on the condition that the buyer will remove it at his or her own expense.) Of course, if you arrange to keep any real property improvement, you will not be eligible to receive a relocation payment for the cost of moving it to a new location.

Can The Agency Take Only A Part Of My Property?

Yes. But if the purchase of only a part of your property reduces the value of the remaining part(s), you will be paid for the loss in value. Also, if any remaining part would have little or no utility or value to you, the Agency will offer to buy that remaining part from you.

Occasionally, a public project will increase the value of the part which is not acquired by the Agency. Under some eminent domain laws, the amount of such increase in value is deducted from the purchase payment the owner would otherwise receive.

Will I Have To Pay Rent To The Agency After My Property Is Acquired?

If you remain on the property after the acquisition, you may be required to pay a fair rent to the Agency. Such rent will not exceed that charged for the use of comparable properties in the area.

How Soon Must I Move?

If possible, a mutually agreeable date for the move will be worked out. Unless there is an urgent need for your property (e.g., your occupancy would present a health or safety emergency), you will not be required to move without at least 90 days advance written notice.

If you reach a voluntary agreement to sell your property, you will not be required to move before you receive the agreed purchase price. If the property is acquired by condemnation, you cannot be required to move before the estimated fair market value of the property has been deposited with the court so that you can withdraw your share.

If you are being displaced from your home, you will not be required to move before a comparable replacement home is available to you.

Will I Receive Relocation Assistance?

Title II of the URA requires that certain relocation payments and other assistance must be provided to families, individuals, businesses, farms, and nonprofit organizations when they are displaced or their personal property must be moved as a result of a project that is covered by the URA.

The Agency will furnish you a full explanation of any relocation assistance to which you may be entitled. If you have any questions about such assistance, please contact the Agency. In order for the Agency to fulfill its relocation obligations to you, you must keep the Agency informed of your plans.

My Property Is Worth More Now. Must I Pay Capital Gains Tax On The Increase?

Internal Revenue Service (IRS) Publication 544 explains how the Federal income tax would apply to a gain or loss resulting from the sale or condemnation of real property, or its sale under the threat of condemnation, for public purposes. If you have any questions about the IRS rules, you should discuss your particular circumstances with your personal tax advisor or your local IRS office.

I'm A Veteran. How About My VA Loan?

After your VA home mortgage loan has been repaid, you will be permitted to obtain another VA loan to purchase another property. Check on such arrangements with your nearest Veterans Administration Office.

Is It Possible To Donate Property?

Yes. You may donate your property or sell it to the Agency for less than its fair market value. The Agency must obtain an appraisal of the property and offer just compensation for it, unless you release the Agency from these obligations.

Additional Information

If you have any questions after reading this booklet, contact the Agency and discuss your concerns with the Agency representative.

Agency:

Address:

Office Hours:

Telephone Number:

Person to Contact:

SAMPLE NOTICE OF INTENT TO ACQUIRE

(Date)

Name of Property Owner
Address
City, State, Zip

RE: Address or Legal Description of Property Location

Dear Property Owner and Other Interested Parties:

The purpose of this letter is to inform you that the _____, herein known as the Agency, intends to acquire your property located at _____ . The Agency has identified the area in which your property is located as a “project” area in which the following improvements may be carried out:

[INSERT TEXT]

Because Federal financial assistance is involved, you are protected by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended. For your information and review, I have enclosed a copy of the Department of Housing and Urban Development’s brochure entitled, “When a Public Agency Acquires Your Property.” The Agency wishes to disclose to you the following:

1. The acquisition would be considered an involuntary acquisition due to the fact that the Agency has the power of eminent domain and can acquire your property by condemnation.
2. In most cases, an appraisal and review appraisal are required to establish what is just compensation (fair market value) of a property.
3. You, or someone you designate to represent you, will be offered the opportunity to accompany the appraiser during the inspection of your property.

**Notice of Intent to Acquire
Page Two**

If your property is tenant-occupied, each tenant should be encouraged to not move until you have received the Offer of Just Compensation. Each lawful tenant determined to be eligible, as a displaced person will be assisted when the property is acquired. A representative of our Agency will contact each tenant to discuss their eligibility for assistance under the URA.

The Agency wishes to caution you that any tenant who moves into the property identified herein for possible acquisition after the date of this letter, (date), may not be entitled to displaced person assistance from the Agency. In the event you wish to provide housing to a tenant after this date, and you personally wish to pay for such assistance, please contact the Agency before you allow the tenant to occupy or lease the unit since URA assistance for a displaced person can be quite expensive. If you wish to lease a vacant unit to a new tenant, but not be responsible for displacement assistance, be certain to have the attached Move-in Notice executed by the tenant prior to the tenant leasing and occupying your unit.

NOTE: If an Agency determines that a person occupies a property, or is allowed to occupy a property, for the purpose of obtaining relocation assistance, and the HUD Field Office that administers URA requirements for HUD-assisted programs in the jurisdiction concurs in that determination, the tenant will not be entitled to assistance as a displaced person.

If you wish to discuss the Agency's intent to acquire your property, the contents of the brochure or this letter, or the acquisition process that is required, please contact _____, _____, at _____.

Any correspondence or documents you wish to submit to the Agency should be mailed to _____, Attention _____.

This letter, and all future correspondence you receive from the Agency, are important and should be kept in a place of safekeeping.

Sincerely,

Enclosure

Sample Statement of the Basis for the Determination of Just Compensation

Description and Location of the Property

The City/County of _____ proposes to purchase land and improvements on Anywhere Avenue (Lot 8, Square 6, Post Extension) from owner _____ (Name) at _____ (Address), _____ (City), Kentucky. It is a single-family residential unit, which conforms to zoning, present use, surrounding land use and area trends.

Improvements

It is a one-story single-family residence of wood frame construction with concrete foundation, stucco siding, a tar and gravel roof, and aluminum gutters and downspouts.

It contains a living room, kitchen, center hall, two bedrooms and one bath.

Interior finish is hardwood floors, except linoleum in the kitchen and bathroom, sheetrock walls and ceilings.

The kitchen has counters and painted wood cabinets. There are no built-in appliances.

Heat is gas-fired, forced air from Atlas, 120,000 BTU furnace.

The house is 25 years old. Design is good. Maintenance is poor.

Statement of Offer

Based on the two appraisals, the City/County of _____ hereby makes you an offer in the amount of \$_____ for the purchase of your property. This offer is for the fair market value of your property and does not include any consideration of decrease or increase in value attributable to the project for which it is being acquired.

Signature of Authorizing Official

Date

Sample Notice of Intent Not to Acquire

(Date)

Dear _____:

The City of _____ has determined not to acquire your property located at _____ (Address) _____. The reason(s) the city has decided against acquiring your property are _____ [insert reasons] _____. Any person moving from the premises from the date of this notice will not be eligible for relocation payments or benefits.

Sincerely,

Signature of Authorizing Official

cc: (Tenant)

PROJECT NAME AND NUMBER _____ STATUS AS OF _____

SITE ACQUISITION REPORT

PARCEL NUMBER	ADDRESS OF PROPERTY	NAME OF OWNER(S)	OWNER(S) NOTED OF INTEREST	DATE				WRITTEN PURCHASE OFFER AND SUMMARY STATEMENT		DATE OF CONTRACT	CONDEMNATION			PURCHASE PRICE OF PROPERTY	SETTLEMENT COSTS	CONSTRUCTION DATE	REMARKS
				SURVEY COMPL.	TITLE EVIDENCE RECEIVED	REVIEW APPRAISAL RECEIVED	DATE	AMOUNT	DATE OF SUIT FILED		DATE OF COURT AWARD	INTEREST ON COURT AWARD					
														\$			

Short Form for Easement Valuation (Sample) Rev. 3/15

Project Name _____

Parcel Address _____

Property Owner _____

Owner's Address _____

Date Owner Invited To Accompany Person Assessing Value: _____

Past Sales of Property (5 years) _____

Improvements to Property since Last Sale _____

Lot:	Zoning:	Area	Sq. Ft.	Acres
_____	_____	_____	_____	_____

Highest and Best Use of Property: Before _____ After _____

Assessed Valuation : Land	Buildings	Total
_____	_____	_____

Valuation: Before and After Value Estimates

1. **BEFORE** Property Value \$ _____
2. **AFTER** Property Value \$ _____
3. Value Part Taken for Damages, if any _____

If Damages to Property by Reason of Taking-EXPLAIN: _____

NOTE: The person assessing the value has summarized the above data based on investigation and valuation of subject property. Full documentation for values assigned can be furnished upon request.

Final value estimate is:

Land \$ _____ + Buildings \$ _____ =Total \$ _____

Date

Person Conducting Valuation

Parcel or Tax Number

Address of the Property

Supporting documentation is required including a photo, map, etc.

U.S. Department of Housing and Urban Development (HUD)

Guide for Preparing An Appraisal Scope of Work

The Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) and its implementing regulations (49 CFR Part 24) set forth minimum requirements for real property acquisition appraisals for Federal and federally-assisted programs. Appraisals subject to the URA must be prepared according to these requirements. The acquiring agency may also have additional supplemental appraisal requirements which may be attached.

The acquiring agency has a legitimate role in contributing to the appraisal process, especially in developing the scope of work and defining the appraisal problem. The scope of work and development of an appraisal under these requirements depends on the complexity of the appraisal problem

The scope of work is a written set of expectations that form an agreement or understanding between the appraiser and the agency as to the specific requirements of the appraisal, resulting in a report to be delivered to the agency by the appraiser. It includes identification of the intended use and intended user; definition of fair market value; statement of assumptions and limiting conditions; and certifications. It should specify performance requirements, or it should reference them from another source, such as the agency's appraisal procedural manual. The scope of work must address the unique, unusual and variable appraisal performance requirements of the appraisal. Either the appraiser or the agency may recommend modifications to the initial scope of work, but both parties must approve changes.

SCOPE OF WORK: The appraiser must, at a minimum:

1. Provide an appraisal meeting the definition of an appraisal found at 49 CFR 24.2(a)(3).
2. Afford the property owner or the owner's designated representative the opportunity to accompany the appraiser on the inspection of the property.
3. Perform an inspection of the subject property. The inspection should be appropriate for the appraisal problem, and the scope of work should address:
 - The extent of the inspection and description of the neighborhood and proposed project area,
 - The extent of the subject property inspection, including interior and exterior areas,
 - The level of detail of the description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, the remaining property),
4. In the appraisal report, include an adequate description of the physical characteristics of the property being appraised (i.e., sketch of the property and provide the location and dimensions of any improvements) and a description of comparable sales. The appraisal report should also include adequate photographs of the subject property and comparable sales, and provide location maps of the property and comparable sales
5. In the appraisal report, include items required by the acquiring agency, including but not limited to the following:

- Property right(s) to be acquired, e.g., fee simple, easement, etc.,
- Value being appraised (usually fair market value), and its definition
- Appraised as if free and clear of contamination (or as specified),
- Date of the appraisal report and the date of valuation,
- A realty/personalty report as required by 49 CFR 24.103(a)(2)(i),
- Known and observed encumbrances, if any,
- Title information,
- Location,
- Zoning,
- Present use, and
- At least a 5-year sales history of the property.

6. In the appraisal report, identify the highest and best use. If highest and best use is in question or different from the existing use, provide an appropriate analysis identifying the market-based highest and best use.

7. Present and analyze relevant market information. *(Specific requirements for market information should be included in the agency's appraisal procedural manual and should include research, analysis, and verification of comparable sales. Inspection of the comparable sales should also be specified.)*

8. In developing and reporting the appraisal, disregard any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project. *(If necessary, the appraiser may cite the Jurisdictional Exception or Supplemental Standards Rules under USPAP to ensure compliance with USPAP while following this and other Uniform Act requirements.)*

9. Report his or her analysis, opinions, and conclusions in the appraisal report.

ADDITIONAL REQUIREMENTS FOR A SCOPE OF WORK:

INTENDED USE: This appraisal is to estimate the fair market value of the property, as of the specified date of valuation, for the proposed acquisition of the property rights specified (i.e., fee simple, etc.) for a Federally assisted project.

INTENDED USER: The intended user of this appraisal report is primarily the acquiring agency, but its funding partners may review the appraisal as part of their program oversight activities.

DEFINITION OF FAIR MARKET VALUE: This is determined by State law. Fair market value, however, is generally defined as the price that a seller is willing to accept and a buyer is willing to pay on the open market in an arm's length transaction, and usually includes the following:

1. Buyer and seller are typically motivated;
2. Both parties are well informed or well advised, each acting in what he or she considers his or her own best interest;
3. A reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in U. S. dollars or in terms of financial arrangements comparable thereto; and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

CERTIFICATION: The appraisal shall include a certification of the appraiser (see attached sample or insert agency's certification).

ASSUMPTIONS AND LIMITING CONDITIONS: The appraiser shall state all relevant assumptions and limiting conditions. In addition, the acquiring agency may provide other assumptions and conditions that may be required for the particular appraisal assignment, such as:

- The data search requirements and parameters that may be required for the project.
- Identification of the technology requirements, including approaches to value, to be used to analyze the data.
- Need for machinery and equipment appraisals, soil studies, potential zoning changes, etc.
- Instructions to the appraiser to appraise the property "As Is" or subject to repairs or corrective action.
- As applicable include any information on property contamination to be provided and considered by the appraiser in making the appraisal.

CERTIFICATE OF APPRAISER - SAMPLE

I hereby certify:

That on _____ date(s), I personally made a field inspection of the property herein appraised and have afforded the owner or a designated representative the opportunity to accompany me on this inspection. I have also personally made a field inspection of the comparable sales relied upon in making said appraisal. The property being appraised and the comparable sales relied upon in making this appraisal were as represented in the appraisal.

That to the best of my knowledge and belief the statements contained in the appraisal herein set forth are true, and the information upon which the opinions expressed therein are based is correct; subject to the limiting conditions therein set forth.

That I understand that such appraisal may be used in connection with the acquisition of property for a project utilizing U.S. Department of Housing and Urban Development funds.

That such appraisal has been made in conformity with appropriate laws, regulations, and policies and procedures applicable to appraisal of property for such purposes; and that to the best of my knowledge no portion of the value assigned to such property consists of items which are noncompensable under the established law of said State.

That any decrease or increase in the fair market value of real property prior to the date of valuation caused by the project for which such property is acquired, or by the likelihood that the property would be acquired for such project, other than that due to physical deterioration within the reasonable control of the owner, was disregarded in determining the compensation for the property.

That neither my employment nor my compensation for making this appraisal and report are in any way contingent upon the values reported herein.

That I have no direct or indirect present or contemplated future personal interest in such property or in any benefit from the acquisition of such property appraised.

That I have not revealed the findings and results of such appraisal to anyone other than the proper officials of the acquiring agency or officials of the U.S. Department of Housing and Urban Development and I will not do so until so authorized by said officials, or until I am required to do so by due process of law, or until I am released from this obligation by having publicly testified as to such findings.

That I have not given consideration to, or included in my appraisal, any allowance for relocation assistance benefits.

That my opinion of the fair market value of the property to be acquired as of the _____ day of _____ 20 _____ is \$ _____ based upon my independent appraisal and the exercise of my professional judgment.

Name _____ Signature _____

Date _____

(Note: Other statements, required by the regulations of an appraisal organization of which the appraiser is a member or by circumstances connected with the appraisal assignment or the preparation of the appraisal, may be inserted where appropriate.)

SAMPLE AGREEMENT FOR APPRAISAL SERVICES **(ACQUISITION)**

THIS PROFESSIONAL SERVICES AGREEMENT, entered into this ____ day of _____, 20 __, by and between _____ of the City of _____, State of _____, hereinafter referred to as the "Agency", and _____, hereinafter referred to as the "Appraiser".

WITNESSETH THAT:

WHEREAS, the Agency proposes to acquire certain real property and desires that the Appraiser furnish the Agency certain services with respect to such property, including an appraisal of each parcel of the property, and the Appraiser represents that he is fully qualified to perform such services and will furnish such services personally; and

WHEREAS, the services to be provided under this Agreement are necessary to achieve the purposes of _____ and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act).

NOW, THEREFORE, the Agency and the Appraiser, for the consideration and under the conditions hereinafter set forth, do agree as follows:

ARTICLE 1. Property To Be Appraised. A description of the real property to be appraised, including an identification of any interests in the real property to be specifically excluded from appraisal, are set forth in the attached Attachment A. A separate appraisal is to be furnished for each "parcel". (The term "parcel" means any tract or continuous tracts of land in the same ownership, whether any such tract consists of one or more platted lots for a fractional part of a lot. An easement or other separately held interest in two or more parcels shall be considered to be a separate parcel for appraisal purposes and an exception to the title to the parcels so encumbered. An easement in a parcel that is appurtenant to another parcel to be acquired by the Agency shall be considered parcel encumbered). Each parcel shall be considered to include all right, title, and interest of the owner in or to any adjacent or abutting streets, alleys, or other public rights of way.

ARTICLE 2. Purpose and Basis of Valuations.

- (a) Purpose and Significance of Appraisals. The appraisals to be furnished under this agreement are required by the Agency for its guidance in making fair and impartial determinations of fair market value and the just compensation to be offered to each property owner. The Appraiser shall be guided by those objectives when estimating values. Appraisal reports will be reviewed carefully by the Agency.

Accordingly, the text of each appraisal report must cover all matters germane to the required valuation findings and must provide a full explanation of the Appraiser's reasoning and his analyses of the evidence of value, so that a reviewer will be able to follow the Appraiser's analyses and understand how he reached his valuation conclusions.

- (b) Appraisal Requirements. The appraisals under this agreement shall be based on nationally recognized appraisal standards and techniques to the extent that such principals are consistent with the concepts of value and the rules on the admissibility of evidence of value under the eminent domain law of the State.

Factors relating to race, color, religion, sex or national origin, or to racial, religious and ethnic identification of neighborhoods are not relevant to the estimation of value and shall not be considered in connection with appraisals of residential real property.

- (c) Date of Valuation. The Appraiser's valuation shall be as of a date concurrent with the preparation of his report, unless the Agency has specified some other date of valuation.
- (d) Relocation Assistance. The Appraiser's analyses and opinions or property value shall not reflect any allowance for the relocation payments and other assistance provided under Title II of the Uniform Act.
- (e) Influence of Project on Property Value. In forming his opinion(s), the Appraiser shall disregard any decrease or increase in the fair market value of the real property to be acquired, prior to the date of valuation, caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for such project, other than that due to physical deterioration within the reasonable control of the owner. (In the case of a partial acquisition, using the before-and-after method of valuation, the Appraiser's opinion of the value of the remaining not-to-be-acquired portion of the property shall reflect any increase or decrease in value attributable to the project.) If the determination of changes in value caused by the project is a problem, the Appraiser's report shall cite the ruling followed and its source and shall explain the effect of the ruling on his opinion of value.

ARTICLE 3. Scope of Appraiser's Services. The Appraiser agrees to perform the following services.

- (a) Appraise each parcel and prepare and deliver to the Agency, within _____ calendar days after the date of this agreement, _____ copies of the appraisal reports conforming to the provisions of this agreement. The Appraiser shall personally inspect each parcel, including all buildings, structures, fixtures, and other improvements to the property. The Appraiser shall give the owner or his designate representative an opportunity to accompany the Appraiser during his detailed inspection of the property. If the owner is of a compensable interest in the property or a representative of such owner does not accompany the Appraiser during the inspection, the Appraiser shall include in his appraisal report a copy of his notification to the owner of the opportunity to accompany the Appraiser and evidence of the owner's receipt of such notification. In the process of inspecting the property, the Appraiser shall, to the extent practicable, ascertain the rights of all parties in possession and note for consideration all factual information and comments furnished by the owner or his representative relevant to the appraisal.
- (b) Testify as an expert witness in behalf of the Agency in any judicial proceeding involving any property appraised under this agreement. Such services shall include such reasonable time as may be required for re-inspection of the property, updating the Appraiser's valuation, participation in pretrial conferences with counsel for the Agency, and testifying in the judicial proceeding. The compensation for such services shall be determined in accordance with Article 6.
- (c) Modify or furnish supplements to any appraisal report furnished under this agreement, without additional cost to the Agency, if (1) applicable principles of law with respect to the valuation of the property require the modification or supplementing of such appraisal, (2) material omissions, inaccuracies, or defects in the appraisal report are discovered after delivery and acceptance of the report by the Agency or (3) the Appraiser receives or becomes aware of relevant additional appraisal information in existence prior to the date the Appraiser signed the report. If there is a significant delay between the date of valuation and the date of acquisition of any parcel or if the property has been materially altered since the appraisal by a fire, a revised determination of the boundaries of the property to be acquired, or other cause, the Appraiser shall, if requested by the Agency, furnish the Agency a supplementary report updating this valuation and the supporting data and analysis to a current date. The compensation for such updating of an appraisal shall be determined in accordance with Article 6.

- (d) Estimate the value of any right or interest proposed to be reserved by the owner in a property appraised by the Appraiser, such as an easement for access to other property of the owner, the right to continue occupancy for an extended period after the Agency acquires the property, or the right to remove any building, structure, fixture, or other improvement. The compensation to be paid to the Appraiser for furnishing any such valuation shall be determined in accordance with Article 6.
- (e) Consultant with the Agency and its legal counsel regarding services to be performed by the Appraiser, at such time(s) as may be mutually convenient for the parties to this agreement. The Appraiser shall initiate such consultations whenever he is in doubt as to whether an element of property is real or personal property or needs legal advice on any aspect of the appraisals to be furnished under this agreement. There shall be no charge by any party for such consultations.

ARTICLE 4. Contents of Appraisal Reports. Each appraisal report to be furnished by the Appraiser under this agreement shall contain certain information and the Appraiser's conclusions and opinions, together with the data and analysis by which they were derived, as set forth below. A separate report shall be submitted for each parcel. However, if more than one parcel is to be appraised, all general data may be included in a separate data volume that is referenced in the separate appraisal reports on the individual parcels. The appraisal report on each parcel shall include the following:

- (a) A summary headed "Appraisal Report for (name of Agency)" that provides the following:
 - (1) Project name and number.
 - (2) Date of the report.
 - (3) Parcel number, address of the property, brief identification of all interests in the property appraised, and the name of the owner(s) including any tenant-owners.
 - (4) Date(s) of the Appraiser's inspection of the property with the owner(s) or the owner's designated representative, including the name of each owner or representative of an owner who accompanied the Appraiser during his inspection and the interest held in the property or the representative capacity of each such person.
 - (5) The Appraiser's estimate of the fair market value of the entire parcel and the fair market value of the same interest in the land, as if vacant.
 - (6) The limiting conditions of the appraisal, which may include assumptions (i) that the title is good and marketable, (ii) that no responsibility is assumed by the Appraiser for legal matters, especially those affecting the title to the property, (iii) that the legal description of the property and the interest in the property to be appraised, furnished to the Appraiser by the Agency, is correct, and (iv) that no survey of the property has been made. Any other appropriate assumption or limiting condition may be added if it has been specifically approved in writing by the Agency.
 - (7) The certifications of the Appraiser (i) that he personally made a through inspection of the property (ii) that, to the best of his knowledge and belief, everything contained in the report is true and no relevant and important fact has been omitted, (iii) that neither his employment nor his compensation is contingent on the valuation reported, and (iv) that he has no past, present, or prospective interest (including that of real estate agency or broker) in the property, the parties involved, or any other interest that would conflict in any way with the services performed or the making of an impartial report.
 - (8) A certification that, in the Appraiser's opinion, the fair market value of the property is (an amount to

be stated) as of (the date of valuation).

- (9) The signature of the Appraiser
- (b) The name and address of the owner of the property and the name of any other party known or believed to hold a separate compensable interest in the property.
- (c) The street address and an accurate description of each parcel and all interests in the parcel appraised. The property description shall identify all conditions, restrictions, easements, servitudes, and reservations affecting the title. The property description shall specifically exclude and describe any separately held interest in the property that is to be acquired separately or as part of another parcel. The description shall also specifically exclude all separately held interests which are not to be acquired and will not be affected adversely by the Agency's project. If there are any separately held interests in a parcel, which are to be acquired with other interests in the same parcel, such as leaseholds, tenant-owned improvements, life estates, easements, and water, gas, oil, or mineral rights, a description of each such separate interest and the name of its owner shall be furnished.
- (d) Off-record title information concerning interests or instruments that affect title, but are not of record, such as leases, options to renew a lease, contracts of sale, and other interests or rights of parties in possession. Such information shall be reported, and if available facts are sufficient, the Appraiser's report shall be based on such additional title information and so noted in the appraisal report. Otherwise, the Appraiser shall refer the matter to the Agency and defer completion of the appraisal until the question is resolved.
- (e) Basic property data including pertinent information with respect to such matters as (1) the environment and location of the property, (2) the zoning and any restrictive covenants, conditions, or servitudes affecting the available use or occupancy of the land, (3) the assessed value of the real property and the current annual real estate tax burden, (4) the use and occupancy of the property at time of appraisal, (5) the public improvement, services, and utilities serving and providing access to the property, (6) the character, topography, dimensions, and area of the land, (7) the freedom of the property from special hazards, (8) the current rental and rental history of the property, if rented, (9) the estimated annual costs of ownership and for operation and maintenance of the property, and (10) a description of the buildings, structures, and other improvements, if any, including relevant information as to type of improvement, designed use, construction materials and finish, equipment, dimensions, floor area, age, condition, space or room arrangement, functional utility, and any other characteristics or attributes of the improvements germane to the value of the real property. The appraisal report shall contain a general sketch plat showing the shape and dimensions of the land, the location of the principal improvements on the land, the location of any easements in the land, and the abutting streets, alleys, or other public right of way. The report shall also include such photographs, clearly identified, as may be appropriate.
- (f) Report of any condition or occupancy of the property in violation of law that may affect the value of the property.
- (g) The Appraiser's opinion as to the highest and best use for the property. The appraisal report shall also include the Appraiser's opinions as to any other use(s) for which the property is reasonably suitable or adaptable. If the property is unused vacant land or the highest and best use is not self-evident or is found to differ significantly from the present use, the appraisal report shall contain the analysis by which the Appraiser reach his conclusions as to the highest and best use and as the relative suitability or adaptability of the property for any other use(s) for which the property could reasonably be considered to be suitable or adaptable. The analysis of a potential use shall include consideration of relevant matters, such as the suitability of the location, the environment and the legal and physical attributes of the property for such use, the estimated cost, if any, of converting the property to such use, and the supply, sale price levels, and

relative desirability of other properties that would compete for the same kind of use. The analysis of the property for the future use or uses found to be the highest and best use is part of the process of appraising the property and, therefore, may be included in the valuation analysis furnished in accordance with Paragraph 4 (h) below.

- (h) The opinion of the Appraiser as to the fair market value of the property. The appraisal report shall contain a description of the reasoning process used by the Appraiser in reaching his conclusion as to value and all data and analysis needed to explain and support his valuation. The supporting data and analysis furnished in the appraisal report shall include the following:
- (1) An analysis of the property, from the point of view of evaluating the effect of its characteristics and attributes on its value for the available use or uses for which the property is best suited. Particular attention shall be given to the characteristics or the property most relevant to its value, such as, in the case of an investment property, the income potential and the expenses of ownership, maintenance, and operation.
 - (2) An identification of the most recent sale of each property appraised and any other sales of such property during the last five (5) years preceding the appraisal. Such sale(s) of the property appraised and all recent sales of comparable properties considered by the Appraiser in forming his opinion(s) of fair market value shall be verified insofar as practical. The information furnished with respect to each such sale shall include, among other pertinent facts, the names of the grantor and grantee, the date of the sale, the sale price, any special terms or conditions or circumstances of the sale that affected the transaction, and a description of the property and its condition at time of sale in sufficient detail for use in making the appraisal.
 - (3) The analysis that constitute the principal basis for the Appraiser's opinion of the fair market value. The appraisal report shall contain the Appraiser's evaluation with respect to previous sales of the property appraised and any recent offer of the owner to sell the property. The appraisal report shall also contain the Appraiser's analysis of each comparable property and its sale in relation to the property appraised. The Appraiser's analysis shall reflect appropriate allowances for the difference in the time of the sale of the comparable properties and the date of appraisal and the differences in the utility, desirability, and productivity of the properties that are pertinent to their relative value. The appraisal report shall contain a valuation data map showing the location of the property appraised and the comparable properties referred to in the appraisal report.
 - (4) All other information, analysis, and estimates considered by the appraiser to be relevant to the estimation of the fair market value of the property.
 - (5) If the property appraised is part of a larger parcel in the same ownership or is less than the entire interest of the owner in the property, the appraisal report shall contain the Appraiser's opinion of just compensation for taking of such property or interest, using the before-and-after method of valuation as interpreted under State law unless it is obvious that there would be no damages or benefits to the remaining property or interest of the owner. However, if the part or interest to be taken can be more accurately estimated directly, that method may be used if permitted under State law, without estimating the fair market value of the entire property of the owner. The foregoing opinions of the Appraiser shall be supported in his report by the data and analysis by which he reached his conclusions.

For information purposes, the appraisal report shall also contain the Appraiser's estimates of the fair market value of the to-be acquired part of the whole property and the net damages or benefits to the remaining property of the owner. If in the opinion of the Appraiser, acquisition of the part of, or interest in, the property proposed for acquisition would leave the owner with an uneconomic

remnant, the Appraiser shall furnish a separate estimate of the fair market value of a "parcel" comprising both the parcel proposed for acquisition and the uneconomic remnant. (A remainder parcel or interest shall be considered to be an uneconomic remnant if by itself it has little or no utility or value to the owner.)

- (6) Such maps, plans, photographs, or other exhibits, as necessary, to explain or illustrate the analysis of the Appraiser.
 - (7) The Appraiser's evaluation of the indications of value deduced from his separate analysis of the various evidences of value and an explanation of how he reached his final conclusion as to the fair market value of the property.
- (i) The opinion of the Appraiser as to the fair market value of the land, as if vacant. The valuation shall be for the same interest in the land as is to be acquired in the real property. The report shall contain information with respect to the available use or uses for which the land would be suitable if vacant, the opinion of the Appraiser as to its highest and best use, and the Appraiser's analysis of the evidences of value and of the use potential by which he reached his conclusions as to the highest and best use of the and the land value.
 - (j) A property analysis if the property is a commercial, industrial, institutional, governmental, or farm property that involves substantial quantities and kinds of fixtures such as machinery and equipment. Any building, structure fixture, or other improvement, which would be real property if owned by the owner of the land, shall be considered to be real property (even if the improvement is the property of a tenant who has the right to remove it or the obligation to remove it at the expiration of his term). The property analysis must be approved by the Agency before the appraisal is completed and, as approved by the Agency, shall be included as an exhibit in the Appraiser's report. The property analysis shall list, identify, and classify as to ownership and type of improvement, all items of physical property considered to be part of the real property. The property analysis shall also identify tangible personal property located on the premises to the extent reasonably necessary to prevent misunderstandings as to what is regarded as being real or personal property. Buildings, structures, fixtures and other improvements, including their accessories and spare parts, shall be identified and classified as to ownership and type of property as follows:
 - (1) Ownership.
 - (i) Owner of the land.
 - (ii) Each tenant in occupancy.
 - (iii) Each non-occupant owner of any fixtures or other improvements, or personal property on the premises.
 - (2) Type of property.
 - (i) Building, structure, or fixed improvement.
 - (ii) Building equipment, removable.
 - (iii) Fixtures, classified as to whether economically removable for reuse, removable for salvage only, or irremovable.
 - (iv) Personal property, identified as to types and approximate amounts, or

otherwise, as needed to prevent misunderstandings as to the classification of any item.

If any building, structure, fixture of other improvement is not to be acquired, it will not be adversely affected by the Agency's project, and will not be required by the agency to be removed, such as a pipeline in an easement not to be acquired, such improvement shall be identified as excluded from the appraisal.

(k) If machinery and equipment or other fixtures used in a trade or business, farm operation, or institutional or governmental function constitute part of the real property, the appraisal report shall contain a separate schedule which provides separate estimates for each item, as prescribed below. If there is more than one owner of such items, a separate schedule shall be furnished for each owner. The information and conclusions to be furnished on each item are as follows:

- (1) Description of the item, including, as appropriate, the manufacturer, model and serial number, size or capacity, age and condition, and degree of obsolescence. Accessories and spare parts, special foundations, and power wiring and process piping generally shall be listed separately, following the listing of the item(s) to which they apply.
- (2) Estimate of the replacement cost installed of the item as listed and identified (exceeding any elements listed separately). Separately identify the basis of estimated replacement cost (new or used).
- (3) The contributive (enhancement) value of the item to the fair market value of the real property as a whole.
- (4) Estimated fair market value of the item for removal from the property at a purchaser's expense. Such value shall be considered to be the probable selling price if the item were offered for sale for removal from the property at the purchaser's expense, allowing a reasonable time to find a purchaser buying with knowledge of the uses and purposes for which it is adaptable and capable of being used, including salvage for serviceable components and scrap when it appears that will provide the highest value.

The schedule(s) of estimates shall be consistent, with the property analysis approved by the Agency, as provided in Paragraph 4 (j). The Appraiser is permitted to use the services of such technical specialists as may be needed to enable the Appraiser to provide valid estimates and sound valuations. The schedule(s) shall be supported by an explanation of the procedures followed in gathering the necessary market information and technical data. The principal purpose of the Appraiser's accompanying narrative, however, must be to explain his analysis and his evaluations of the dollar amount of the overall contribution of the machinery, equipment, and fixtures to the fair market value of the real property as a whole. The report shall contain any layout plans, sketches, or photographs that are reasonably necessary for locating or identifying the facilities or illustrating the Appraiser's analysis.

- (l) If there are separately held interests in the real property to be acquired, such as easements, leasehold, air rights, life estates, and oil, gas, or mineral rights, and the division or ownership is not of such character as to destroy the practical unity of the property, the Appraiser shall apportion his estimate of the fair market value to the property (all interests in the property to be acquired) to each separately held interest. (However, tenant-owned improvements shall be valued in accordance with Paragraph 4 (m) below.) The report shall contain the data, analysis, and reasoning by which the Appraiser made the apportionment. If the "unit rule" is regarded as not applicable because the division of ownership is such as to diminish the fair market value of the property as a whole, the separate interests involved shall be appraised separately.
- (m) Tenant-owned improvements. If any building, structure, fixture, or other improvement to the property is identified as being the property of a tenant who has the right or obligation to remove it as the expiration of

his term, the Appraiser's estimate of the fair market value of the improvement shall be the greatest of (1) the amount which the improvement contributes to the fair market value of the property, (2) the in-place value of the improvement as part of the real property (the depreciated replacement cost of the improvement installed), or (3) the fair market value of the improvement for removal from the property at the purchaser's expense. The appraisal report shall state the basis for the valuation of the improvement and furnish the data and analysis on which the valuation was made.

- (n) If the property is a multi-family or mixed-use (residential and non-residential) property and owner of a compensable interest in the property also occupies a dwelling in the property, the Appraiser shall furnish an apportionment of his estimate of the fair market value of the whole property to such dwelling and to the remainder of the property. For the purpose of this paragraph, an occupant of a dwelling shall be considered to own a compensable interest in the property if he holds fee title, a life estate, a 99-year lease, or a lease with not less than 50 years to run from the date of valuation, or holds an interest in a cooperative housing project which includes the right to occupy the dwelling, or is the contract purchaser of any of the foregoing estates or interests, or has a leasehold interest with option to purchase. The Appraiser's report shall explain how he made the apportionment.

ARTICLE 5. Services To Be Provided By Agency. The Agency agrees to furnish the Appraiser with the following:

- (a) A map or plat, based on official records, of the property described in Article 1, showing the boundaries and dimensions of the parcels to be appraised. Each parcel shall be designated by a number, and the parcel numbers shown on the Appraiser's reports shall correspond to the parcel numbers shown on the map or plat. However, additional parcel numbers may be assigned by the Appraiser for easements appraised separately or for additional parcels revealed while making the appraisals. The Appraiser shall promptly advise the Agency of any such additions.
- (b) An ownership data report for each parcel. That report will show all estates and interests in the parcel as shown of record and consequently shall not be assumed to accurately define the interests to be appraised. The ownership data report on each parcel as shown on the parcel map will include the following:
- (1) The name (and address, if available) of the owner appearing on record;
 - (2) The legal description of the parcel as shown by the conveyance(s) by which the record owner acquired title;
 - (3) Identification of the conveyance(s) by which the present owner acquired title, including the date of the conveyance(s); the date, book and page numbers, and place of recordation; the name (and address, if available) of the grantor of such conveyance; the stated consideration; the amount of any mortgages or encumbrances placed on record or to which title was subject at time of conveyance (so far as determinable from an examination of the conveyance); and the amount of any State or local transfer taxes that were based on the amount of the consideration;
 - (4) Outstanding estates and other rights or interests of record, including easements, use restrictions, mineral rights, leases, and any know, but unrecorded, interests of other parties. Sufficient information shall be furnished to disclose the probable effect of such outstanding interests on the title of the record owner;
 - (5) Outstanding special assessments, if any, for public improvements such as streets, sidewalks, public utilities, and similar public facilities;
 - (6) The amount of real estate taxes for the current year and the assessed valuation stated separately for

land and for improvements.

- (c) Legal advice, upon request of the Appraiser, on legal matters affecting the appraisal of any property to be appraised.

ARTICLE 6. Payment. In consideration of the services provided by the Appraiser under this agreement, the Agency agrees to make payment to the Appraiser upon the submission to the Agency of properly certified invoices, as follows:

- (a) For appraisal reports accepted by the Agency, and for all other services furnished in accordance with Article 3, except services furnished in connection with judicial proceedings under Paragraph 3 (b), the updating of appraisals under Paragraph 3 (c), and the valuation of reservations of rights in owners under Paragraph 3 (d), the lump sum of _____ dollars, which shall constitute full payment to the Appraiser for all of such services and for all supplies, materials, and equipment used or furnished by the Appraiser and all expenses incurred by the Appraiser in connection with the performance of such services.
- (b) For services furnished by the Appraiser in connection with judicial proceedings as provided in Paragraph 3 (b) (except services as an expert witness in such a proceeding), the updating of appraisals as provided in Paragraph 3 (c), and the valuation of reservations of rights in owners as provided in Paragraph 3 (d), _____ dollars per hour or fraction of an hour actually engaged in performing the services, including travel expense and subsistence, shall be borne by the Appraiser.
- (c) For services and an expert witness for the Agency in judicial proceedings as provided in Paragraph 3 (b), the Appraiser and the Agency hereby agree that the fair and reasonable compensation for the Appraiser's services shall be _____ dollars for each day's attendance in court.

ARTICLE 7. Agreements of Appraiser. As an inducement to the execution of this agreement by the Agency in consideration of the agreements to be performed by the Agency, the Appraiser agrees to the following:

- (a) Qualifications. The Appraiser is qualified to perform the services to be furnished under this agreement and is permitted by law to perform such services, and all personnel engaged in the work shall be qualified and so permitted to do the work they perform. Attached as Attachment B, is a statement by the Appraiser, certified by him to be true and correct, setting forth his technical qualifications, general appraisal experience, specific experience in appraising properties of the type involved in this agreement, the courts in which he has testified as an expert witness, and other information pertinent to establishing his technical qualifications.
- (b) Solicitation of Agreement. The Appraiser has not employed any person to solicit this agreement and has not made, and will not make, any payment or any agreement for the payment of any commission, percentage, brokerage, contingent fee, or other compensation in connection with the procurement of this agreement.
- (c) Interests of Appraiser and Appraiser's Employees. The Appraiser does not have any interest (including that of real estate agent or broker), direct or indirect, present or prospective, in any property described in Article 1 or in its sale, or any other interest, whether or not in connection with the property, which would conflict in any manner or degree with the performance of the services and the submission of impartial reports, and has not employed and will not employ, in connection with the services to be furnished under this agreement, any person having any such interest. Until the property is acquired by the Agency or excluded from its project by resolution of its governing body, the Appraiser and any employees of the Appraiser, so long as they are employed by the Appraiser, will not acquire any such interest and will not, for their own

account or for other than the Agency, negotiate for any of the property, perform services in connection with the property, or testify voluntarily as a witness in a condemnation or other proceeding with respect to the property.

- (d) Services To Be Confidential. All services, including reports, opinions, and information, to be furnished under this agreement are confidential and shall not be divulged, in whole or in part, to any person, other than to duly authorized representatives of the Agency, without prior written approval of the Agency, except by testimony under oath in a judicial proceeding or as otherwise required by law. The Appraiser shall take all necessary steps to ensure that no member of his staff or organization divulges any such information except as may be required by law.
- (e) Facilities and Personnel. The Appraiser has and will continue to have proper facilities and personnel to perform the services and work agreed to be performed. If the Appraiser proposes to employ any person or persons to make any appraisals of machinery and equipment or other specialized elements or attributes of a property appraised under this agreement, the employment of such person or persons for such purpose shall not place the Agency under any obligation of such employee, nor relieve the Appraiser of full responsibility for the faithful performance of the services to be furnished under this agreement.
- (f) Assignment. The Appraiser's rights, obligations, and duties under this agreement shall not be assigned in whole or in part, but shall not prohibit the assignment of the proceeds due under this agreement to a bank of financial institution. This agreement may be assigned by the Agency to any corporation, agency, or instrumentality having authority to accept the assignment.
- (g) Subcontracting. None of the work or services covered by the agreement shall be subcontracted without the prior approval of the Agency.
- (h) Records. The Appraiser shall maintain records of all details with respect to the services to be performed under this agreement, including one complete copy of each appraisal report and related notes, for three (3) years after delivering the report or until the property is acquired by the Agency or the acquisition is abandoned, whichever is later.
- (i) Affidavits of Compliance. The Appraiser will, if requested by the Agency, furnish the Agency affidavits certifying compliance with the provisions of this Article 7.

ARTICLE 8. Changes. The Agency, by written notice to the Appraiser, may modify the scope of quantity of the services to be furnished under this agreement. If such changes cause and increase or decrease in the amount of services to be provided by the Appraiser or in the time required for their performance, equitable adjustment shall be made in the provisions of this agreement for payments to the Appraiser or for the time for performance of the services or for both, and this agreement shall be modified by agreement of the parties accordingly.

ARTICLE 9. Notices. Any action by the Agency under this agreement may be taken by _____, or such other person(s) as the Agency may, by written notice to the Appraiser, designate for such purpose. All notices to the Appraiser shall be considered to be properly given if mailed to the address specified below, or delivered personally to the Appraiser. All notices or other papers given to the Agency shall be considered to be sufficiently given if mailed, postage prepaid to _____, at _____, or to such other representative or address as the Agency may designate to the Appraiser in writing.

ARTICLE 10. Contract For Professional Services. Contract must include the special Equal Opportunity and Supplemental Conditions found in the Public Facilities chapter of the Handbook.

IN WITNESS WHEREOF, the Agency and the Appraiser have executed this agreement on or as of the date first above written.

(Appraiser)

(Street Address)

(City) (State) (Zip Code)

(Agency)

By: _____

Sample Invitation to Accompany an Appraiser

(Date)

Name of Property Owner
Address
City, State, Zip

Dear Property Owner:

I have been requested by the City of _____ to prepare an appraisal of your property on _____(Address)_____. I will visit the property on _____(date)_____. If you wish to accompany me, please phone me at _____(phone number)_____ to arrange a mutually convenient time.

Sincerely,

Appraiser

Sample Review of Appraisal

After reviewing the appraiser's supporting data and documentation, it is my recommendation that the \$_____ established as fair market value for the purchase of Lot 8, Square 6, Post Extension is sound and accurate. The appraiser's report is complete and the methods utilized conform with recognized appraisal practices.

The appraisal report documents the determination of fair market value through:

A. A Cost Approach

The appraiser estimated the value of the land through the search for vacant land sales. S/he compared land sales with six recent land sales, then adjusted for time and points of difference. In addition, replacement costs for new living area based on the actual square footage of the area were estimated at a standard rate. Depreciation based on age and observed condition was subtracted from this total. All mathematical computations are accurate and were reached using sound judgment.

B. Market Data Approach

The appraiser searched the sale of sixteen properties of which three were comparable to subject property. The Factual Data report is accurate. The sales were adjusted for points of difference.

The qualifications of the appraiser are excellent meets the qualification standards. Accurate maps and photographs were included in the report.

Date

Signature of Review Appraiser

Address

City, State, Zip

Telephone Number

SAMPLE WRITTEN OFFER TO PURCHASE

(Date)

Name of Property Owner

Address

City, State, Zip

Dear Property Owner:

This will introduce to you (Name of Agency Representative) , who represents the City/County of _____, Kentucky, in the capacity of Right-of-Way Agent and who will discuss with you the acquisition by the city/county of the property, which our records indicate is owned by (Property Owner) . This property is required for construction of the proposed addition to (Name of Project) .

We have had the property appraised by a competent and unbiased fee appraiser and this report has been thoroughly analyzed by a competent review appraisal analyst and found to be well supported. Based on the appraisal and review, the city/county hereby makes you a firm offer in the amount of \$_____ for the purchase of your property.

We feel that the above offer is most equitable and we urge your favorable consideration and acceptance of it. If this meets with your approval, (Name of Agency Representative) will assist in any way convenient to you in finalizing the acquisition.

Thank you very much for your cooperation and favorable consideration of this offer.

Very truly yours,

(Signature of Appropriate Person)

Enclosure: Statement of the Basis for the Determination of Just Compensation

Sample Statement of Settlement Costs

Identification of Property _____

Purchase Price \$ _____

Expenses Incidental to Transfer of Title	Paid by City	Paid by Owner	Total
1. Recording Fees	\$	\$	\$
2. Transfer Taxes	\$	\$	\$
3. State Tax Stamps	\$	\$	\$
4. City/County Tax Stamps	\$	\$	\$
5. Survey and Legal Description	\$	\$	\$
6. Penalty Costs Associated with Prepayment of Pre-Existing Recorded Mortgages	\$	\$	\$
7. Pro Rata Portion of Pre-Paid Taxes and Public Service Charges	\$	\$	\$
a. Real Property Taxes (County)	\$	\$	\$
b. Real Property Taxes (City)	\$	\$	\$
c. Water Service	\$	\$	\$
d. Sewage Service	\$	\$	\$
e. Trash Collection	\$	\$	\$
TOTAL	\$	\$	\$

This statement of settlement costs is certified as true and correct.

Signed: _____ Date: _____
 Closing Attorney

**Community Development Block Grant
Sample Real Property Acquisition Checklist**

	Donated Easements	Voluntary Sale	Acquisition
1. Title search/clearance of title			
2. HUD brochure <i>When a Public Agency Acquires Your Property</i> and evidence of receipt			
3. Evidence of invitation to accompany appraiser			
4. Appraisal report/determination of fair market value			
5. Donation waiver (<i>if applicable</i>)			
6. Justification for any properties not appraised			
7. Review appraisal report			
8. Written statement of just compensation			
9. Written offer to purchase and evidence of receipt			
10. Sale Contract			
11. Statement of settlement cost and evidence of receipt			
12. Receipt of purchase price or copies of cancelled checks			
13. Notice of intent not to acquire (<i>if acquisition terminated</i>)			
14. Court Resolution (<i>if condemnation</i>)			
15. Correspondence/Contact Log			

GUIDEFORM NOTICE
VOLUNTARY ACQUISITION – Agency with Po
- Informational Notice -
(Agencies Without Eminent Domain Authority)

Grantee or Agency Letterhead

(date)

Dear _____:

(Name of Agency/Person) _____, is interested in acquiring property you own at (address) _____ for a proposed project which may receive funding assistance from the U.S. Department of Housing and Urban Development (HUD).

Please be advised that (Name of Agency/Person) _____ does not have authority to acquire your property by eminent domain. In the event we cannot reach an amicable agreement for the purchase of your property, we will not pursue this proposed acquisition.

We are prepared to offer you (\$) _____ to purchase your property. We believe this amount represents the current market value of your property. Please contact us at your convenience if you are interested in selling your property.

In accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), owner-occupants who move as a result of a voluntary acquisition are not eligible for relocation assistance.

If you have any questions about this notice or the proposed project, please contact (name) _____, (title) _____, (address) _____, (phone) _____.

Sincerely,

(name and title) _____

NOTES.

1. The case file must indicate the manner in which this notice was delivered (e.g., certified mail, return receipt requested) and the date of delivery.

2. Tenant-occupants displaced as a result of a voluntary acquisition may be entitled to URA relocation assistance and must be so informed per 49 CFR 24.2(a)(15)(iv) – Initiations of negotiations, and 49 CFR 24 Appendix A - 24.2(a)(15)(iv).
3. This is a guideform. It should be revised to reflect the circumstances.

Chapter 10: Housing

Introduction

Like all other aspects of the KCDBG Program, there are a variety of ways that grantees may use KCDBG funds for housing activities that serve low- and moderate-income households (LMI). However, the majority of grantees in Kentucky will administer housing programs as discussed in this chapter.

This chapter is presented in two parts. Part I provides information pertaining to the implementation of voluntary homeowner rehabilitation programs. Part II reviews involuntary programs, which are programs that involve the acquisition of property through the use of eminent domain in neighborhood revitalization areas. Involuntary programs may also involve other activities such as demolition, rehabilitation, homebuyer assistance, rental housing, etc.

PART I: HOUSING REHABILITATION (VOLUNTARY) PROGRAMS

This part of the Housing Chapter reviews traditional housing rehabilitation activities (also called Voluntary Programs) and provides a step-by-step process for implementing housing rehabilitation programs in compliance with applicable rules and requirements.

Section 10-A. Eligible Activities and National Objectives

The most common type of single-family housing activity undertaken with KCDBG funds is the homeowner rehabilitation program. CDBG-funded homeowner rehab programs assist low- and moderate-income persons that voluntarily apply to the program and are determined to be eligible to bring their homes up to, at a minimum, the International Code Council (ICC) Property Maintenance Code. If the activity is a reconstruction project (due to the condition of the home), the unit must meet the Kentucky Residential Code (KRC).

Housing units are typically owner-occupied single-family structures. However, there are some variations to traditional rehabilitation that involve other CDBG-eligible activities, including:

- ✓ **Demolition and Reconstruction (Rehabilitation).** KCDBG funds may be used for demolition and reconstruction. Reconstruction is the rebuilding of a structure on the same site in substantially the same manner, and is considered a rehabilitation activity. Deviations from the original design (such as the addition of another room) may be permitted for reasons of safety, occupancy, zoning, etc. Note, however, that adding rooms may constitute new construction. Contact DLG for specific questions if reconstruction is anticipated. Reconstruction of residential structures would also permit replacing an existing substandard unit of manufactured housing with a new or standard unit of manufactured housing, or a “stick built” structure if manufactured housing is not allowed under existing zoning.
- ✓ **Conversion.** The cost of converting an existing non-residential structure to residential use by an eligible household or for eligible households is allowed as a rehabilitation activity. KCDBG funds may also be used to rehabilitate rental housing under certain conditions. (Refer to page 20 of this Chapter for guidance that is specific to rental housing rehabilitation.)

Guide to National Objectives and Eligible Activities for State CDBG Program may be downloaded from the HUD Exchange website at: <https://www.hudexchange.info/resource/2179/guide-national-objectives-eligible-activities-state-cdbg-programs/>

✓ **Connections to water/sewer lines and septic systems.** The costs of connecting existing residential structures to water distribution lines or local sewer lines and payment of connection fees are eligible costs. The upgrading or replacement of an existing substandard septic system is also an eligible cost as part of a rehabilitation project, if providing a service lateral is cost prohibitive. Grantees should work with the local health department to determine the criteria for a substandard septic system. Connections to water/sewer lines and replacement or upgrading of septic systems cannot be stand-alone activities. These activities must be completed in conjunction with the rehabilitation of the unit and the unit must be brought up to the International Code Council (ICC) Property Maintenance Code or, if reconstruction, the Kentucky Residential Code (KRC).

✓ **Homeowner Maintenance/Life Skills Education.** Providing education courses to homeowners on various topics such as home maintenance, budget counseling and other life skills is eligible if provided to assisted households as part of a KCDBG funded housing rehabilitation or homebuyer program. If counseling services are provided, DLG requires the grantee to complete the Counseling Report-Homeowner Maintenance/Life Skills Education form (Attachment 10-1).

Attachment 10-1:
Counseling Report-Homeowner
Maintenance/Life Skills
Education Form

Grantees are responsible for publicly announcing housing rehabilitation programs, including funding availability and that the power of eminent domain will not be used under the program. The grantee should also develop and publicize its rating and ranking criteria for beneficiary selection. It is up to the unit of local government to determine what their community's priorities will be based on their community's needs, which should then result in the establishment of the rating and ranking criteria and the points that will be associated with each. (A sample rating and ranking criteria is provided as Attachment 2 to this chapter.) Grantees should make such announcements by placing an advertisement in a newspaper or periodical of general circulation for their citizens and by undertaking additional actions to reach LMI persons (e.g., distribution at a grocery store, church, etc.).

Attachment 10-2:
Sample Rating and Ranking
Advertisement and Criteria for
Voluntary Programs

Ineligible Activities

The general rule is that any activity not specifically authorized under the CDBG regulations is ineligible to be assisted with KCDBG funds. The regulations stipulate that the following activities may not be assisted with CDBG funds:

✓ New housing construction except under certain conditions. Certain types of nonprofit organizations that are undertaking certain kinds of activities may be allowed to utilize CDBG funds for new construction. The conditions under which this may occur are discussed in Section 10-E of this Chapter.

24 CFR 570.204(c)

- ✓ Income payments, which are defined as grants to an individual or family that are used to provide basic levels of food, shelter (i.e., payment for rent, mortgage and/or utilities) or clothing;
- ✓ Luxury or non-standard items, such as swimming pools, Jacuzzis, high-end appliances, window air conditioners, washers and dryers, etc.; and
- ✓ Labor time for sweat equity may not be paid out to recipients of rehabilitation assistance.

Meeting a National Objective

All CDBG-funded activities must not only be eligible, but also meet a national objective. Housing rehabilitation activities must result in permanent, residential housing that will be occupied by low-and moderate-income (LMI) households upon completion.

Occupancy of housing shall be based on the household income of all household members including earned income for members over 18 years of age and unearned income for all household members.

Housing income eligibility uses the following rules:

- ✓ Each single-family unit rehabilitated with KCDBG funds must be occupied by a LMI household.
- ✓ If the structure contains two dwelling units, at least one unit must be occupied by a LMI household.
- ✓ For properties with more than two units, at least 51% of the units must be occupied by LMI households.

For more information on documenting households as LMI, grantees should refer to the section regarding applicant eligibility later in this Chapter.

If a grantee is undertaking a housing activity that does not benefit LMI households, see Part II Involuntary Programs to determine if it is an eligible activity and how to document compliance with another national objective.

24 CFR 570.483(b)(3)

Guide to National Objectives and Eligible Activities for State CDBG Program may be downloaded from the HUD Exchange website at:
<https://www.hudexchange.info/resource/2179/guide-national-objectives-eligible-activities-state-cdbg-programs/>

Earned versus Unearned Income Example:

While the income **earned** by a household member under the age of 18 such as wages from a local fast-food restaurant would not be counted as a part of the total household income, **unearned** income such as SSI benefits paid on behalf of a disabled minor would be included in the calculation of household income.

Section 10-B. Program Guidelines

KCDBG funded housing rehabilitation programs must be consistent with the grant agreement requirements. Any significant variation requires approval from DLG. The grantee must develop program guidelines covering the procedural requirements of its rehabilitation program and administer the guidelines uniformly.

These guidelines should be specific to the project and well defined as to what the grantee requires of the property owner in return for providing the assistance. Guidelines should generally contain the following key elements:

- ✓ Types of financial assistance,
- ✓ Applicant eligibility,
- ✓ Property eligibility,
- ✓ Property standards,
- ✓ Contracting requirements,

-
- ✓ Relocation requirements,
 - ✓ Grievance procedures, and
 - ✓ Maintenance agreements.

Each of these topics is discussed in more detail below. In addition, sample Program Guidelines are provided as Attachment 10-3.

Attachment 10-3:
Sample Program Guidelines

The program guidelines should be developed by local agency staff. Guidelines should be written in plain language and made available to all potential applicants to the rehabilitation program.

The guidelines should be adopted by the local governing body in order to meet KRS Chapter 99 (for establishing public purpose to use KCDBG funds for private use). The guidelines should always include a clause describing the process by which they can be changed. If the local governing body passes special policies that change the adopted guidelines, these changes must also be approved by the governing body as an addendum to the guidelines. Each page of the adopted guidelines and addendum must be initialed by eligible participants and kept in their file.

All applicants initially selected to participate in the project are potential applicants until re-verification of income can prove they are low and moderate-income based on the applicable HUD income limits. This re-verification should not be done until KCDBG funds are made available. Once income re-verification identifies the eligible applicants, the program guidelines should be presented to the applicant household prior to commencing work on their properties. The grantee should ensure that the property owner has initialed each page and signed the last page of the guidelines for potential issues/complaints that may occur while providing them with assistance.

Applicants who choose not to comply with the grantee’s guidelines can choose not to participate in the “voluntary” rehabilitation project.

Types of Financial Assistance

There are two types of financial assistance that can be provided in housing rehabilitation programs—grants and loans—and within each category there are numerous variations. DLG allows grantees the flexibility to determine which type of financial assistance to use depending upon local program design.

- ✓ **Grants.** Grantees can use KCDBG funds to make outright grants to eligible households to cover the cost of rehabilitation of homes. Grants do not have to be paid back and normally come with no restrictions or further obligations by the recipient to the grantee. Many grantees will provide grants for the cost of temporary relocation or lead hazard removal. (NOTE that grants are the only allowed form of assistance under involuntary programs. Refer to Part II of this chapter for more information.)
- ✓ **Loans.** A loan is a sum of money lent to a borrower. The use of loans to rehabilitation recipients may enable the grantee to recover all or a portion of the original financial assistance for use in accomplishing additional housing rehabilitation. Loans also provide the recipient with security on the property that is not possible when funds are provided as a grant.
 - Loan programs are self-perpetuating when loan proceeds are used to provide other loans. Repayments from housing rehabilitation loans made with KCDBG funds are considered

Chapter 3: Financial Management

program income and are to be expended according to DLG requirements. (See Chapter 3: Financial Management for more information.)

There are three basic types of loan programs that may be established:

- ✓ **Forgivable loans.** A forgivable loan resembles a grant in that if the present owner retains the property for a certain period (usually a minimum period of five years), no repayment is required. The forgivable loan is instituted through the use of a mortgage and often accompanied by a promissory note (See Attachments 10-4 and 10-5). Each year the owner retains ownership and resides in the home a certain percentage of the loan amount is forgiven as if it were a grant. Should the owner continue as owner-occupant of the home until the term of the note expires, the owner pays nothing and has no conditions on the disposition of the property. Should the property be sold, vacated or its use changed prior to the expiration of the note, the owner owes the grantee whatever balance remains on the note. Mortgages and promissory notes must be recorded at the County Clerk’s Office.

Attachment 10-4:
Sample Real Estate Mortgage
Attachment 10-5:
Sample Promissory Note
- ✓ **Deferred loans.** A deferred loan is a loan made to an eligible homeowner that does not require repayment for a specified number of years or until the property is sold, at which time the remaining prorated balance would become due. This prorated value may be due to the depreciation of the rehabilitation work. DLG recommends a deferment period of five years. Grantees often use deferred loans to provide assistance to households that are currently unable to afford loan repayments. Funds received by the grantee for repayment of a deferred loan may be recycled for additional housing rehabilitation when repaid. This must be in accordance with the Grantee’s revolving loan fund policy. (Refer to Chapter 3: Financial Management for additional guidance on revolving loan funds.) The deferred loan is instituted through the use of a mortgage and often accompanied by a promissory note.

Chapter 3: Financial Management
- ✓ **Amortizing loans.** Amortizing loans are loans that require payment and that have a set interest rate and term. Grantees may provide loans at a single interest rate, or establish a sliding scale in which the interest rate is related to a household’s income or ability to pay. The term of the loan is also at the discretion of the grantee. All loans may be made for the same term or terms may be adjusted depending upon the size of the loan and the borrower’s ability to pay (e.g., larger loans having longer terms). The amortizing loan is instituted through the use of a mortgage and often accompanied by a promissory note.

There are several techniques or practices that can be used by grantees in loan programs to leverage funds:

- ✓ **Write-downs or principal interest subsidy.** A write down, also commonly referred to as a principal or interest subsidy, is a mechanism in which rehabilitation is financed by a loan from another source such as a private lender, but the amount repaid by the property owner is partially subsidized, or offset by the inclusion of grant funds. The amount of write down is predicated on the owner’s ability to pay. KCDBG funds may be used to pay the write down either as a grant or forgivable loan. The remaining amount is loaned to the owner and is amortized by monthly payments. The loan portion of the write down may be provided by a bank or other private or public funding sources.

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- ✓ **Loan leveraging.** Loan leveraging is the practice of using KCDBG funds along with funds from private lending institutions. Having other entities involved in the financing of a project will leverage KCDBG dollars. Loan leveraging programs often require staff with financial background and lending experience.

Tip: It is important for grantees to be aware that for voluntary rehabilitation programs, DLG requires a minimum of a five-year primary residency requirement for all recipients. Therefore the grantee should use a mechanism such as a covenant or lien recorded on the property to ensure that this requirement is enforceable.

A grantee should design its programs so that financial assistance is affordable to recipients. It is generally assumed that a household can afford to pay up to 25 to 30 percent of their gross monthly income for housing costs. The guidelines should clearly explain how ability to pay will be calculated (specifically what percent of household income will be used). If a household's ability to pay is zero, a forgivable payment loan may be the most appropriate option. Regardless of the percentage amount chosen, the determination must be used consistently across the program for all recipients.

Applicant Eligibility

Program guidelines should specify who is eligible for the program, the types of assistance for which they are eligible, and the amount of assistance available. The types and amounts of assistance available should be based on household and tenure characteristics and ability to pay and should be consistent across a grantee's program.

Determining Household Income

DLG requires that applicants conduct an initial threshold determination of household income prior to grant application to DLG. The income determination must be conducted using the current fiscal year Section 8 Median Income Limits for the applicants' county. These limits are posted on DLG's website. However, once funds have been awarded, but before providing any assistance, the grantee must conduct a detailed income verification of all applicants. DLG requires all grantees to follow the Part 5 (Section 8) method of calculating annual household income.

The Part 5 (Section 8) definition of annual income is the gross amount of income of all adult household members that is anticipated to be received during the coming 12-month period.

24 CFR Part 5

This income definition is used by a variety of federal affordable housing programs including Section 8, Home Investment Partnerships Program (HOME), Public Housing and the Low Income Housing Tax Credit (LIHTC) Program.

24 CFR Part 5 provides a comprehensive list of the types of income that are included and excluded from the calculation of annual gross income. Income from assets is also recognized as part of annual income under the Section 8 definition. The following steps should be taken to determine household income for the purpose of determining eligibility for KCDBG housing assistance:

- ✓ **Step 1:** Ask questions of the household regarding annual income and income from assets. Follow the rules pertaining to what types of income to include and exclude.

- ✓ **Step 2:** Gather appropriate documentation such as wage statements, interest statements, third-party verifications, etc. (Grantees should use Attachment 10-6: Sample Applicant Release to Obtain Verification of Income form.) Note: While verification from other agencies and employers is considered appropriate, self-certification of income by the household is not sufficient for housing activities.

Attachment 10-6:
Sample Applicant Release to
Obtain Verification of Income

- ✓ **Step 3:** Calculate total household income by adding up the information obtained. Use Attachment 10-7: Sample Part 5 (Section 8) Annual Household Income Calculation Form.

Attachment 10-7:
Sample Part 5 (Section 8) Annual
Household Income Calculation
Form

- ✓ **Step 4:** Compare the total household income to the HUD income limits for that household's size. Income limits are provided by DLG and can be found on HUD or DLG's website. Determine if eligible for assistance.
- ✓ **Step 5:** Place the income calculation, determination and back-up documentation in the appropriate files.

Details and forms used for calculating household income for rehabilitation projects are provided in the "Technical Guide for Determining Income and Allowances" and an Income Calculator for CDBG is available for use on the HUD Exchange website: <https://www.hudexchange.info/incomecalculator/>.

Grantees should consult Chapter 1: Project Administration "Conflict of Interest and Disclosure" and complete Attachment 1-4 "Section 102 Disclosure Report" to disclose any conflict of interest associated with the project.

Property Eligibility

Eligible units for rehabilitation must be substandard and occupied by LMI households (households whose income is below 80 percent of the area median income as provided by HUD annually). Grantees must identify and document the major deficiencies that qualify the unit as substandard. The unit must be owned by the applicant and be the primary residence of the applicant. The grantee must receive and document proof of ownership from the recipient. A family or individual owns the property if that family or person:

- ✓ Has fee simple title to the property;
- ✓ Maintains a 99-year leasehold interest in the property;
- ✓ Has a recorded life estate agreement; or
- ✓ Owns or has a membership in a cooperative or mutual housing project that constitutes homeownership under state law.

DLG requires the grantee to conduct a title-search to determine the applicant is the rightful owner of the property. The title search will also allow grantees to learn if there are any outstanding liens on the property. All tax liens must be cleared before assistance can be provided to the applicant.

Since DLG has a minimum five-year residency requirement for all recipients, it is recommended that grantees have recipients sign a certification that the property is and will remain their primary residence. This five-year residency requirement should also be clearly stated in the agreement between the recipient and the grantee and recorded in a lien or covenant.

Homeowners must also have current insurance and maintain insurance over the period of CDBG assistance for a property to be eligible for rehabilitation with KCDBG funds. The grantee should be listed on the policy as an additional party or loss payee to obtain notification of insurance coverage or changes to the policy.

Conflict of Interest

KCDBG grantees and subrecipients must comply with procurement requirements found as outlined in Chapter 4 and with other state and local applicable conflict-of-interest provisions.

Chapter 4: Procurement

If a grantee believes there may be a potential conflict of interest with a property or applicant, the grantee should refer to Chapter 1: Project Administration and/or contact DLG for further guidance.

Chapter 1: Project Administration

Property Standards

The rehabilitation program guidelines should specify the property standard that units must meet after rehabilitation is complete. Grantees must meet all local housing codes and occupancy standards for their rehabilitation program. At a minimum, the grantee must adopt the International Code Council (ICC) Property Maintenance Code. All new construction and reconstruction projects must meet Kentucky Residential Code.

Information regarding the International Code Council (ICC) Property Maintenance Code may be found at www.iccsafe.org/

The guidelines should clearly state both the eligible and ineligible improvements. Key rules in this area include:

The Kentucky Residential Code may be found at <https://dhbc.ky.gov/Documents/2018%20Kentucky%20Residential%20Code%20->

- ✓ Any improvement needed to bring the unit to code or which will result in energy conservation should be specified as an eligible improvement.
- ✓ Exterior painting or siding should also be eligible, depending on local weather conditions.
- ✓ General property improvements—carports, window air conditioning, den additions, etc., are generally ineligible.

24 CFR 570.487(c)

To comply with HUD’s Lead Safe Housing Rule (LSHR), rehabilitation to all units built prior to 1978 must follow prescribed rehabilitation practices and pass final clearance before approval of payment to the contractor. Tenants may be required to vacate the unit and not allowed to re-occupancy unit until an acceptable clearance test is achieved. See Section 10-C of this Chapter for more information on compliance with LSHR.

Contracting Requirements

The contract for homeowner rehabilitation recipients must always be between the property owner and contractor. The grantee or subrecipient may act on the homeowner’s behalf if the owner voluntarily delegates this authority to them and signs an authorization form (Attachment 10-8). The grantee remains responsible for monitoring contractor compliance with payments and all other program requirements.

Attachment 10-8:
Sample Homeowner
Authorization for Agency to Act
as Agent
List of Parties Excluded
from Federal Procurement
or Nonprocurement Programs
on the SAM website:
<https://sam.gov/portal/SAM/##11>

Grantees are required to ensure that contractors receiving work funded by KCDBG have not been excluded from participation in Federal programs before contracts are awarded. To do this, the grantee must check the website at System for Award Management at <https://www.sam.gov/>. The search of the excluded party's website must be completed prior to signing the construction contract and a printout documenting the search should be placed in the file documentation.

The guidelines should also specify contracting procedures that govern the conduct of work, such as those relating to change orders, dispute resolution, and acceptance of work. The grantee should assume final authority for sign-off on completion of work in the event of a dispute between the owner and contractor. See Chapter 5: Contracting for more information.

Chapter 5: Contracting

Relocation Requirements

As described in Chapter 8: Relocation, Displacement and One-for-One Replacement, federal relocation requirements generally do not apply to homeowner rehabilitation programs since participation is voluntary and usually does not involve permanent displacement. However, if the owner's home is a two- to four-unit structure with rental units, the tenants are covered by the Uniform Relocation Act (URA) and possibly by Section 104(d) of the Housing and Community Development Act. 24 CFR Part 42 are the regulations that implement Section 104(d) of the Housing and Community Development Act. See Chapter 8: Relocation, Displacement and One-for-One Replacement for more information.

Chapter 8:
Relocation, Displacement and
One-for-One Replacement

24 CFR Part 42

In addition, the LSHR states that temporary relocation may be required if lead hazard reduction work is performed. The grantee is not obligated to provide financial assistance for an owner occupant; however, it must ensure the family is relocated to a suitable, decent, safe and similarly accessible dwelling unit that does not have lead-based paint hazards. See Chapter 8 and 24 CFR 35.1345 for more information.

Chapter 8:
Relocation, Displacement and
One-for-One Replacement
24 CFR 35.1345

For all other situations, grantees are permitted (but not required) to relocate homeowner households temporarily while work is being completed. (For example, if rehabilitation work requires shutting off heat or plumbing for some period of time, temporary relocation may be appropriate.) In these cases, the grantees must meet several requirements:

- ✓ Grantees must have a written policy on eligibility and level of relocation benefits, known as an Optional Relocation Policy, so that benefits are distributed in a fair, nondiscriminatory manner.
- ✓ Residents who are relocated temporarily must be offered a dwelling that is suitable, safe, sanitary and lead safe. However, the unit does not have to be comparable. All other conditions of the move must be reasonable.

Grievance Procedures

Grievances are a part of every rehabilitation program. The best prevention is to conduct frequent on-site inspections of the work, and stop work when there are problems until the problems are corrected.

Also grantees should make efforts to ensure recipients are well informed about the contract work, have initialed and signed-off on the work write-up, and have a copy of the program guidelines that include the grantee's grievance procedure. Refer to Chapter 1: Project Administration for more information on grievances. A sample Grievance Procedures is provided as Attachment 10-9.

Chapter 1: Project Administration
Attachment 10-9:
Sample Grievance procedures

Maintenance Agreements

Each recipient under a voluntary program is required to agree to maintain their property for the term of the financial assistance. Maintenance of the property should be examined by the grantee throughout the term of financial assistance.

The grantee should reserve the right to take any appropriate action necessary to ensure that the rehabilitated property is maintained, which may include requiring an early payback of financial assistance. Therefore, the rehabilitation guidelines should detail the maintenance standards and procedures for enforcement.

Tip: The maintenance provisions apply only to Voluntary Programs. Grantees implementing Involuntary Programs may not place maintenance restrictions on assisted properties. (Refer to Part II of this chapter for more information on Involuntary Programs.)

Section 10-C. Implementing Housing Rehabilitation

Determining Staffing

In staffing a rehabilitation program, it is helpful to understand the specific skills and duties that will be needed. Some of the key elements include:

- ✓ **Finance Staff.** Staff is required for marketing the program, processing applications, completing income verifications, and ensuring that all KCDBG requirements are met for the project. General knowledge of mortgage lending is also helpful.
- ✓ **Rehabilitation Staff.** Staff is required for performing work write-ups and inspections. Qualifications may include a certification and considerable knowledge and/or experience in various aspects of housing construction, considerable inspection experience in government funded rehabilitation programs or in residential construction management, or certified in the completion of recognized building codes and/or rehabilitation standards training programs. These skills are found in experienced contractors, building inspectors, architects, etc., familiar with rehabilitation.

Marketing

In order to ensure a sufficient pool of qualified applicants, program staff should develop marketing procedures and materials (e.g., ads, flyers, etc.).

Marketing procedures should assure that the program is marketed and available to the full range of potential applicants, including those least likely to apply. These procedures should address the following:

- ✓ Use of equal opportunity language in advertisements and literature;
- ✓ Grantee waiver of eminent domain in advertisements and literature;

- ✓ Literature that is understandable to applicants, including key information available in other languages;
- ✓ A schedule and plans to ensure that advertising or other outreach efforts reach potential applicants at places they frequent;
- ✓ Lists of the places and/or personal contacts where program information is distributed such as churches, laundry mats, service providers, parks, etc.; and
- ✓ Accessible facilities such as the ability to accommodate people with disabilities and the completion of an accessibility self-assessment.

Screening Applicants

Applicants must be screened to determine income, property ownership and any other applicable criteria, as may be specified in the guidelines.

- ✓ The screening process is initially done through using DLG’s Rehabilitation Household Survey. Re-verification of income using the Part 5 (Section 8) definition of income is required before providing direct benefit if the household is receiving more than \$1,000. A sample CDBG Rehabilitation Assistance Application (Attachment 10-10) or another application format, at a minimum, must contain the following information:
 - Name of the owner and address of the property.
 - Signature of the owner and the date.
 - Number of persons (adults and children) in the occupant household and their ages.
 - Sufficient information concerning the occupant's household income.
 - The grantee should also verify that property taxes are current and in the case of an existing mortgage, that principle and interest payments are current and the mortgage is not in a delinquent or fail status.
 - Sufficient information to show that the occupant meets the grantee’s program eligibility criteria, including household income.
 - Verification of the above-referenced information.
- ✓ The interview is also a good time to give the applicant a copy of the pamphlet “Protect Your Family from Lead in Your Home” (Attachment 10-11). The grantee must document using a Verification of Receiving the Lead-Based Paint Pamphlet form (Attachment 10-12) that the pamphlet was provided to the applicant before any work may begin. The pamphlet can also be downloaded from DLG’s website. If the house is reconstructed, it is not required that the applicants be given the Lead Based Paint Pamphlet. The file should, however, be documented that the project is exempt from the Lead Safe Housing Rule since it is a reconstructed property.

Attachment 10-10:
Sample CDBG Rehabilitation
Assistance Application

Attachment 10-11:
“Protect Your Family from Lead
in Your Home” Pamphlet

Attachment 10-12:
Verification
of Receiving the Lead-Based Paint
Pamphlet form

The information collected is confidential and should be treated as such. Applicant's permission to obtain and verify any personal information must always be granted.

Tip: Detailed income documentation must be performed. See Section 10-B: Determining Household Income in this Chapter for more guidance.

Performing Work Write-Ups and Cost Estimates

A very thorough inspection of the property must be conducted to determine the type and cost of work necessary to bring the property into compliance with International Code Council (ICC) Property Maintenance Code (for rehabilitation) or the Kentucky Residential Code (for reconstruction). After the inspection, the work to be done should be written down. This is termed a work write-up. At this stage, the items must be estimated in terms of cost, a process to produce a cost estimate. These write-ups are usually done on a room-by-room basis. Some grantees with experienced staff have blank forms the housing inspector completes. If the staff is inexperienced, they may need detailed check-off forms that list virtually every possible deficiency. The housing inspector checks for each one and specifies action needed to remedy the problem. It is better to err on the side of caution. A Sample Work-Write up and Cost Estimate Form are provided as Attachment 10-13.

Attachment 10-13:
Sample Work-Write Up
and Cost Estimate Form

For reconstruction, DLG requires the use of Kentucky Housing Corporation's (KHC) Specifications for New Homes (incorporating Minimum Design Standards and Universal Design Standards, if applicable). These specifications are available on the KHC website.

Kentucky Housing Corporation's
(KHC) Specifications for New
Homes
<http://www.kyhousing.org>

If a home was constructed prior to 1978, the Lead Safe Housing Rule (LSHR) applies. Therefore, there will need to be two work write-ups -- one initial and a final work write-up. The initial work write-up must specify all the work to be done to bring the building to standard. The final write-up should include all work necessary to comply with applicable lead hazard reduction requirements (see the following sub-section of this chapter, Pre-1978 Properties and Lead Hazard Reduction, for guidance).

In addition, historic properties (those more than 50 years old and/or listed or eligible for inclusion on a national, state or local historic register) are required to follow the Secretary of Interior's Standards for Rehabilitation (also referred to as the Section 106 requirements).

During the environmental review process, grantees must consult the State Historic Preservation Officer (SHPO) for guidance for historic properties, which may require a Memorandum of Agreement or documentation approved by the SHPO. Grantees must then ensure the requirements stipulated by the SHPO be incorporated into the work write-up and cost estimate. Release of KCDBG funds cannot be obtained until the grantee receives SHPO concurrence. Refer to Chapter 2: Environmental Review for detailed guidance.

Kentucky Heritage Council State
Historic Preservation Officer
<http://heritage.ky.gov/>

Pre-1978 Properties and Lead Hazard Reduction

All units in a project assisted with KCDBG funds must comply with 24 CFR Part 35, which implements Title X of the Housing and Community Development Act of 1992, also referred to as the Lead Safe Housing Rule (LSHR). This regulation has been in effect since September 15, 2000, and Subpart J applies to rehabilitation projects. A briefing packet that explains more about HUD’s Lead Safe Housing Rule is provided as Attachment 10-14.

Chapter 2: Environmental Review

24 CFR Part 35

Attachment 10-14:
Lead Safe Housing Rule Briefing Packet

The applicability of the requirements for Subpart J depends on the level of assistance provided for a project. This level of assistance is determined by taking the lower of:

- ✓ The per unit rehabilitation hard costs (regardless of source of funds), or
- ✓ The per unit amount of federal assistance (regardless of the use of the funds).

Some rehabilitation work performed in pre-1978 units may be exempt from following the lead safe housing rule such as:

- ✓ Properties found not to have lead-based paint during current testing and earlier testing that meets the requirements of prior evaluations.
- ✓ Properties where all lead-based paint has been identified and removed using approved methods; and
- ✓ Rehabilitation that does not disturb paint.

Grantees should refer to the Lead Safe Housing Requirements Screening Worksheet Parts 1-4 (Attachment 10-15) and 24 CFR 35.115 and 35.165 for more information regarding exemptions.

Attachment 10-15:
Sample Lead Safe Housing Requirements Screening Worksheet Parts 1-4
24 CFR 35.115 and 35.165

Evaluation Method

After the initial work write-up is complete, the rehabilitation specialist must determine which lead evaluation activity must be followed. The evaluation activity required depends on the level of assistance (see above for the definition of the level of assistance):

- ✓ < \$5,000. Paint testing of surfaces to be disturbed must be completed. Paint testing must be conducted by a certified paint inspector or risk assessor.
- ✓ \$5,000-\$25,000. A risk assessment must be performed of the entire unit. A risk assessment must be conducted by a certified risk assessor.
- ✓ > \$25,000. A risk assessment must be performed of the entire unit. A risk assessment must be conducted by a certified risk assessor.

Attachment 10-16:
HUD-EPA Notice and Guidance
http://portal.hud.gov/hudportal/documents/huddoc?id=20264_abateguidance.pdf

Grantees should be aware that there are additional rules for the type of work that is performed depending on the intent of the work. See the combined HUD-EPA Notice and Guidance (Attachment 10-16) for more information.

Notification

Results of the paint test and risk assessment must be provided in a Notice of Lead Hazard Evaluation to the homeowner within 15 days of the grantee receiving them. The person performing the evaluation may be able to assist the grantee in completing the form. It is important for the homeowner to know that, under the LSHR, they must disclose any knowledge of lead in the home to any future buyers of the property. A sample Notice of Lead Hazard Evaluation is provided as Attachment 10-17.

Attachment 10-17:
Sample Notice of Lead Hazard
Evaluation

Grantees also have the option to presume there is lead in the unit rather than paint testing or risk assessments. If the grantee utilizes the presumption of lead option, the scope of work must address all painted surfaces. Grantees should note that this approach may raise the cost of the work as non-lead surfaces will be required to be treated as if they contained lead. Also, if the presumption method is followed, a “Notice of Presumption” must be provided to the homeowner within 15 days of performing the initial inspection. A sample Notice of Presumption is provided as Attachment 10-18.

Attachment 10-18:
Sample Notice of Presumption

Finalizing the Work Write-Up

If the paint testing or risk assessment shows there are no lead hazards, then traditional rehabilitation practices may be followed.

If there are lead hazards found in the home then the following lead hazard reduction activities must be followed based on the amount of assistance and incorporated into the work write-up.

- ✓ < \$5,000. Repair surfaces to be disturbed using safe work practices and trained workers.
- ✓ \$5,000-\$25,000. Perform interim controls using safe work practices and trained workers. If presumption occurred, perform standard treatments using safe work practices and trained workers.
- ✓ > \$25,000. Perform abatement using safe work practices and certified abatement supervisor and certified workers.

For more information about repair, interim controls, standard treatments, abatement and the types of training or certification required for personnel performing the work, please see the Briefing Packet on the LSHR (Attachment 10-14).

Attachment 10-14:
Lead Safe Housing Rule Briefing
Packet

The work write-up must be revised to incorporate the appropriate lead hazard reduction work and methods required to perform the work. Once the work write-up has been finalized, the cost estimate tells whether or not the work can be done within the average loan limits and the owner’s ability to repay.

The person preparing cost estimates should be familiar with the current rates for materials and labor and be able to estimate accurately the time required to complete each task. Good, reliable cost estimates are critical. Since costs change rapidly, it is important that cost estimates be used as soon as possible.

Executing Agreements with Beneficiaries

The grantee must enter into a formal written agreement with the applicant for the amount of the assistance made available (regardless of whether the assistance is in the form of a grant or loan). A Sample Rehabilitation Granting Agreement is provided as Attachment 10-19.

Attachment 10-19:
Sample Rehabilitation Granting
Agreement

- ✓ This agreement needs to be signed by the homeowner, prior to the start of work, and represents the official financial obligating instrument between the homeowner and the grantee.
- ✓ At a minimum, this agreement shall certify the legal owner of the property, the type of assistance (i.e., whether a grant or loan or combination), as well as outline all conditions associated with the assistance.
- ✓ Conditions of the agreement may include a monthly payment schedule if applicable, a minimum five year primary residency requirement, hazard insurance and property maintenance requirements, death of the applicant, conversion, transfer or sale of the property rehabilitated, and any other conditions that, if violated, may result in a reimbursement of funds by the applicant. To ensure adequate insurance coverage for the KCDBG lien position grantees may require hazard insurance to be maintained at a level adequate to protect the KCDBG lien.

If assistance takes the form of a loan, the grantee must also utilize a recorded mortgage to secure the amount of the federal investment. A sample Real Estate Mortgage is provided as Attachment 10-4.

Attachment 10-4:
Sample Real Estate Mortgage

Following approval, grantees should meet with the applicant to review the proposed scope of work to be undertaken. DLG requires the applicant to initial each page and sign the last page of work items, thereby attesting to the fact that the applicant was made aware of the improvements to be made to the property. The homeowner should also receive all proper notices and information about lead-based paint. It is also important to finalize any temporary relocation plans and set a schedule for the work.

Contracting for Rehabilitation

Developing and implementing effective contracting procedures is one of the most critical tasks in a housing rehabilitation program. Four key elements involved in the contracting process are covered in the following discussion: recruiting contractors, bidding procedures, preparing the contract, and contract award and monitoring.

Recruiting Contractors

It is often difficult to recruit contractors if there are only relatively small jobs for repairing homes in poor condition. The grantee should identify possible contractors and attempt to interest them in program participation. The yellow pages of the telephone book, the Chamber of Commerce, the Kentucky Department of Transportation Small Business & Civil Rights, KYPATC (see Chapter 4: Procurement), conversations with construction materials suppliers, and word of mouth are all information resources to aid in developing a contractors list. Certified lead-based paint contractors may also be found on the

Kentucky Health Department's
website:
[https://chfs.ky.gov/agencies/dph/
Pages/default.aspx](https://chfs.ky.gov/agencies/dph/Pages/default.aspx)

State of Kentucky's Health Department website at <https://chfs.ky.gov/agencies/dph/Pages/default.aspx>

To promote the participation of small contractors, the grantee may attempt to eliminate procedural barriers and provide technical assistance. Some grantees have:

- ✓ Waived bonding requirements and developed alternative ways to protect property owners (i.e., requiring a letter of credit from a financial institution).
- ✓ Provided technical assistance such as:
 - Financial management assistance;
 - Talking to local suppliers about credit extension to rehabilitation contractors;
 - Asking local financial institutions to extend lines of credit; and
 - Allowing progress payments after completion and inspection of a certain percentage of work.

In addition, grantees must ensure that they are using trained and certified workers to perform work in compliance with the lead safe housing rule.

Bidding Procedures

Bidding procedures need to be developed by grantees. Grantees must demonstrate that bids were let in a fair, unbiased manner and that efforts were made to solicit bids from small, minority and woman owned businesses. Below are some guidelines to include in bidding procedures.

Chapter 5: Contracting

- ✓ Bids may be advertised in the newspaper, through public notice or radio and by contacting an already approved list of contractors.
- ✓ Advertising at the start of the program and establishing a list of contractors interested in bidding for jobs throughout the duration of the program is acceptable.
- ✓ At least three contractors should be encouraged to bid on each job.
- ✓ Grantees are required to check GSA's List of Parties Excluded from Federal Procurement before awarding a bid and must check this list when bids are received.
- ✓ Each contractor must provide proof of liability insurance in an amount deemed reasonable by the grantee. (DLG strongly recommends a minimum of \$100,000.) The liability insurance shall be maintained during the life of the contract.
- ✓ Each contractor must provide evidence of workers compensation insurance at a level in conformance with state law for all employees at the job site and shall require subcontractors to provide evidence of the same.
- ✓ Contractors must submit documentation that shows they are qualified to perform lead work such as:
 - Proof they attended a safe work practices training session (for jobs involving safe work practices).
 - Copies of the Kentucky certification for abatement supervisor and workers (for jobs involving abatement).

List of Parties Excluded from
Federal Procurement can be found
at
<https://sam.gov/portal/SAM/##11>

Any solicitation for bids by the grantee should include:

- ✓ Location for bid document pick up and submission;
- ✓ Address of unit to be rehabilitated;
- ✓ Time the unit is open for inspection; and
- ✓ Time and place for bid opening.

DLG requires that minutes from the bid opening be taken. The minutes should include names of all present at the meeting, a list of all bids received and the amounts bid for the work.

Bids need to be reviewed for cost reasonableness. Grantees should be wary of bids above or below 15 percent of the cost estimate. Grantees should not award to the low bidder if the contractor has a backlog of incomplete rehabilitation jobs or a history of poor performance. Grantees are advised to impose a cap of two rehabilitation jobs per contractor at any given time, unless the contractor can clearly demonstrate capacity to handle more than that. This cap should be clearly outlined in the policies and procedures.

Tip: Housing contracts are executed between the Homeowner and Contractor, the main purpose for bidding is to establish a reasonable low-bid price. The homeowner makes the final decision for selection of the contractor.

Preparing the Contract

The contract for rehabilitation must be a two-party contract between the homeowner and the contractor. The grantee or subrecipient may act on behalf of the homeowner if the homeowner delegates this responsibility (Attachment 10-8). The grantee remains responsible for monitoring contractor compliance with payments and all other program requirements.

Attachment 10-8:
Sample Homeowner Authorization
for Agency to Act as Agent
for Homeowner

- ✓ Key federal provisions which apply to all rehabilitation contracts are:
 - Lead Based Paint clause, and
 - Conflict of Interest clause.

Davis-Bacon and other labor standard provisions do not apply unless the rehabilitation involves a structure with eight or more units.

Within the contract, the grantee should require the contractor to:

- ✓ Obtain and pay for all necessary permits and licenses;
- ✓ Perform all work in conformance with the International Code Council (ICC) Property Maintenance Code whether or not covered by the specifications and drawings;
- ✓ Keep the premises clean and orderly during repairs and remove all debris at the completion of work;
- ✓ Obtain written consent from the grantee and the homeowner for changes to specifications;

Chapter 5: Contracting

-
- ✓ Comply with all required rehabilitation practices for the lead safe housing rule;
 - ✓ CDBG funded rehabilitation projects that exceed \$200,000 in funding will trigger Section 3 requirements which will need to be included in the contract language;
 - ✓ Obtain written consent prior to sub-contracting;
 - ✓ Provisions for termination and for non-performance;
 - ✓ Pay for all lead-based paint clearance tests of the unit and continue work until the unit passes clearance; and provide each of the required notices to owners and tenants;
 - ✓ Warrant the work for one year from final acceptance.

Attachment 10-20:
Sample Contract Package for
Rehabilitation

DLG requires that grantees attach a copy of the work write-up to the contract. A Sample Contract Package for Rehabilitation is provided as Attachment 10-20.

Contract Award and Monitoring

Following award of the contract, the contract package must be executed by all parties. The homeowner must sign the contract and initial each page and sign the last page of the work write-up. A Notice to Proceed should be issued promptly to the contractor, specifying the time period within which the work should begin and when the work should be completed. A sample Notice to Proceed is provided as Attachment 10-21.

Attachment 10-21:
Sample Notice to Proceed

It is good practice to hold a pre-construction conference to clarify the responsibilities of all parties. A sample Pre-Construction Conference Checklist that can be used at such a conference is provided as Attachment 10-22.

Attachment 10-22:
Sample Pre-Construction
Conference Checklist

Inspections

Systematic thorough inspections by the rehabilitation inspector are critical to successful housing rehabilitation. (DLG strongly recommends the grantee contract with a certified building inspector to provide quality inspections.)

- ✓ Inspections should be conducted frequently and should be formally documented in the files.
- ✓ Periodic interim inspections of the rehabilitation construction will be made by the grantee throughout the contract period.
 - These inspections will be conducted to assure compliance with the contract standards for workmanship and materials, to detect any unauthorized deviations and to identify necessary changes to the contract work in its early stages.
 - Interim inspection reports must be prepared and signed by the grantee representative, rehabilitation inspector, contractor and owner.

- ✓ Inspection and approval of completed work must be conducted by the grantee prior to the contractor’s request for partial or final payment. The owner’s approval of the work is also required when payment is requested. A sample copy of the Notice of Acceptance of Work is provided as Attachment 10-23.

Attachment 10-23:
Sample Notice of Acceptance of Work

- The grantee has the authorization to override an owner’s decision and accept the work in accordance with grievance procedures if an owner makes unreasonable requests/demands and the contractor has satisfied all the requirements of the grantee.

- ✓ A final inspection of the work must be performed prior to final payment to the contractor in order for the project to be considered complete. A sample copy of Certification of Inspection is provided as Attachment 10-24. It is important for grantees to realize that this final inspection of the work is not the last inspection of the project. DLG requires a follow-up inspection be performed 60 days after project completion as referenced in follow-up inspection listed at the end of this section.

Attachment 10-24:
Sample Certification of Inspection

Change Orders

Any additions to, deletions from, or changes in the rehabilitation contract work, time, or price must be approved in a written change order request before the additional work is started. (Refer to Attachment 10-25 for a sample.)

Attachment 10-25:
Sample Change Order Request

- ✓ The change order must be executed by the owner and the contractor and approved by the rehabilitation inspector and the grantee. Change orders may be used to add items of work that are essential to complete the original work and were not evident until after the work started.
- ✓ The contractor shall not be authorized to perform any work outside the scope of the original contract without a written and properly executed change order.

Clearance

If the rehabilitation job had any lead hazard reduction work performed, a clearance of the unit must be passed before re-occupancy.

- ✓ A clearance examination involves a visual assessment and dust testing to determine if the unit or worksite is safe for occupancy.
- ✓ Clearance must be performed by a certified risk assessor, certified lead-based paint inspector or certified lead sampling technician.
- ✓ Clearance cannot be performed by the same contractor who performed the work. It must be a separate party.

The clearance test cannot be performed until one hour after the final cleaning of the unit. Results of the clearance test must be incorporated into a “Notice of Lead Hazard Reduction Activities” by the grantee. This notice must be provided to the homeowner within 15 days of the clearance test. A sample

Attachment 10-26:
Sample Notice of Lead Hazard Reduction Activities

Notice of Lead Hazard Reduction Activities is provided as Attachment 10-26.

Grantees must be aware that if the unit fails the clearance test the unit cannot be reoccupied. The contractor will need to re-clean and another clearance test must be performed.

Once the unit has passed the clearance test, the final invoice may be processed.

Final Documentation

Grantees should have the contractor sign an affidavit for Contract Termination and Release of Lien Form (Attachment 10-27) and provide warranty documents, and subcontractors release of lien waivers before final payout. After which, the Notice of Acceptance of Work (Attachment 10-23) may be issued to the contractor. A Project Benefit Profile by Person and by Household must also be completed (Attachment 10-28).

Attachment 10-27:
Sample Contract Termination
and Release of Lien Form

Attachment 10-23:
Sample Notice of Acceptance
of Work

Attachment 10-28:
Project Benefit Profile
by Person and by Household

Follow-Up Inspection

It is DLG's policy that the grantee performs a follow-up inspection of the property 60 days after job completion (Attachment 10-29). This inspection allows the grantee to see if there are any problems with the job. If problems have occurred, the grantee should assist the property owner to obtain corrective action according to the warranty.

Attachment 10-29:
Sample Certification of 60 Day
Follow-up Inspection

Section 10-D. Record Keeping

It is important for the grantee to maintain complete files and record keeping of the work they are performing and the units being rehabilitated. A Rehabilitation Program File Checklist (Attachment 10-30) should be in the front of each project file. In addition to the items listed in the rehabilitation program checklist, general files including the following should also be set up and maintained:

Attachment 10-30:
Sample Rehabilitation Program File
Checklist

- ✓ Local rehabilitation policies and procedures;
- ✓ Documentation of marketing and outreach efforts;
- ✓ Pending applications;
- ✓ Disqualified applicants; and
- ✓ Evidence of contractor participation.

PART II: INVOLUNTARY PROGRAMS

Sometimes a grantee may decide to exercise its right of eminent domain to acquire property to help revitalize an area. When this occurs, these projects are referred to as involuntary projects. These projects are primarily carried out in neighborhood revitalization areas. Grantees should work with DLG staff to determine if their proposed project will need to follow the Involuntary Program guidelines or if it can be completed within the Voluntary Program requirements.

Neighborhood revitalization areas should be concentrated enough that the KCDBG assistance will result in a resolution of all or most of the housing needs in the targeted area and a significant visual and physical impact. The revitalization areas must also be designated as a slum and/or blighted area under the Kentucky Urban Renewal and Redevelopment Law (KRS Chapter 99). There are a number of different activities that may be undertaken within these areas; however, certain program and other federal requirements (such as the Uniform Relocation Act (URA)) will apply to involuntary activities.

KRS Chapter 99

Tip: If the grantee chooses the project area(s) with the intent to use eminent domain, the project is considered involuntary even if a recipient agrees to be a part of the project and fully cooperates. Therefore, all URA requirements must be followed.

Section 10-E. Eligible Activities and National Objectives

There are several activities eligible under KCDBG that help to support the revitalization of slum or blighted areas and the development of affordable housing. These activities include:

✓ **Acquisition.** Acquisition of property is generally eligible under CDBG (provided the rules detailed in Chapter 9: Acquisition are adhered to).

Chapter 9: Acquisition

- Grantees may use KCDBG funds to assist private individuals and non-profits with the acquisition of property for the purpose of rehabilitation. After rehabilitation to applicable standards, the property may be used or sold for low- and moderate-income residential purposes.
- Grantees may also use KCDBG funds to acquire housing units, as long as the units are not newly constructed, and sell them for residential purposes. The CDBG regulations do not limit the amount of write-down to the buyer. The amount of write-down should be appropriate for the level of needed assistance and reasonable in relationship to the level of participation. Acquired property may be donated to purchasers; however, grantees should analyze the situation to avoid giving windfall profits to purchasers. If buyers are not LMI, prior approval from DLG is required.
- Grantees may acquire property to be used for LMI housing and donate or resell it at a lower price to nonprofit housing organizations to be used for LMI housing.

Tip: The number of units eventually constructed or rehabilitated on CDBG-assisted property may trigger the Davis Bacon labor standards requirements (see Chapter 6: Labor Standards and Construction Management or contact DLG for more information).

Chapter 6: Labor Standards and
Construction Management

-
- ✓ **Conversion.** The cost of converting an existing non-residential structure to residential use by eligible households is allowed as a rehabilitation activity.
 - ✓ **Demolition and Reconstruction (Rehabilitation).** KCDBG funds may be used for demolition and reconstruction. Reconstruction is the rebuilding of a structure on the same site in substantially the same manner. Reconstruction is considered a rehabilitation activity. Deviations from the original design (such as the addition of another room) may be permitted for reasons of safety or for practicality. A reconstructed unit need not contain the same number of rooms as the unit it replaces. (Note, however, that adding rooms may constitute new construction. Contact DLG for specific questions.) Reconstruction of residential structures also permits replacing an existing substandard unit of manufactured housing with a new or standard unit of manufactured housing or a “stick built” structure if manufactured housing is not allowed under existing zoning in the community.
 - ✓ **Demolition and Clearance of Sites.** Grantees may clear a site to be used for housing. Clearance of toxic contaminants from property to be used for new construction of housing is also eligible. For all demolition and clearance activities, grantees must propose a plan with the end use lasting for at least five years.
 - ✓ **Disposition Costs.** The costs of disposition of real property, acquired with CDBG funds, which will be used for new construction of housing is an eligible activity to support new housing.
 - ✓ **Multifamily Rehabilitation.** Rehabilitation of multifamily rental units is an eligible activity under the KCDBG Program. At least 51 percent of units must be occupied by LMI households at affordable rents.
 - ✓ **New Housing Construction.** Generally, new construction of housing is not eligible under the KCDBG program. However, the regulations allow for certain "eligible subrecipients" to carry out this activity on behalf of the grantee.

24 CFR 570.204(c)

 - **Eligible nonprofits and groups.** The eligible subrecipients include neighborhood-based nonprofit organizations (NBOs), nonprofit organizations serving the development needs of communities in non-entitlement areas, section 301(d) Small Business Investment Companies (SBICs), and local development corporations (LDCs).
 - **Regulatory Documentation.** These nonprofit development organizations must meet the definition outlined in Section 5305(a)(15) of the Housing and Community Development Act and comply with conditions outlined in the Grant Agreement to be considered to undertake such activities.

HCDA Section 5305(a)(15)
 - **Activities to be performed:** These organizations must be undertaking a neighborhood revitalization, community economic development or energy conservation project in order to use CDBG for new construction. And, the grantee must determine that the project is necessary or appropriate to achieve its community development objectives.
- Tip:** **New housing construction carried out by an eligible nonprofit must be part of a larger effort to revitalize the neighborhood (i.e., a plan for the community’s revitalization efforts based on a comprehensive plan, not just for the sake of the CDBG project).**

- ✓ **Single Family Owner and Rental Rehabilitation.** Using KCDBG funds to assist low- and moderate-income persons to bring their homes up to, at a minimum, the International Code Council (ICC) Property Maintenance Code is an eligible activity. Rehabilitation of investor-owned, single-family rental units is also an eligible activity. Rents must be affordable for a period of five years. The maximum amount of rent charged may not exceed HUD’s Fair Market Rent during the five-year period.

Access HUD Fair Market Rents from the HUD User website at: <http://www.huduser.org/datasets/fmr.html>.

Below are a number of activities that may be combined with the housing activities listed above to achieve neighborhood revitalization objectives.

- ✓ **Infrastructure Improvements.** The construction of publicly-owned water, sewer, streets and drainage facilities is eligible as a public facilities activity.
- ✓ **Site Improvements.** Grantees may improve publicly-owned sites for housing. Using KCDBG funds for improvements to a site after disposition to a private developer is eligible only if carried out by an eligible subrecipient (as discussed previously), in which case the activity must be for neighborhood revitalization, community economic development, or energy conservation, and the recipient must determine that it is necessary or appropriate to achieve community development objectives.

Ineligible Activities

The general rule is that any activity not specifically authorized under the CDBG regulations is ineligible to be assisted with KCDBG funds. The regulations stipulate that the following activities may not be assisted with CDBG funds:

- ✓ New housing construction except under certain conditions. Certain types of nonprofit organizations that are undertaking certain kinds of activities may be allowed to utilize CDBG funds for new construction. The conditions under which this may occur are discussed in Section 10-E of this Chapter.
- ✓ Income payments, which are defined as grants to an individual or family that are used to provide basic levels of food, shelter (i.e., payment for rent, mortgage and/or utilities) or clothing;
- ✓ Luxury items, such as swimming pools, Jacuzzis, high-end appliances, window air conditioners, washers and dryers, etc.; and
- ✓ Labor time for sweat equity may not be paid out to recipients of rehabilitation assistance.

24 CFR 570.204(c)

Meeting a National Objective

As discussed in Chapter 1: Project Administration, all funded projects must meet a national objective. At the time of funding, the grantee must document which national objective a project will meet.

Chapter 1: Project Administration

There are several different national objectives the grantee can use to satisfy this requirement. Housing is considered a direct benefit activity and each household in a single-family unit must be LMI, while one of two units in a duplex must be LMI and 51% of three or more unit properties must be LMI. To document the housing national objective, see the section entitled Applicant Eligibility in Part 1 of this Chapter.

However, other housing related activities related to neighborhood revitalization may be eligible to receive KCDBG assistance if the area has been designated as a slum and/or blighted area. If a grantee is using the slum/blight national objective, it must complete an Order of Municipal Resolution that states the project is slum and/or blighted and follow the criteria in KRS Chapter 99.

KRS 99.340

Under the Kentucky Urban Renewal and Redevelopment Law (KRS Chapter 99), the following definitions apply:

- ✓ A slum area is an area in which at least one-fourth of all buildings or a predominance of improvements are:
 - Unsafe or unfit to occupy due to dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation/light/sanitation/open space, high density of population, overcrowding;
 - Conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime;
 - Injurious affect the entire area; or
 - Constitute a public menace to the public health, safety and welfare.
- ✓ A slum area may include lands, structures, or improvements in which acquisition is necessary to assure the proper clearance and redevelopment of the entire area and to prevent the spread or recurrence of slum conditions thereby protecting the public health, safety and welfare.
- ✓ A blighted area is an area where, due to various reasons (predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, submergence of lots by water or other unsanitary or unsafe conditions, deterioration of site improvements, diversity of ownership, tax delinquency, defective or unusual conditions of title, improper subdivision or obsolete platting), the development of predominantly housing units is being prevented.

Where the activity being carried out with KCDBG funds in a slum and/or blighted area is housing, two additional criteria must be met:

- ✓ Each building must be considered substandard under local definition; and
- ✓ All deficiencies making the building substandard must be corrected before less critical work on the building may be undertaken.

If a grantee determines the project will meet the definition of a slum and/or blighted area, then it must complete a Development Plan to set a foundation for eminent domain and to establish the area's redevelopment plans (See Attachment 10-31 for a sample). This is a plan for acquisition of properties, demolition of removal, rehabilitation or historic preservation of structures and improvements, relocation of displaced, resale of improved land and designation of specific uses permitted in redevelopment of new sites. It must be prepared in accordance with KRS Chapter 99 and all federal regulations in the Housing and Community Development Act of 1974.

Attachment 10-31: Sample
Development Plan

Grantees will need to do a Development Plan if one of the following occurs:

- ✓ Public funds on private property (KRS 99.360) (i.e.: KCDBG funds used to rehabilitate an individual’s home);
- ✓ Public purpose is required in order to condemn a property (KRS 99.420); or
- ✓ Grantee owns land and wants to sell surplus property (KRS 99.450).

KRS 99.360

KRS 99.420

KRS 99.450

Tip: If land will be sold at less than fair market value to promote affordable housing for LMI families, resale of property must be identified as a public purpose in the Development Plan (KRS 99.450). Refer to the sample Short Form Development Plan for Voluntary Rehabilitation/Reconstruction (Attachment 10-32) for guidance.

Attachment 10-32:
Sample Short Form Development
Plan for Voluntary
Rehabilitation/Reconstruction

While grantees may assist non-LMI households under these conditions, only health and safety issues may be addressed for these properties. For example, roof problems, unsafe wiring and inadequate plumbing could be addressed with KCDBG funds. Rehabilitation activities for more cosmetic purposes such as painting or carpeting are not eligible KCDBG expenditures for over income residents.

Section 10-F. Implementing Involuntary Programs

In addition to the Development Plan and acquisition and relocation requirements under the URA, there are other administrative requirements that grantees administering involuntary programs must follow.

Most of these requirements are discussed in Part I: Housing Rehabilitation; therefore, they will not be repeated here. As a brief reference, grantees undertaking involuntary housing activities must comply with the following sections of Part I of this chapter:

- ✓ Section 10-B:
 - Program Guidelines
 - Applicant Eligibility (Note: income eligibility does not apply to URA. Knowledge of income is required to establish LMI status and relocation benefits.);
 - Property Eligibility;
 - Conflict of Interest;
 - Property Standards;
 - Contracting Requirements; and
 - Grievance Procedures (which must be provided to all residents in the designated Development target area.)
- ✓ Section 10-C:

-
- Determining Staffing;
 - Pre-1978 Properties and Lead Hazard Reduction;
 - Lead-Based Paint Requirements;
 - Work Write-Ups and Cost Estimates;
 - Recruiting Contractors;
 - Bidding Procedures;
 - Preparing the Contract; and
 - Contract Award and Monitoring.
- ✓ Section 10-D: Record keeping (Note: Individual case files are required for all activities benefiting a recipient, i.e. acquisition, relocation, clearance, etc.).

Grantees with specific questions or concerns about these or other requirements should contact DLG for assistance.

Additional Requirements for Rental Housing Rehabilitation Projects

In addition to the requirements discussed in the previous sections, there are a number of other requirements that must be met when administering a rental housing rehabilitation program.

Meeting a National Objective

As with all CDBG-funded activities, rental housing that is rehabilitated or built with CDBG funds must meet a national objective. Specifically:

- ✓ For rental properties that are single family, the tenant must be LMI.
- ✓ For rental properties with two units, at least one unit must be LMI.
- ✓ For properties with more than two units, at least 51 percent of the units must be occupied by LMI households.

Rental units must be occupied by LMI persons at affordable rents (as defined by DLG) for a period of five years. The maximum amount of rent charged may not exceed the HUD Fair Market Rent (FMR) during the five-year period. Fair market rents by area and bedroom size can be accessed from the HUD User web site at <http://www.huduser.org/datasets/fmr.html>

Access Fair Market Rents from the HUD User website at <https://www.huduser.gov/portal/datasets/fmr.html>

Installation of Broadband Infrastructure in Multi-Family Housing

In December 2016, HUD published new regulations requiring the installation of broadband infrastructure at the time of new construction or substantial rehab of HUD-funded multifamily housing, including CDBG-funded multifamily housing with more than four rental units. This requirement will apply to projects for which funds are obligated by a state grantee on or after July 18, 2017.

Broadband infrastructure is defined as cables, fiber optics, wiring or other permanent, including wireless, infrastructure in each dwelling unit meeting the Federal Communications Commission's

definition. Substantial rehab is defined as work on the electrical system with estimated costs equal to or greater than 75% of the cost of replacing the entire electrical system, or when the estimated cost of the rehab is equal to or greater than 75% of the total estimated cost of replacing the multifamily rental housing after the rehab is complete. Some exceptions are allowed when:

- ✓ The location of the new construction or substantial rehab makes installation of broadband infrastructure infeasible;
- ✓ The cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program or activity or an undue financial burden; or
- ✓ The structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible.

Financial Assistance

Financial assistance may be provided as a grant or loan to the property owner for an eligible project (e.g., the rehabilitation of a multi-unit housing complex). The assistance must be conditioned upon the requirement to make 51% of the units available for five years at rents affordable to lower income tenants (as discussed above).

Davis Bacon Wage Determination

Davis Bacon wage determination applies if a grantee expects to rehabilitate a structure with eight or more units. Grantees are advised to contact DLG very early for guidance. There are a number of preplanning documents that must be completed and reviewed before going to bid and entering into a contract. See Chapter 5: Contracting for more information.

Chapter 5: Contracting

Relocation

The Uniform Relocation Act applies to all projects in which tenants are living in a multi-unit structure. Proper notices, services and payments must be provided to tenants as applicable. See Chapter 8: Relocation, Displacement and One-for-One Replacement for more information.

Chapter 8:
Relocation, Displacement, and
One-for-One Replacement

**COUNSELING REPORT
HOMEOWNER MAINTENANCE/LIFE SKILLS EDUCATION**

CLIENT INFORMATION:

Name: _____

Rehab Case # _____

Address _____

Telephone #1: _____

Telephone #2: _____

COUNSELING SESSION(S):

INITIAL _____ FOLLOW-UP # _____ FINAL _____

DATE: _____

STARTING TIME: _____ ENDING TIME: _____

TOPIC(S) OF DISCUSSION (i.e., Home Maintenance, Budget Counseling, etc):

DESCRIPTON OF DISCUSSION:

Signature of Homeowner

Date

Signature of Homeowner

Date

Signature of Counselor and Company Name

Date

Sample Rating and Ranking Applicant Selection Criteria Advertisement
and
Sample Criteria and Point System

The ***(unit of local government)*** is applying for funds under the Community Development Block Grant (CDBG) Program to upgrade housing in the community. Rehabilitation Assistance offered through this federally funded program is in the form of a _____ year, forgivable mortgage. The goal of the CDBG Program is to improve the housing conditions for low-and moderate-income persons. The project will be offered on a voluntary basis, therefore the power of eminent domain will not be utilized for the purposes of this program.

If you are interested in applying for assistance and your household meets the following basic criteria, please ***(insert appropriate contact details)*** to apply. Representatives from ***(insert appropriate details)*** will contact you to obtain basic information and a certified housing inspector will perform a work write-up on your home.

Basic Criteria:

- Must be owner-occupied as principal place of residence
- Must be located in within the ***(unit of local government)*** limits
- Must have an annual income (for all persons over the age of 18 living in the household) at or below the following dollar amounts:

Household Size	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
80% Median Income	<i>INSERT THE APPLICABLE COUNTY'S SECTION 8 HUD MEDIAN INCOME LIMITS</i>							

In the event that not all interested households can receive assistance, homeowner households with the greatest need will have top priority. Selection criteria of who could participate will be based upon structural conditions, occupancy, income, elderly, female head of household and taxes to be paid.

*Prioritization points are subject to change based upon re-verification of income and household familial status, which must be done for each household if the **(unit of local government)** receives CDBG funding approval. Ranking of Households are subject to change based on the change in prioritization points of if a top ranked applicant chooses not to participate in the "voluntary" project.*

Applications for assistance will be accepted from ***(date)*** until ***(date)***.

For more information contact...

Include Public Hearing details. Including clause indicating all persons are invited to attend.

The Kentucky Relay Service for the hearing and speech impaired:
 Phone: 800-648-6057 Voice; TTY/VCO/HCO/ASCII: 800-648-6056.



The ***(unit of local government)*** is an Equal Housing Opportunity Provider; and does not discriminate on the basis of handicap, race, color, national origin, religion, sex, familial status or age.

SAMPLE CRITERIA AND POINT SYSTEM

1. Structural conditions*
 - a. 4 or more structural items =20 pts.
 - b. 3 structural items =15 pts.
 - c. 2 structural items =10 pts.
 - d. 1 structural items = 5 pts.

*Based upon certified housing inspector's report. The certified housing inspector will also be responsible for determining which structures have the greatest health and safety concerns if applicants share same point scoring.

2. Income
 - a. Extremely Low =20 pts.
 - b. Very Low =10 pts.
 - c. Low = 5 pts.
 3. Elderly = 5 pts.
 4. Female Head of Household =5 pts.
 5. Taxes paid to date =5 pts.
- Total Points Possible =55 pts.

SAMPLE REHABILITATION/RECONSTRUCTION PROGRAM GUIDELINES DECLINE STREET REDEVELOPMENT PROJECT

DEFINITIONS

Definitions of terms used in this document shall be the following:

Ability-to-Pay - The difference between 30% of a household's adjusted average monthly gross income and the average monthly housing cost, used to determine how much of the cost of rehabilitation the household can be expected to pay with its own resources.

Agency – The city or county implementing the program as an agent of Governor’s Office for Local Development, a grantee of the U.S. Department of Housing and Urban Development.

Annual Income - The gross amount of household income anticipated to be received during the 12 months following the effective date of examination as calculated by the current HUD Section 8 method.

Applicant - The "Applicant" shall include all persons having legal or equitable title to the structure for which rehabilitation assistance is requested, including nonresident owners.

Applicant's Family (Household) - The "Applicant's Family" shall include the applicant and other persons related by blood, marriage, or operation of law in addition to all non-related persons living in the dwelling unit.

Approving Officer - A representative of the Agency authorized to approve rehabilitation contractors and distribution of rehabilitation funds.

Critical Health and Safety Deficiencies - Those necessary elements of the structure which are lacking or are deteriorated to a point which poses a real threat to the continued well being of the occupants. For the purpose of this plan, these include wiring, heating and major structural problems and the lack of adequate plumbing and sanitary septic systems.

Forgivable Deferred Loan (FDL) - A direct payment for the purpose of bringing an eligible property up to Housing Code paid to the approved contractor on the Applicant's behalf. There is no requirement for repayment unless the property is sold or transferred within the first ***Insert Number*** years after rehabilitation is complete and/or the unit does not continue to be occupied by a low and moderate-income household. The amount of the FDL is forgiven/reduced at a rate of ***Insert Percent*** per year for ***Insert Number*** years.

Fixed Medical Expenses - Monthly recurring costs related to health care, not covered by medical insurance, as verified by a doctor and/or pharmacy.

Housing Code/Housing Standard - The International Code Council (ICC) Property Maintenance Code which is adopted by the Agency as the minimum standards to which all structures approved for rehabilitation assistance must comply.

Land Sales Contract - Any transaction, regardless of the arrangement, in which the purchaser-occupant obtains fee title, but only if a series of installment payments over a period of time have been completed. (It must be a “recorded land contract in order to prove ownership.)

Low and Moderate-Income - Level of income, when combined with family size, relates to eligibility for rehabilitation with a Forgivable Deferred Loan (FDL). These income levels have been established by the federal Department of Housing and Urban Development (HUD) and adopted by the Agency.

Monthly Housing Cost - Those expenses to the occupant incurred monthly for housing. This amount reflects property tax, mortgage or rent, basic utilities excluding phone (electricity, gas, water, sewer) and property insurance.

Owner-Occupied Structure - A residential structure occupied by the owner which is used entirely for residential purposes.

Rehabilitation - Repairs, reconstruction or additions to a structure necessary to improve it to the minimum standards as required by the Housing Code and/or HUD guidelines.

Rehabilitation Assistance - That amount of money available from the Agency to an Applicant on behalf of a specific structure for the purpose of correcting critical health and safety deficiencies in that structure and bringing the unit into full compliance with the Housing Code. For the purpose of this rehabilitation plan, the type of rehabilitation assistance offered is in the form of a Forgivable Deferred Loan (FDL).

Structure - For the purpose of this rehabilitation plan, a structure containing one to four residential units is considered to be real property.

FINANCING MECHANISMS – FORGIVABLE DEFERRED LOANS

A Forgivable Deferred Loan is one form of financial assistance provided to applicants who qualify for the CDBG program. The amount of those loans will vary from case to case. Further, the amount is directly related to the household income. Forgivable Deferred Loans will be available to property owners located within the targeted rehabilitation area and shall only be made for the rehabilitation of those dwelling units deemed substandard yet feasible for rehabilitation by the initial inspection.

The applicant must be considered low and moderate-income as determined by HUD Section 8 Income Limits. In no instance will the Forgivable Deferred Loan exceed the total cost of the rehabilitation expenses.

Every Forgivable Deferred Loan will be secured by a Mortgage and Promissory Note containing a **Insert Number of Years** reducing clause. At the end of the **Insert Number** year, the balance of the principal remaining (**Insert Percentage** of the original amount of the Forgivable Deferred Loan) will be satisfied and forgiven in full.

The schedule for Forgivable Deferred Loans will be as follows: **(Change according to number of years)**

<u>At End of Time Period</u>	<u>Percentage of Loan Forgiven</u>
1st Year	20%
2nd Year	40%
3rd Year	60%
4th Year	80%
5th Year	100%

The term of the Forgivable Deferred Loan begins with the date of the Certificate of Final Inspection and runs for **Insert Number** years. Reductions of the principal amount of the Forgivable Deferred Loans are subject to ownership and, in the case of owner-occupants, residency. Owner-occupants must own and occupy the property during the entire **Insert Number** years in order to qualify for the full reduction of the principal amount of the Forgivable Deferred Loan (this provision will not apply if the owner-occupant must temporarily or permanently enter a nursing home or similar care facility). Failure on the part of the owner-occupant to maintain ownership and residency during the **Insert Number** years will stop the reduction and require the repayment of the unreduced balance of the loan. For owner-occupants, the full amount of the FDL may be forgiven upon the death of the owner(s). Reductions for the investor-owners are subject to ownership. The owner-occupant must retain ownership and maintenance of the property during the entire **Insert Number** year reduction period in order to qualify for reductions.

ELIGIBILITY REQUIREMENTS

APPLICANTS ELIGIBLE FOR REHABILITATION ASSISTANCE

The following requirements shall determine the eligibility of persons applying for a Rehabilitation Forgivable Deferred Loan. It should be explicitly understood that no one (or combination) of these criteria qualifies or disqualifies an Applicant. Rather, these guidelines give the Agency and the Approving Officer the opportunity to evaluate each Applicant on various specific points prior to making a decision of eligibility. The items to be analyzed as a part of the eligibility criteria are as follows:

RESIDENCE

Eligible Applicants shall reside within the designated project area, or the structure upon which rehabilitation is to be performed must be within the designated project area.

OWNERSHIP

Eligible Applicants shall be owners of the structure upon which rehabilitation is to be performed. Owners shall hold title or deed to the structure or shall be buying the structure under a recorded Land Sales Contract.

MAINTENANCE

Each Applicant will be required to maintain the rehabilitated structure for the Insert Number year term of the financial assistance. Maintenance will be examined in relation to the rehabilitation work performed, as per the work write-up and applicable minimum property standards. An officer of the Agency will perform periodic inspections, inform the property owner of any items that have deteriorated and request correction. The Agency reserves the right to take any appropriate action necessary to ensure that the rehabilitated property is maintained and may include early payback of financial assistance. This action will only be taken if the applicant shows a total disregard for maintenance and the Agency's request for correction of deteriorated items is repeatedly ignored and is documented accordingly. The initial review will be in letter form and will take place approximately six to nine months after the date of the final inspection in order to detect any problems the owner may face during the contractor's one-year guarantee period and/or basic maintenance problems.

FINANCIAL ELIGIBILITY

Priority for rehabilitation assistance shall be given to Applicants whose adjusted annual incomes are below the HUD Section 8 definition of low and moderate income. This amount is based upon family size and currently includes the following income categories: **NOTE: Family Size is based on the number of persons living in the household. Maximum Gross Income is based on gross annual income for all household members over 18 years of age.**

FAMILY SIZE	50% of Median Very-Low Income Maximum Gross Income	80% of Median Low-Moderate Income Maximum Gross Income
1 Person	\$14,600	\$23,350
2 Persons	\$16,700	\$26,700
3 Persons	\$18,750	\$30,000
4 Persons	\$20,850	\$33,350
5 Persons	\$22,500	\$36,050
6 Persons	\$24,200	\$38,700
7 Persons	\$25,850	\$41,350
8 Persons	\$27,500	\$44,050

The Housing and Community Development Act of 1974, as amended, specifically stipulates that priority be given to low and moderate-income families, elderly persons, female-headed households, and the disabled. In order to comply with the requirements of the state and federal legislation, the Agency shall give priority to those applications meeting these guidelines.

The income of an Applicant includes the income of the Applicant and the Applicant's Family. If ownership of the property rests in more than one person, the Applicant is each owner and family. The Applicant's income, therefore, is the sum of the family income of all Applicants. The exception to these conditions follows:

If an applicant is part-owner of the property to be rehabilitated and other co-owner(s) are not contributing to the maintenance of the property, income shall be considered to be only that of the occupant, when all co-owners agree not to sell the property for a period of at least Insert Number years and the other co-owners agree to allow the applicant to remain in the unit without increasing the applicant's housing costs.

INELIGIBLE APPLICANTS

Ineligible Applicants shall be any Applicant not meeting all of the criteria above.

STRUCTURES ELIGIBLE FOR REHABILITATION

The following requirements shall determine the eligibility of a structure for rehabilitation assistance. Structures eligible for rehabilitation are identified in the CDBG application.

ELIGIBILITY OF RESIDENT APPLICANT

An eligible structure shall be owned and/or occupied by an eligible Applicant as defined above.

LOCATION

An eligible structure shall be located within the boundaries of the Insert Name of Housing Project.

MINIMUM STANDARDS

An eligible structure shall be one which is below the minimum requirements established by the Housing Code and which, at a minimum, will have critical health and safety problems corrected following rehabilitation assistance.

MULTI-UNIT STRUCTURES

An eligible structure shall contain no more than four (4) units, one (1) of which must be occupied by the owner/applicant.

ELIGIBLE REPAIRS

An eligible structure shall exhibit one or more of the deficiencies defined in Eligible Costs.

INELIGIBLE STRUCTURES

Certain structures shall not be eligible for rehabilitation assistance due to excessive deficiencies.

EXCESSIVE REHABILITATION NEEDS

For any structure determined by the Agency to require rehabilitation costs in excess of 75% of the value of the property, the Agency may deny approval of funds to rehabilitate the structure.

The Agency may approve funds for demolition of vacant properties with excessive rehabilitation needs. Occupied structures with excessive rehabilitation needs may, at the Agency's discretion, be acquired by the Agency and the occupants relocated.

DANGEROUS OR UNFIT STRUCTURES

By definition of the Housing Code, any structure determined by the Rehabilitation Inspection to be a dangerous or unfit structure shall not be eligible for rehabilitation assistance, unless rehabilitation financed with the rehabilitation funds and/or other funds shall result in the structure meeting the requirements of the Housing Code.

ELIGIBLE REHABILITATION COSTS

A rehabilitation *Insert Number* Forgivable Deferred Loan may be made only to cover the cost of rehabilitation necessary to make a low-income, owner-occupied one-to-four dwelling, mixed-use or tenant-occupied property conform to public standards for safe, decent and sanitary housing as required by the Housing Code and as identified in the work write-up and meeting the definition of "eligible costs" as provided in this section. As a result of the rehabilitation work financed, in whole or in part, by a rehabilitation deferred-payment loan, the property must, at a minimum, conform to the Housing Code. Rehabilitation funds shall be used to achieve economical and practical compliance with the Housing Code.

ELIGIBLE COSTS

Costs eligible for rehabilitation assistance are the costs of meeting the requirements of the Housing Code and correcting incipient violations, lead based paint testing and abatement, and providing off-street parking. Building permits may be included in the amount of rehabilitation assistance. Other costs deemed necessary to ensure rehabilitation may be approved, on a case-by-case basis, by the Agency Board to be included as part of the Applicant's FDL.

A. Requirement of the Housing Code. When necessary to meet a specific requirement of the Housing Code, a rehabilitation Forgivable Deferred Loan may be used to the extent necessary for:

- ◆ Rehabilitation, or removal and replacement of elements, of the dwelling structure, including basic equipment. The term "basic equipment" includes such items as heating furnace, hot water tank, electrical, sanitary fixtures and kitchen stove and refrigerator if deficient or damaged. It does not include other appliances.
- ◆ Provision of sanitary or other facilities, including the provision, expansion and finishing of space necessary to accommodate those fixtures.
- ◆ Provision of additional or enlarged bedrooms.
- ◆ Provision of off-street parking in compliance with local zoning requirements.
- ◆ Provision of utility service, including water and sewer

B. Incipient Violations. In order that a property may be brought up to and maintained at the Housing Code, rehabilitation assistance may be used for rehabilitation work necessary to correct incipient as well as existing violations of the Housing Code. An incipient violation exists if, at the time of inspection, it is thought that the physical conditions of an element in the structure will deteriorate into an actual violation during the term of the five-year FDL. The property inspection report should identify the incipient violations to establish the basis for providing for corrective work with the rehabilitation assistance. For enforcement purposes, it may be necessary for actual violations to be identified and

listed separately from incipient violations. However, the amount of the rehabilitation Forgivable Deferred Loan to be made may cover both actual and incipient violations.

C. Requirements Not Covered by Housing Code. Any rehabilitation, not specifically required by the Housing Code, found necessary for safety, health and general welfare of the occupants of any structure or general maintenance of the structure shall be determined by the Rehabilitation Inspector to be eligible. Homes constructed prior to 1978, will be tested for lead based paint and addressed in accordance with new HUD lead based paint regulations.

INELIGIBLE COSTS

Certain rehabilitation costs shall not be eligible for rehabilitation deferred payment loans including:

- A. Rehabilitation not required to bring the structure up to the standards of the Housing Code unless otherwise stated above;
- B. Landscaping and other yard or "nonstructure" property improvements except fences.
- C. Additional rooms, except as required to meet the Housing Code.
- D. Rehabilitation of accessory structures, unless specifically authorized by the Agency for health and safety reasons.
- E. Rehabilitation judged to be damaging to the historical character or value of a structure by the State Historic Preservation Officer of the Kentucky Heritage Commission.

REHABILITATION ASSISTANCE APPROVAL PROCESS

GENERAL

The following process shall be adhered to in soliciting, accepting and processing applicants for rehabilitation assistance in bidding and managing rehabilitation construction and in managing rehabilitation funds.

APPLICATIONS

The agency shall advertise the availability of rehabilitation assistance, the time, place and manner of filing applications, and general eligibility requirements through door-to-door solicitation, public hearings or other media as appropriate.

Each applicant shall file a standard application form. Assistance in preparing the form will be provided by the Agency if necessary.

Special arrangements shall be made to assist Applicants unable to file an application, especially for the elderly and disabled.

INTERVIEW

At the time of filing the application, an appointment for an interview shall be arranged between the Applicant, Owner and member(s) of the Agency staff for the purposes of explaining rehabilitation policies and procedures.

DETERMINATION OF FINANCIAL ELIGIBILITY

The Agency staff shall prepare a financial eligibility statement for the Applicant.

Upon verification and completion of the financial eligibility statement, the Agency staff shall determine and verify the Applicant's financial eligibility according to the eligibility requirements implemented in this plan.

If on the basis of income and ability-to-pay, an applicant is determined to be ineligible for a rehabilitation forgivable loan, the Applicant shall be notified in writing of such determination, the reasons for such determination, appeal procedures, other potential resources for assistance in rehabilitating his or her property for which the Applicant may be eligible and means of applying for such assistance. The Applicant's file shall be placed in an over-income file.

DETERMINATION OF ELIGIBLE REHABILITATION COSTS

A general Structural Condition Survey has been prepared in conjunction with the application and Development Plan.

The Structural Condition Survey identifies the condition of all items potentially eligible for rehabilitation. The ratings determined by the Inspector on the Structural Conditions Survey will be used to determine the eligible costs and repairs to be contracted. Items in acceptable condition (meeting the conditions established in the Housing Code), those requiring rehabilitation (not in accordance with Housing Code) and incipient violations of the Housing Code shall be documented.

The Agency staff shall determine the eligibility of the structures in accordance with requirements.

WORK WRITE-UP AND COST ESTIMATE

Upon determining that a structure is eligible for rehabilitation construction, the Agency staff shall prepare a specific work write-up and cost estimate for all rehabilitation, construction, labor and materials necessary to bring the structure into complete compliance with the Housing Code.

Based on a rehabilitation inspection, a work write-up and cost estimate is a statement prepared by the Agency which itemizes all the rehabilitation work to be done on the property and includes an estimate of the cost for each item. The cost estimate shall be reasonable and shall reflect actual costs prevailing in the locality for comparable work.

Each item of work and its estimated cost shall be identified in the work write-up as being either necessary to meet the Housing Code or for other purposes that may be eligible to be financed with rehabilitation assistance funds.

If the total estimated cost of the work exceeds the amount of rehabilitation assistance the applicant can receive, or exceeds the amount of financial assistance available to do all the work, the Agency shall eliminate or modify items in the work write-up as necessary to reduce estimated cost; however, items of work necessary to meet the Housing Code shall not be eliminated.

Preliminary work write-ups should not contain details that have no significant effect on cost, such as color, style or pattern. Decision on these details can be made when preparing the specifications for the construction contract documents. As appropriate, the term "to be selected by the owner" shall be used.

CONSULTATION WITH APPLICANT

As soon as possible after inspection of the property, the Agency shall consult with the applicant/owner on the specific work write-up and cost estimate.

The Agency shall advise the applicant/owner which items of work are required to meet the Housing Code and which are not required, but which may be financed with the rehabilitation forgivable deferred loan. The Agency should be prepared to eliminate or modify any item in the preliminary work write-up that is not required by the Housing Code. The owner must be consulted should any items be modified or eliminated from the original work write-up. Applicants receiving FDLs will use the Agency-established low bidder contractor for the rehabilitation work. Applicants may select another contractor provided that contractor is on the approved list and is paid no more than the amount of the low bid. This may be negotiated with the contractor and the owner may eliminate any work not required to meet the building code to reduce the work to the low bid price.

As a result of the consultation and agreement between the Agency and the Owner on the work to be done, the Agency shall prepare a final work write-up and cost estimate. The final work write-up shall be the basis for the specifications in the construction contract documents to be used to solicit bids and proposals from contractors.

SPECIFICATIONS AND DRAWINGS

Specifications based on the final work write-up and any necessary illustrative sketches shall be prepared by the Agency covering the specific rehabilitation work for the structure. Drawings shall be prepared (where necessary) to show the scope of the work involved so that a fair bid for the work can be obtained and so that misunderstanding with the bidder will be avoided. The specifications shall clearly establish the nature and location of the work to be done and the material and equipment to be installed. Known acceptable brands shall be identified by reference to manufacturer's or association specifications and provisions shall be made for the acceptance of equal substitutions. Master specifications will be prepared and given to each

contractor prior to performing any rehabilitation work and will be included in all contracts by reference.

CONTRACTING FOR REHABILITATION OR RECONSTRUCTION WORK

GENERAL

This section sets forth requirements and procedures with respect to rehabilitation contracts for work financed through the Rehabilitation Assistance Program.

REQUIRED CONTRACT

Rehabilitation activities financed through the Rehabilitation Assistance Program shall be undertaken through a written contract (a standard form prepared by the Agency) between the contractor and the property owner. The Agency staff shall assist the property owner in preparing a suitable written contract. The contract will not be valid unless approved in writing by the Agency and the property owner.

THE CONTRACT DOCUMENT

The contract will consist of a single document signed by the contractor and accepted by the property owner, only following approval of the rehabilitation assistance or reconstruction activities. It shall contain a bid and proposal by the contractor, the general conditions, the specifications for the work to be performed, the work write-up and, by any reference, Master Specifications.

GENERAL CONDITIONS

The Agency staff shall prepare minimum general conditions for use in all contracts for the rehabilitation of property or reconstruction activities.

OBTAINING CONTRACTOR'S BID AND PROPOSALS

The Agency will establish and, on the basis of its experience, maintain a current listing of contractors who are qualified to perform, who are verified on the HUD Web site as not being debarred, and who are interested in doing rehabilitation or reconstruction work. While the list, in a limited way, may serve the purpose of pre-qualifying bidders, it shall not be used as a means of excluding bidders who are not on the list at the time the submission of a bid and proposal is in order. Vigorous efforts will be maintained to encourage minority business participation in the execution of the administration and contract phase of the program.

INVITATION TO CONTRACTOR FOR BID AND PROPOSAL

Contractors on the "approved list" will be contacted with regard to homes that are ready for rehabilitation or where reconstruction activities are proposed. Several contractors will be asked to review the work write-up or house plans, specifications and the structure (if job is a rehab). After this review, the contractors will be asked to submit bids on the job. All bids will be reviewed and compared to the Agency's cost estimate. If the low bid is within the 15% above-below range, the bid will generally be acceptable. If the bid exceeds the 15%, the Agency will re-evaluate the Agency's cost estimate for accuracy and reserve the right to negotiate with the Contractor. If no agreement can be reached which is acceptable to both parties, the Agency will negotiate with the next lowest bidder. If no agreement can be reached through the above described negotiations, the proposed work may be rebid.

ELIGIBLE CONTRACTORS

In order for a Contractor to qualify for reconstruction or rehabilitation work, it will be necessary that the Contractor submit to the Agency an application to be placed on the eligible contractor's

list. The Agency shall verify information on the application, and the eligibility of the contractor must be approved by verifying their eligibility regarding exclusion from federal procurement, suspension and other responsibilities. All Contractors are required to carry and provide evidence of Worker's Compensation Insurance in accordance with statutory requirements for all employees at the job site and must ensure all subcontractors do the same. All contractors must provide proof of at least ***Insert \$ Amount*** in business liability insurance, which must be maintained during the life of the contract. All contractors performing rehabilitation activities must provide evidence they are qualified to perform lead work, such as proof of attendance at a safe work practices training session and a copy of the Kentucky certification for abatement supervisor and workers. The Contractor will be notified in writing of the Agency's decision if they are found to be ineligible.

REMOVAL OF CONTRACTORS FROM APPROVED LIST

Poor performance, quality of work, failure to uphold the one-year guarantee, failure to obtain/maintain required insurance or disapproval from HUD may cause a Contractor's name to be removed from the "approved contractors" list. The following list contains additional reasons for which the Agency may decide that a contractor's name may be deleted from the approved list. The list includes, but is not limited to:

- A. Continuous poor quality work as determined by the Agency.
- B. Failure to pay subcontractors or material suppliers.
- C. Contractor's insolvency, bankruptcy or other conduct or condition which has resulted in a monetary loss to a homeowner or to the Agency in connection with the contract work.
- D. Abandonment of a job or repeated failure to complete contract work within the specified time limit.
- E. Contractor's conviction of a crime in connection with contract work or in connection with payment or receipt of funds administered by the Agency.
- F. Failure to maintain a current business license and registration with the local building official.
- G. Failure to maintain worker's compensation insurance and general liability insurance.
- H. A history of job abandonment, bankruptcy, subcontractor or supplier payment problems, or similar problems with have resulted in financial losses to other federally funded housing programs.

AWARD OF REHABILITATION OR RECONSTRUCTION CONTRACT

The contract shall be awarded by the Agency on behalf of the owner after proper examination of the bid by the Owner and the Agency.

In award of a contract for the rehabilitation work or for reconstruction, the owner of the property shall execute the original contract documents. The executed contract documents shall be distributed as follows:

Executed original to contractor

Executed counterpart to Applicant and/or Owner

Executed copy retained by Agency

GUARANTEE TO COMPLETE REHABILITATION

In cases in which the Owner agrees to complete certain items of rehabilitation as required by the Housing Code (i.e., cases in which all Housing Code requirements are not included in a contract), the Owner shall sign a "Guarantee to Complete Rehabilitation." The award of the rehabilitation assistance shall be contingent upon the signing of such a guarantee.

ISSUANCE OF PROCEED ORDER

At the time the award is made, the Agency Staff shall remind the applicant/owner and the successful Contractor that the undertaking of the work covered by this contract is subject to issuance of an order to proceed within the number of days stated in the general conditions of the contract from the date of the award.

The order to proceed shall be prepared by the Project Manager, signed by the Project Manager, Contractor and Owner, and shall be distributed by the Agency as follows:

Original to Contractor

One copy to the Owner

One copy retained by the Agency

PRE-CONSTRUCTION CONFERENCE

A pre-construction conference will be held prior to issuing the notice to proceed for any reconstruction or rehabilitation activities. The homeowner, contractor, and project manager or duly authorized representative shall be present at the pre-construction conference to review specifications and/or work write-ups of the work to be performed by the contractor. All parties will be required to sign off on these items as well as a pre-construction conference checklist in order to ensure that each has a thorough understanding of the work to be done and the timeframe for completion.

SELECTION OF MATERIALS

Materials utilized by the Contractor for roofing, siding, cabinetry, flooring, and countertops must be provided to and approved by the Owner and Project Manager. In addition, all color selections for roofing, siding, shutters, exterior painting, flooring (carpet and vinyl), countertops, and cabinets will be selected by the Owner. A form containing the Owner's color selections and signature will be given to the Contractor to alleviate potential misunderstandings. Should materials be unavailable or the Owner wishes to modify his/her selection (prior to the ordering and installation of the materials by the contractor), the form should be modified and initialed by the Owner, Contractor, and Project Manager. Failure to modify the form in advance of these changes shall be done so to the liability of the Contractor. Installation of materials (by the Contractor) other than those approved by the Owner and Project Manager may result in the Contractor removing and replacing these materials at his/her own expense.

LIQUIDATED DAMAGES

As specified in the contractor's contract with a homeowner, liquidated damages will be assessed for any work not finished by the completion date or for any faulty workmanship or materials not remedied or replaced by the contractor.

ARBITRATION

Appropriate action mentioned above shall include arbitration to ensure the protection of both the Applicant and the Contractor. Arbitration will be provided by the Agency. The Agency will inspect the work and determine if it has been performed in accordance with the contract and in a competent manner. If the work has not been completed properly, the Contractor will be ordered to make the necessary corrections before receiving any further payment. If the Contractor fails to make the necessary corrections prior to the expiration of his or her contract, the Agency shall assist the Applicant in obtaining another contractor to make the corrections. When corrections are made to the satisfaction of the Agency, the Agency shall make the necessary arrangements to pay the new Contractor for the corrections from the Applicant's rehabilitation account. At this time, the Contractor who failed to perform shall be paid the balance of the funds remaining in the contract, if any. This payment shall only be made upon receipt of the appropriate release of lien documentation. If the Contractor does make the corrections as requested and the work is deemed satisfactory by the Agency, the final payment shall be disbursed to the Contractor.

CONSTRUCTION INSPECTIONS

GENERAL

Inspection of construction work funded with Agency rehabilitation assistance shall be performed by the Agency. To accomplish this, the Agency shall, as necessary, make:

Interim inspections to ensure that the construction work is being completed in accordance with the construction contract.

A final inspection to determine that the construction work is being completed in accordance with the construction contract.

A sixty (60) day follow-up inspection to ensure no problems have occurred as a result of completed work. If so, corrective action will be deemed necessary.

RECONSTRUCTION INSPECTIONS

The contractor is required to obtain a building permit on all reconstructed homes and to obtain a footer, framing, and final inspection from the local building inspector. Documentation from the building inspector showing that these inspections have been done and that the house is in compliance with the building code must be provided to the Agency. If the contractor fails to have a footer inspection done, the contractor (at his/her own expense) will be required to obtain a letter from a structural engineer certifying that the footer meets the building code and plans. This letter must contain the engineer's stamp and original signature. Prior to final payment, the contractor must also provide a copy of the termite certificate and certificate of occupancy (where issued) to the Agency. No house shall be occupied until the final electrical and plumbing inspections have been passed and a certificate of occupancy has been issued.

INTERIM INSPECTIONS

Interim inspections will be made by the Agency staff dependent upon the amount of work and period of construction. In any case, at least one interim inspection per month will be made. Interim inspections will be made before progress payments are made on a Contractor's invoice. Interim inspection reports will be prepared by the inspector.

PROGRESS PAYMENTS

Issuance of a progress payment, if authorized by the contract, will be dependent upon favorable interim inspection reports indicating that the work completed is in compliance with the construction contract. In the event that work completed is not in compliance, it shall be the duty of the Agency staff to obtain appropriate corrective action from the Contractor. The Contractor shall be notified verbally, at the time of the inspection for progress payment, of any necessary corrective action to enable the Agency to make a progress payment. Agency staff will document this notification in the case file. This verbal notification will be followed up by a written memorandum to the Contractor if the work is not completed as required by the verbal notification.

Interim inspections should ascertain that the work completed is valued at an amount equal to the progress payment requested. No payment will be made on a construction contract until the Contractor has satisfactorily completed the necessary corrective action.

RETAINAGE

Contractors performing rehabilitation work shall be subject to 10% retainage until the owner signs a completion of work form. On reconstruction, the contractor will be required to furnish and pay one of the following: 1) one-hundred percent performance or payment bond or bonds; 2) a 20% cash escrow; 3) a 25% irrevocable letter of credit; 4) a contractor may opt for 25% retainage on completed work; or 5) 10% retainage with contractors and subcontractors release of liens provided with every pay request.

CHANGE ORDERS

Change orders shall be issued on behalf of the Owner and executed by the Rehabilitation Inspector, Project Manager, Contractor, and homeowner when changes are required in the contract. Change orders may be used to add items of work which become evident after work is started. The Contractor shall not be authorized to perform any work outside the scope of the original contract without a written and properly executed change order. Unless formally approved as a change order by the Project Manager, any modifications to the contract, write-up or house plans, materials used, Owner color selection sheet, or specifications shall be done so at the risk of the Contractor and possibly to the cost of the homeowner if an unapproved verbal agreement was made between the Owner and Contractor.

FINAL INSPECTION

Upon completion of the rehabilitation work and receipt of the Contractor's invoice containing his or her certification of satisfactory completion of all the work in accordance with the contract and his or her warranty, the Agency shall obtain from the Contractor a Release of Liens, including releases from all subcontractors and suppliers and a copy of each warranty, before making the final payment.

If the Contractor cannot provide the Agency with a satisfactory Release of Liens, the Agency, may, with Owner's approval, pay the supplier and/or subcontractor directly. The Contractor will be notified in writing of the Agency's intent to pay the supplier or subcontractor directly seven (7) working days prior to the date the Agency will make these payments. The supplier or subcontractor will be required to sign a release of liens at the time of payment.

Final payment will be made within thirty (30) days of receipt of all necessary documents. In the case of an applicant performing his or her own rehabilitation, any incomplete rehabilitation work identified in the "Applicant's Guarantee to Complete Rehabilitation" shall be noted at the time of final inspection.

OWNER'S ACCEPTANCE OF WORK

The Owner will be asked to sign the Owner's Acceptance of Work. If there are any problems with workmanship, etc., these will be negotiated by the Agency between the Owner and the Contractor. In the instance that the Owner makes unreasonable request or demands and the Contractor has otherwise satisfied the requirements of the Agency, the Agency reserves the right to override the Owner's decision, accept the work, and begin closeout procedures. In the instance where the Agency's decision supersedes the non-acceptance of the Owner, the Agency will thoroughly document the reasons for the decision to close out the rehabilitation despite the homeowner's objections.

CERTIFICATION OF FINAL INSPECTION

After the Agency determines that the work, as indicated in the contract agreement with the Contractor has been fully and satisfactorily completed and the final inspection report obtained, the Agency shall prepare a "Certification of Final Inspection" which shall be signed by the Owner, Agency representative, and Contractor.

FOLLOW-UP INSPECTION

In some cases, defects and inadequacies in the construction work, not apparent at the time of final inspection, may show up after final payment for the work is made and the "Certification of Final Inspection" has been issued. Most of these are minor, such as floors and windows that stick after painting. However, others are serious, such as roof leaks not ascertainable until after a rain, defects in the heating systems installed during the non-heating season that were not revealed in the limited tests after inspection. All work performed by the contractor is covered by a one-year guarantee. Owners may require the Contractor to correct significant defects and inadequacies found in the construction work performed under this contract. After final inspection, the Agency shall make an additional call on the Owner to ascertain if there are any complaints about the work which has been done. This call shall be made within sixty 60 days after the issuance of the "Certification of Final Inspection." The Agency shall inspect the work to ascertain if the complaint is valid. If the complaint is valid, the Agency will assist the owner in obtaining prompt corrective action from the Contractor. Any problems that may occur after the sixty (60) days must be resolved between the Owner and the Contractor.

RELOCATION ASSISTANCE

GENERAL

Relocation will be in accordance with the Optional Relocation Policy adopted by *Insert Name of Agency's Governing Body*.

STORAGE

If rehabilitation work cannot be completed with the occupant's household goods in place, the Agency may provide insured storage space. The Agency may pay the cost of insurance and moving to and from storage.

RELOCATION AND ANTI-DISPLACEMENT PLAN

In the implementation of the *Insert Name of Housing Project*, it will be necessary to temporarily relocate family household occupant's living in deteriorated structures to safe, decent and sanitary housing. As this is a voluntary project, no permanent relocation is anticipated. However, if due to unforeseen circumstances, it is necessary to provide permanent relocation, such relocation will be done on a voluntary basis. Therefore, relocation will not be in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (URA or Uniform Act), as amended.

A. Administration

All relocation activities in the *Insert City or County Name* will be administered by the designated approving officer and in accordance with the agency's relocation procedures

B. Purpose

The purpose of this relocation function is to establish and provide assistance to persons and families who may be relocated as part of the rehabilitation, reconstruction/clearance activities and in obtaining suitable, safe, decent, and sanitary temporary housing.

C. Relocation Standards

1. Physical and Occupancy Standards

All units considered for replacement housing must meet Kentucky Residential Code for reconstructed houses and International Code Council (ICC) Property Maintenance Code for houses that are rehabilitated. Any housing used for relocation purposes must meet HUD Section 8 Housing Quality Standard, the appropriate building codes and have the appropriate number of bedrooms for the family size.

2. Ability to Pay

No individual or family should be expected to pay rent or mortgage payments and utilities that will exceed 30% of their gross monthly income.

3. Environmental Standards

A suitable temporary housing unit must be in a location free of adverse environmental conditions and the agency will make every effort to consider similar accessibility as the family's former residence to public services, utilities, employment, commercial facilities, churches, recreation, etc.

4. Non-Discrimination

All housing considered for this relocation activity are open to all persons regardless of race, color, religion, sex, disability, familial status, or national origin, in a manner consistent with Title VII of the Civil Rights Act of 1968.

5. Proposal for Assuring Availability of Replacement Housing

Since all structures included in this voluntary project will be assisted by

rehabilitation and/or reconstruction activities, it is anticipated that replacement housing will be rehabilitated or constructed on the family's existing lots. However, should this not be the case due to unforeseen circumstances, all persons being relocated will be assisted in purchasing or constructing replacement homes in other areas of the jurisdiction.

6. Relocation Assistance Advisory Services

At the earliest possible date, any person to be permanently displaced as part of the project will be informed of the relocation procedure, replacement housing referrals, financial assistance, and social services assistance available under the relocation activity. Eligible persons will be informed verbally and given written information statements about the relocation process and financial assistance to ensure their understanding of the program and a smooth relocation.

7. Housing Discrimination Complaint:

If a person displaced by this relocation activity is unable to purchase or rent a replacement dwelling because of alleged discriminating practices pertaining to race, color, creed, or national origin, a HUD Housing Discrimination Complaint Form shall be made available, completed, and filed for each family or individual so aggrieved.

8. Social Services

Persons being relocated will be provided with needed social services counseling prior and subsequent to their relocation. The Agency shall endeavor to assure the availability of counseling services related to job, financial, educational, health, and other social services. Referrals will be made to governmental, civil, and community agencies.

D. Equal Opportunity

1. The Agency shall take such actions as listed below to assure that any displaced persons are provided with the maximum opportunities to select replacement housing within the community's total housing supply; lessen racial, ethnic, and economic concentrations; and facilitate desegregation and racially inclusive patterns of occupancy and use of public and private facilities:
 - a. Make full use of HUD properties, multiple listing services, and normal real estate management and brokerage services.
 - b. Inform members of minority groups of housing opportunities in non-traditional neighborhoods and provide services to familiarize them with such neighborhoods.
 - c. Cooperate fully with fair housing groups, human relations bodies, and other social groups, civic and religious groups interested in facilitating freedom of residence.

E. Grievance Procedure

1. Each person receiving assistance will be informed both verbally and in writing about the grievance procedure. The grievance procedure will operate as follows:
 - a. A person may file a written appeal in any case in which the person believes that the Agency has failed to properly determine the person's eligibility for assistance or has failed to provide equal assistance based upon the Program Guidelines. A person may also request an appeal concerning a review of the quality and adequacy of housing rehabilitation activities offered.
 - b. A person is encouraged to first contact the Approving Officer for clarification prior to filing a formal written appeal to the Agency. If resolution is to no avail, the Approving Officer can assist the person in filing an appeal.
 - b. The first level of appeal is to the Agency. All appeals should be sent to the **Insert Mayor's or Judge's** office at the **Insert City or County Address**.
 - c. All appeals will be reviewed by the Agency within fifteen (15) days from the receipt and the person filing the appeal will be notified in writing of the Agency's decision, the basis for that decision, and notification of the right to appeal the decision to the Department of Local Government.
 - d. The Agency shall permit a person to inspect and copy all materials pertinent to his or her appeal except materials which are classified as confidential by the agency.
 - e. If the Agency disapproves an appeal, the appellant is entitled to a review by the Department of Local Government, Office of Federal Grants, 1024 Capital Center Drive, Suite 340, Frankfort, Kentucky 40601. A state review may be obtained by sending a written request to the Department of Local Government at the above address within thirty (30) days after receiving the review findings from the Agency.

F. Relocation Payments

Since all structures included in this voluntary project will be rehabilitated and/or reconstructed, relocation payments will not be offered. However, should this not be the case due to unforeseen circumstances, all persons being relocated will be assisted as part of the voluntary project. Therefore, relocation will not be subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (URA or Uniform Act), as amended.

G. Temporary Relocation

Temporary relocations must be approved by the Approving Officer and must be consistent with the Optional Relocation Policy adopted by **Insert Name of Agency's Governing Body**. A family that moves of their own accord without prior approval

for a temporary relocation will not be eligible for reimbursement of costs. Circumstances when temporary relocations may be approved include the following:

- 1) The family's house must be demolished in order for their replacement house to be constructed requiring them to temporarily re-locate to another house.
- 2) The rehabilitation activities are extensive or include the removal of lead based paint which makes it necessary for the family to temporarily re-locate to another house awaiting repairs.

All families will be encouraged to stay with friends or relatives especially when the temporary relocation is for a short period of time (30 days or less). Relatives and friends may charge the relocated family rent for providing shelter. However, the rent must be reasonable and not exceed one-half of the HUD published fair market rent for the size of the unit they are staying in.

For longer relocations, the temporarily relocated family will first be given the option of renting any available housing the Agency may have acquired that would be suitable for temporary housing. Next, the Agency will work with the local public housing authority to provide temporary housing. If these sources are not available, the family will be assisted in finding a local, moderately priced available rental property. Rents must be reasonable for the area and generally should not exceed the HUD fair market rent for the locality. The Agency will pay the monthly rent and any reasonable, documented direct out of pocket moving costs. **All rents must be documented by rental agreement or lease.** In general, the family will be responsible for utilities at the temporary site on the same basis as the house they were temporarily relocated from.

H. Anti-Displacement Plan

1. A total of **Insert Number** dilapidated structures included in the **Insert Name of Housing Project** are unsafe and need to be rehabilitated and/or require clearance. The Agency maintains a comprehensive listing with the addresses of all houses receiving assistance. As this is a housing rehabilitation program and each house demolished will be replaced, Section 104-D requirements for replacing the units lost do not apply. In general, the rehabilitated/reconstructed houses will have the same number of bedrooms as the existing house unless additional bedrooms are needed to meet HUD guidelines.
2. It is anticipated that the project will be completed by **Insert Grant Agreement Expiration Date**. This includes all rehabilitation and demolition/reconstruction activities.
3. **Insert Number** new replacement homes will be constructed as part of the project. It is anticipated, based on those families that have been preliminarily approved for the project that this includes **Insert Number** 3-bedroom houses, **Insert Number** 2-bedroom houses and **Insert Number** 4-bedroom house. These units with a total of **Insert Number** bedrooms will replace the **Insert Number** lost through demolition. The Agency maintains a comprehensive listing with the addresses listed for all houses receiving assistance which are the same addresses of the construction of replacement homes.
4. The source of funds for the construction of replacement homes will be CDBG

funds in the form of *Insert Number of Years* forgivable deferred loans. A total of *Insert \$ Amount* in CDBG funds and *Insert \$ Amount of Other Matching Funds* will be used toward project costs. It is anticipated that all replacement homes will be constructed by *Insert Date.*

5. The replacement homes will be constructed for owner occupants participating in the project. As 100% of the owners of the reconstructed homes are LMI, it is anticipated that this percentage of replacement homes will continue to be occupied by LMI families for the next ten years.

REAL ESTATE MORTGAGE

(SAMPLE ONLY: Please have Grantee Attorney prepare in accordance with local policy.)

THIS MORTGAGE, made and entered into this ____ day of _____, between _____ the owner(s) of the property located at _____ hereinafter called the Mortgagor, and the _____, acting on behalf of the Grantee, _____, hereinafter called the Mortgagee;

WITNESSETH

THAT for the purpose of securing the payment of the indebtedness herein mentioned and all renewals and extensions thereof and for the purpose of securing the fulfillment of all covenants and conditions hereafter contained, the Mortgagor hereby conveys to the Mortgagee with Covenant of General Warranty the fee simple estate to the property hereinafter described together with the buildings and improvements erected thereon, and all rights therein (hereinafter referred to as the "Property"), together with rents, issues and profits therefrom, except that the sole purpose of this conveyance is to secure the payment of Mortgagors' indebtedness to the Mortgagee, said debt being described below.

TO HAVE AND TO HOLD the same unto the Mortgagee, its successors and assigns forever.

NOW, THEREFORE, the Mortgagor is justly indebted to the Mortgagee in the principal sum of _____ DOLLARS (\$_____), as secured by an Promissory Note of even date herewith, with the stated principal and interest payments as shown therein, and the other provisions and obligations, all of which the Mortgagor hereby acknowledges. The Promissory Note bears a final maturity date of _____.

The Mortgagor warrants the title to the property and covenants that he has a good and right to mortgage and convey the same; that the same is free from all encumbrances, liens, claims or charges prior to or on par with this Mortgage; that the Mortgagor has a good and perfect title to the same and that this Mortgage is and shall be the first and/or best lien against the property.

In addition, the Mortgagor, in order to more fully protect the security of this Mortgage, covenants and agrees as follows:

1. To pay the Note and interest, if any, thereon as hereby secured according to the terms thereof.
2. To pay promptly all taxes or assessments, general and special, now or hereafter levied against the property.
3. To keep the improvements now existing or hereafter erected on the Property in good condition and repair and to, at his/her own expense, procure, deliver to and maintain for the benefit of the Mortgagee, policies of insurance upon the Property providing the following insurance coverage, with a company or companies acceptable to the Mortgagee, which shall not be cancelable, except upon not less than 30 days prior written notice to the Mortgagee:
 - (a) Property insurance consisting of fire, extended coverage, vandalism and malicious mischief, with waiver of subrogation and a standard form of mortgage clause payable to the Mortgagee, insuring to the full insurable value of the property on the basis of replacement cost, either without co-insurance requirements, or with coverage adequate to avoid co-insurance penalty.

- (b) Flood insurance with such coverage in such amounts as are satisfactory to the Mortgagee if the property is in an area currently identified or hereafter identified by the Secretary of Housing and Urban Development as having special flood or mud slide hazards.

The Mortgagor will pay the premiums on such policies when due and deliver to the Mortgagee, upon its request, the official receipt for such premium payments. Upon issue of such policies, Mortgagor will promptly deposit them with Mortgagee as additional security. The Mortgagor further covenants to deliver to the Mortgagee at least satisfactory evidence of the payment of premium and the reissuance of a policy continuing insurance in force as required by this Mortgage. All insurance proceeds shall be applied to the payment of any indebtedness hereby secured, or at the option of the Mortgagee to the repairing or replacement of the Property.

Should the Mortgagor fail to maintain such insurance, or to keep the policies deposited with the Mortgagee, or to promptly make repairs and replacements, or to pay the taxes and assessments referred to in paragraph #2 above, the Mortgagee may, at its option, procure and pay for such insurance, cause such repairs or replacements to be made, and/or pay such taxes or assessments, and the sums so paid shall be immediately due and payable and shall be a part of the indebtedness secured by this Mortgage (with the lien therefore deemed to be equal in dignity to the lien securing the other indebtedness secured hereby) and bear interest at the rate of 0% over the Federal Reserve Discount Rate or 00%, whichever is less.

In the event of any loss or damage, the Mortgagor will give immediate notice thereof to the Mortgagee, and Mortgagee may thereupon make proofs such loss or damage, if the same is not promptly made by the Mortgagor. All proceeds of insurance, in the event of such loss or damage, shall be payable to the Mortgagee and any affected insurance company is authorized and directed to make payment thereof directly to the Mortgagee. The Mortgagee is authorized and empowered to settle, adjust or compromise any claims for loss, damage or destruction under any policy or policies of insurance. All such insurance proceeds may, at the sole discretion of the Mortgagee, be applied to the restoration, repair replacements, or rebuilding of the Property, or to and in reduction of any indebtedness secured by this Mortgage. The delivery to the Mortgagee of any policy or policies of insurance hereunder, or renewals thereof, shall constitute an assignment to the Mortgagee of all unearned premiums as further security for the payment of the indebtedness secured thereby. In the event of foreclosure of this Mortgage or other transfer of title to the Property in extinguishment of the indebtedness secured thereby, all right, title and interest of the Mortgage in and to any insurance policies then in force shall pass to the purchaser or Grantee.

4. The Mortgagor shall not commit, permit or suffer any waste, impairment of deterioration beyond normal wear and tear of the Property or any part thereof or the destruction or removal of any part of the Property.
5. Should the Mortgagor fail (a) to pay any installment on the said note or interest thereon when the same becomes due; or (b) to pay such taxes or assessments when they become due; or (c) to keep the Property insured against loss by fire and other hazards, casualties and contingencies or to pay the premiums for such insurance when due; or (d) to keep the Property in good condition and repair; or (e) to keep or perform any covenants or stipulations of this Mortgage or the underlying Promissory Note; or (f) should proceedings be instituted involving title to the Property or any part thereof, including the foreclosure of any other mortgage either superior or subordinate or any voluntary or involuntary proceedings; then in any such cases, the Mortgagee may declare the whole indebtedness secured hereby to be at once due and payable, and may forthwith proceed to collect the same and to enforce this Mortgage by suit or otherwise.
6. It is expressly agreed that failure by the Mortgagee to exercise any of its options to precipitate the debt secured because of violation of this Mortgage shall not constitute a waiver of the right to exercise such option. In the event of a waiver of any one of the obligations assumed by the Mortgagor hereunder, it shall not at any time thereafter be held to be a waiver of any of the terms or conditions hereof, except such as are expressly waived.

7. If all or any part of the property or any interest therein is sold or transferred by the Mortgagor without Mortgagee's prior written consent (including a contract for deed or any other conveyance, legal or equitable, of said property by operation of law or otherwise), excluding: (a) the creations of a lien or encumbrance subordinate to this mortgage; (b) the creation of a purchase money security interest for household appliances; (c) a transfer by devise, descent or by operation of law upon the death of a joint tenant; Mortgagee may, at the Mortgagee's option, declare all the sum secured by this Mortgage to be immediately due and payable, and may forthwith proceed to collect the same and to enforce this Mortgage by legal action or otherwise. The Mortgagee shall have waived such option to accelerate if, prior to the sale or transfer, the Mortgagee and the person to whom the Property is to be sold or transferred reach agreement in writing that the credit of such person is satisfactory to the Mortgagee and that the interest payable on the sums secured by this Mortgage shall be at such as the Mortgagee shall request.
8. Regardless of whether or not the Mortgagee has consented or agreed under paragraph 9 to the sale of the Property, no sale of the Property and no forbearance on the part of the Mortgagee, nor extension of time for the payment of the debt secured, shall operate to release, discharge, modify, change or affect the original liability of the Mortgagor, or any subsequent persons who become obligated by reason of the assumption of the debt secured either in whole or in part.
9. In the event that Property or any part thereof, shall, during the term of this Mortgage, be condemned and taken for public use or damaged in any way, the Mortgagee shall have the right to demand that all damages awarded for the taking of or damages to the property shall be paid to the Mortgagee to the extent of the then unpaid sum secured hereby.
10. In the event of any change in the laws now in force for the taxation of the Mortgage or debts secured by the Mortgage, or the manner of the collection of any such taxes, so as to affect this Mortgage, the whole of the principal sum secured by this Mortgage, together with the interest due thereon, shall, at the option of the Mortgagee, without notice to any party, become immediately due and payable.
11. Should the Mortgagor pay the indebtedness and perform all the covenants and stipulations hereof, the Mortgagee shall cancel the Promissory Note hereby secured, and shall release this Mortgage on the request and at the cost of the Mortgagor.
12. Should the Mortgagor rent the rehabilitated structure at any time during the specified five (5) year period then the Mortgagee may declare the whole indebtedness secured hereby to be at once due and payable, and may forthwith proceed to collect the same and to enforce this Mortgage by suit or otherwise
13. There shall be no prepayment penalty.
14. This mortgage shall also secure any additional advances of funds for rehabilitation of the mortgaged premises, whether direct, indirect, existing, future, contingent otherwise, said additional indebtedness in no event to exceed the principal sum of \$00,000.00 in addition to the principal amount of the mortgage note set out on page one hereof.
15. If the indebtedness secured by this mortgage is collected by legal or equitable proceedings, or is paid after the institution of such proceedings, then the Mortgagor agrees to pay all expenses of collection, including reasonable attorney fees and commission incurred by the Mortgagee or its assigns, and which the Mortgagee, or its assigns, may have paid or be liable to pay on account of such legal or equitable proceedings. It is expressly stipulated and agreed that the lien of this Mortgage shall extend to and include such expenses, attorney fees and commissions, and that same shall be included in any judgment or decree rendered for a foreclosure of this Mortgage.

PROMISSORY NOTE

(Secured by Mortgage on Real Estate)

(SAMPLE ONLY: Please have Grantee Attorney prepare in accordance with local policy.)

DATE: _____ REFERENCE #: _____

MORTGAGOR: _____ SECURED ADDRESS: _____

FUNDING SOURCE: _____ AMOUNT SECURED: \$ _____

FOR VALUE RECEIVED, the undersigned, jointly and severally promises to pay the GRANTEE, _____, at such place as the holder of this note shall designate in writing, the principal sum of _____ DOLLARS (\$ _____) immediately and without notice, upon the occurrence of any of the following:

- (1) The sale, lease, transfer or abandonment by any one or all of the undersigned of all or part of his/her/their interest (legal or beneficial) in the real property described below, except as outlined in number 3 below.
- (2) The abandonment by all of the undersigned of the aforesaid real property, as determined by the holder of this note in its sole but reasonable discretion.
- (3) The death of all of the undersigned and resulting sale, lease, transfer, assignment or abandonment. (This provision shall not apply within the City/County of _____. The death of the undersigned will activate prompt forgiveness of the Note, by order of the City/County of _____, Kentucky.)
- (4) The failure by any one or all of the undersigned to comply with the terms and conditions of the Rehabilitation Granting Agreement of even date herewith, and made a part hereto as Exhibit 1, providing for a loan of _____ DOLLARS (\$ _____) between the undersigned and the Grantee. This Promissory Note is expressly subject to and will be bound by the terms and conditions set forth in such Rehabilitation Granting Agreement as if all of such terms and conditions were expressly set forth herein.

This Promissory Note is secured by and is the same Promissory Note referenced in a Real Estate Mortgage of even date herewith executed in favor of the Grantee by the undersigned. This Promissory Note is expressly made subject to and will be bound by the terms and conditions set forth in said Mortgage as if all such terms and conditions were expressly set forth herein. This Promissory Note shall bear no interest.

It is agreed that time is of the essence of this agreement. In case of default of any payment required by the Promissory Note and Mortgage, the holder of the Note and Mortgage may, at its option, declare all of the debt due and payable and enforce its mortgage lien. Any failure to exercise said option will not constitute a waiver of right to exercise the same at a later date.

It is hereby agreed that should said indebtedness or any part thereof be collected by legal or equitable proceedings, or be paid after the initiation of such proceedings, then said mortgagors agree to pay all expenses of collection. These expenses shall include but not be limited to reasonable attorney fees and commissions incurred by the mortgagee or its assigns, and which mortgagee or its assigns may have paid or be liable to pay on account of such legal or equitable proceedings.

Applicant Release To Obtain Verification of Income

Organization requesting release of information (Grantee name, address, telephone, and date)

Purpose: Your signature on this CDBG Program Eligibility Release Form, and the signatures of each member of your household who is 18 years of age or older, authorizes the above-named organization to obtain information from a third party relative to your eligibility and continued participation in the (Grantee's program name).

Privacy Act Notice Statement: The Department of Housing and Urban Development (HUD) is requiring the collection of the information derived from this form to determine an applicant's eligibility in a CDBG Program and/or the amount of assistance necessary using CDBG funds. This information will be used to establish level of benefit on the CDBG Program; to protect the Government's financial interest; and to verify the accuracy of the information furnished. It may be released to appropriate Federal, State, and local agencies when relevant, to civil, criminal, or regulatory investigators, and to prosecutors. Failure to provide any information may result in a delay or rejection of your eligibility approval. The Department is authorized to ask for this information by Title I of the Housing and Community Development Act of 1974.

NOTE: THIS GENERAL CONSENT MAY NOT BE USED TO REQUEST A COPY OF A TAX RETURN. IF A COPY OF A TAX RETURN IS NEEDED, IRS FORM 4506, "REQUEST FOR COPY OF TAX FORM" MUST BE PREPARED AND SIGNED SEPARATELY.

X

Head of Household—Signature, Printed Name, and Date:
Family Member HEAD

X

Other Adult Member of the Household—Signature, Printed Name, and Date:
Family Member #3

Information Covered: Inquiries may be made about items initialed by applicant/tenant.

	Verification Required	Initials
Income (all sources)		
Assets (all sources)		
Child Care Expense		
Handicap Assistance Expense (if applicable)		
Medical Expense (if applicable)		
Other (list) _____ _____		
Dependent Deduction ____ Full-Time Student ____ Handicap/Disabled ____ Family Member ____ Minor Children		

Authorization: I authorize the above-named CDBG grantee and HUD to obtain information about me and my household that is pertinent to eligibility for participation in the CDBG Program.

I acknowledge that:

- (1) A photocopy of this form is as valid as the original.
- (2) I have the right to review the file and the information received using this form (with a person of my choosing to accompany me).
- (3) I have the right to copy information from this file and to request correction of information I believe inaccurate.
- (4) All adult household members who are 18 years of age or older will sign this form and cooperate with the owner in this process.

X

Other Adult Member of the Household—Signature, Printed Name, and Date:
Family Member #2

X

Other Adult Member of the Household—Signature, Printed Name, and Date:
Family Member #4

Section 8 (Part 5) Annual Income Calculation Form

1. Name		2. Identification			
ASSETS					
Family Member	Asset Description	Current Cash Value of Assets		Actual Income from Assets	
3. Net Cash Value of Assets.....		3.			
4. Total Actual Income from Assets.....				4.	
5. If line 3 is greater than \$5,000, multiply line by _____ (Passbook Rate) and enter results here; otherwise, leave blank				5.	
ANTICIPATED ANNUAL INCOME					
Household Members	a. Wages/ Salaries	b. Benefits/ Pensions	c. Public Assistance	d. Other Income	e. Asset Income
					Enter the greater of lines 4 or 5 from above in e.
6. Totals	a.	b.	c.	d.	e.
7. Enter total of items from 6a. through 6e. This is <i>Annual Income</i>					7.

**SAMPLE HOMEOWNER AUTHORIZATION
FOR AGENCY TO ACT AS AGENT FOR HOMEOWNER**

As recipient of the City/County of _____ CDBG Residential Rehabilitation Assistance Program, I do hereby request the City/County to act as agent on my behalf to provide rehabilitation services including contracting, issuance of the notice to proceed, inspections and approvals (excluding final approval of work).

Property Address: _____

Witness

Homeowner Signature

Homeowner Signature

Project Manager

Date

CITY/COUNTY REDEVELOPMENT PROJECT

SAMPLE GRIEVANCE PROCEDURES

Grounds

You have the right to appeal any decision of the Project Manager and/or the City/County concerning the implementation of the Rehabilitation Program.

Methods and Time Limits for Initiating an Appeal

A written complaint must be submitted to the City/County. The City/County has fifteen (15) calendar days from the receipt of the written complaint to provide a written response. If the complaint is legitimate given the federal regulations and Rehabilitation Policies and Procedures, the City/County will work to resolve the situation. All appeals should be submitted in writing to:

**Mayor or Judge/Executive
City/County
Street
P.O. Box
City/County, KY 40000**

Appeal to the State of Kentucky

If the grievance cannot be resolved by the City/County within 60 days of the initial written complaint, the Owner or Contractor may file a written complaint to the Department of Local Government, Community Development Division, 1024 Capital Center Drive, Frankfort, Kentucky 40601, within thirty (30) days after you receive the review findings from the City/County.

If, in the unlikely event, the grievance cannot be resolved at the state level, the Owner or Contractor may chose to file suit in Circuit Court.

If you have any questions concerning these procedures, do not hesitate to contact:

Project Manager

Name

Address

Phone

SAMPLE CDBG REHABILITATION ASSISTANCE APPLICATION
NAME OF GRANTEE

 THE INFORMATION COLLECTED IN THIS APPLICATION WILL BE USED TO DETERMINE WHETHER YOU QUALIFY FOR THE REHABILITATION ASSISTANCE THROUGH THE KENTUCKY COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM. THIS INFORMATION WILL NOT BE DISCLOSED OUTSIDE THE GRANTEE'S FILES WITHOUT YOUR CONSENT, EXCEPT TO YOUR EMPLOYER FOR VERIFICATION OF INCOME AND EMPLOYMENT AS REQUIRED AND PERMITTED BY LAW. YOU DO NOT HAVE TO PROVIDE THE INFORMATION, BUT IF YOU DO NOT, YOUR APPLICATION MAY BE DELAYED OR REJECTED.

PROPERTY TO BE ADDRESSED: _____
PARCEL NO.: _____

I. GENERAL INFORMATION ON OCCUPANTS

FEMALE HEADED HOUSEHOLD _____ YES _____ NO
 HEAD OF HOUSEHOLD: _____
 ADDRESS: _____
 HOME PHONE NUMBER: _____ OTHER _____
 SOCIAL SECURITY NO.: _____ SEX: _____ MALE _____ FEMALE
 DATE OF BIRTH: _____ RACIAL CLASSIFICATION: _____
 PLACE OF EMPLOYMENT: _____
 WORK PHONE NUMBER: _____ SUPERVISOR: _____
 RATE/METHOD OF PAY: _____
 HANDICAP, IF ANY: _____

WILL YOUR HOME NEED TO ACCOMMODATE DISABLED PERSONS IN THE HOUSEHOLD: _____ YES _____ NO

CO-APPLICANT'S NAME: _____
 SOCIAL SECURITY NO.: _____ SEX: _____ MALE _____ FEMALE
 DATE OF BIRTH: _____ RACIAL CLASSIFICATION: _____
 PLACE OF EMPLOYMENT: _____
 WORK PHONE NUMBER: _____ SUPERVISOR: _____
 RATE/ METHOD OF PAY: _____
 HANDICAP, IF ANY: _____

NUMBER OF PERSONS IN HOUSEHOLD THAT ARE US CITIZENS _____ NATIONALIZED CITIZENS
 LAWFULLY PRESENT ALIENS _____.

- * REQUEST A COPY OF DEED TO PROPERTY (*IF OWNER OCCUPIED). RECEIVED: _____
- * REQUEST A COPY OF TAX RETURN RECEIVED: _____
- * REQUEST A COPY OF PAY STUBS RECEIVED: _____

OTHER HOUSEHOLD MEMBERS	RELATIONSHIP TO HEAD OF HOUSE	SEX	DATE OF BIRTH	SOCIAL SECURITY #	PLACE OF EMPLOYMENT OR SOURCE OF INCOME	MONTHLY AMOUNT

II. UNIT INFORMATION

APPROX. YEAR BUILT: _____ YEAR YOU MOVED IN: _____
 TYPE OF UNIT: _____ HOUSE _____ MOBILE/MODULAR HOME _____ APT. _____ OTHER
 DESCRIPTION: _____ ONE STORY _____ MULTI-LEVEL _____ BASEMENT _____ BRICK _____ VINYL
 _____ WOOD _____ BLOCK _____ OTHER
 TYPE OF HEAT: _____ NATURAL GAS _____ LP GAS _____ COAL _____ ELEC. _____ WOOD _____ OTHER
 NAME OF COMPANY: _____
 TYPE OF SEWER: _____ CITY _____ SEPTIC _____ OTHER
 NAME OF COMPANY: _____
 TYPE OF WATER: _____ CITY _____ CISTERN _____ WELL _____ OTHER
 NAME OF COMPANY: _____
 NUMBER OF ROOMS: _____ KITCHEN _____ SEPARATE DINING ROOM _____ LIVING ROOM _____ DEN
 _____ BEDROOMS _____ BATHROOM _____ OTHER
 HAVE YOU RECEIVED FEDERAL ASSISTANCE IN THE PAST FOR REPAIRS ON YOUR HOME: _____ YES _____ NO
 IS PROPERTY USED FOR ANY PURPOSES OTHER THAN RESIDENTIAL: _____ YES _____ NO
 VISUAL DESCRIPTION
 OF UNIT: _____

III. HOUSING INFORMATION

OWNER

NAME OF OWNER/S: _____
 ADDRESS OF OWNER/S: _____
 PHONE NUMBER/S: _____
 TYPE OF OWNERSHIP: _____ DEED _____ LAND CONTRACT _____ OTHER
 DEED OF RECORD: DEED BOOK _____ PAGE _____, _____ COUNTY COURTHOUSE
 PURCHASED FROM: _____
 DATE OF PURCHASE: _____ AMOUNT: _____

FIRST MORTGAGE OR OTHER
 PAYMENTS MADE TO: _____
 RECORDED: MORTGAGE BOOK _____ PAGE _____, _____ COUNTY COURTHOUSE
 MORTGAGE DATE: _____ ORIGINAL AMOUNT: _____
 MONTHLY PAYMENT: _____ BALANCE OWED: _____

SECOND MORTGAGE OR OTHER
 PAYMENTS MADE TO: _____
 RECORDED: MORTGAGE BOOK _____ PAGE _____, _____ COUNTY COURTHOUSE
 MORTGAGE DATE: _____ ORIGINAL AMOUNT: _____
 MONTHLY PAYMENT: _____ BALANCE OWED: _____

HOMEOWNERS INS. CO.: _____
 ADDRESS: _____
 NEXT PAYMENT DUE: _____
 LIMITS _____ OF _____ COVERAGE: _____

APPLICABLE PROPERTY
 TAXES: \$ _____ CITY _____ DATE PAID _____ UNPAID AND DUE
 \$ _____ COUNTY _____ DATE PAID _____ UNPAID AND DUE
 EXEMPT FROM PAYING
 PROPERTY TAXES: CITY: _____ YES _____ NO COUNTY: _____ YES _____ NO

RENTER

DATE MOVED INTO UNIT: _____
MONTHLY AMOUNT: \$ _____ DUE DATE: _____ CURRENT: ____ YES ____ NO
RENTAL INSURANCE: \$ _____ MONTHLY: _____ ANNUAL: _____
LEASE: _____ YES _____ NO IF YES, DATE EXPIRES: _____
INCLUDES UTILITIES: ____ YES ____ NO WHICH UTILITIES: _____ ELEC. _____ GAS _____ WATER _____ SEWER

ACCESSABILITY IN MILES/BLOCKS TO: _____ SHOPPING
_____ MEDICAL
_____ PUBLIC TRANSIT
_____ CHURCH
_____ JOB
_____ GRADE SCHOOL
_____ HIGH SCHOOL
_____ DAY CARE
_____ OTHER

APPLICANT AUTHORIZATION AND CERTIFICATION

I CERTIFY THAT THE STATEMENTS MADE IN THIS APPLICATION ARE TRUE, COMPLETE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND ARE MADE IN GOOD FAITH TO OBTAIN REHABILITATION/RELOCATION ASSISTANCE. I FURTHER UNDERSTAND THAT ANY WILLFUL MISSTATEMENT OF MATERIAL FACT WILL BE GROUNDS FOR DISQUALIFICATION.

I UNDERSTAND THAT ANY INFORMATION, INCLUDING INCOME, PROVIDED IN THIS APPLICATION MAY BE GIVEN TO OTHER STATE AND LOCAL AGENCIES IN ORDER TO COORDINATE REHABILITATION/RELOCATION AND FINANCIAL ASSISTANCE.

WARNING: SECTION 1001 OF TITLE 18, UNITED STATES CODE PROVIDES: WHOEVER, IN ANY MATTER WITHIN THE JURISDICTION OF ANY DEPARTMENT OR AGENCY OF THE UNITED STATES, KNOWINGLY AND WILLFULLY FALSIFIES, CONCEALS OR COVERS UP A MATERIAL FACT, OR MAKES ANY FALSE, FICTITIOUS OR FRAUDULENT STATEMENTS OR REPRESENTATIONS, OR MAKES OR USES ANY FALSE WRITING OR DOCUMENT KNOWING THE SAME TO CONTAIN ANY FALSE, FICTITIOUS OR FRAUDULENT STATEMENT OR ENTRY, SHALL BE FINED NO MORE THAN \$10,000.00 OR IMPRISONED NO MORE THAN FIVE (5) YEARS OR BOTH.≅

APPLICANT SIGNATURE DATE _____ WITNESS

CO-APPLICANT SIGNATURE DATE _____ WITNESS

NAME OF PERSON CONDUCTING INTERVIEW: _____

Simple Steps To Protect Your Family From Lead Hazards

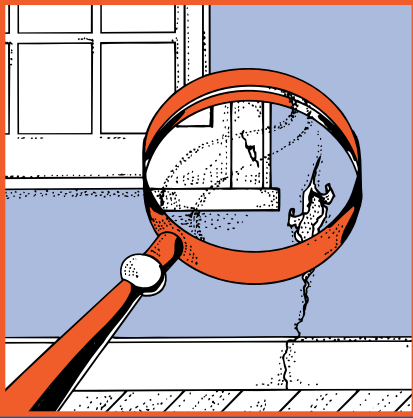
If you think your home has high levels of lead:

- ◆ Get your young children tested for lead, even if they seem healthy.
- ◆ Wash children's hands, bottles, pacifiers, and toys often.
- ◆ Make sure children eat healthy, low-fat foods.
- ◆ Get your home checked for lead hazards.
- ◆ Regularly clean floors, window sills, and other surfaces.
- ◆ Wipe soil off shoes before entering house.
- ◆ Talk to your landlord about fixing surfaces with peeling or chipping paint.
- ◆ Take precautions to avoid exposure to lead dust when remodeling or renovating (call 1-800-424-LEAD for guidelines).
- ◆ Don't use a belt-sander, propane torch, high temperature heat gun, scraper, or sandpaper on painted surfaces that may contain lead.
- ◆ Don't try to remove lead-based paint yourself.



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Protect Your Family From Lead In Your Home



 **EPA** United States
Environmental
Protection Agency



United States
Consumer Product
Safety Commission



United States
Department of Housing
and Urban Development

Are You Planning To Buy, Rent, or Renovate a Home Built Before 1978?

Many houses and apartments built before 1978 have paint that contains high levels of lead (called lead-based paint). Lead from paint, chips, and dust can pose serious health hazards if not taken care of properly.



OWNERS, BUYERS, and RENTERS are encouraged to check for lead (see page 6) before renting, buying or renovating pre-1978 housing.

Federal law requires that individuals receive certain information before renting, buying, or renovating pre-1978 housing:



LANDLORDS have to disclose known information on lead-based paint and lead-based paint hazards before leases take effect. Leases must include a disclosure about lead-based paint.



SELLERS have to disclose known information on lead-based paint and lead-based paint hazards before selling a house. Sales contracts must include a disclosure about lead-based paint. Buyers have up to 10 days to check for lead.



RENOVATORS disturbing more than 2 square feet of painted surfaces have to give you this pamphlet before starting work.

IMPORTANT!

Lead From Paint, Dust, and Soil Can Be Dangerous If Not Managed Properly

- FACT:** Lead exposure can harm young children and babies even before they are born.
- FACT:** Even children who seem healthy can have high levels of lead in their bodies.
- FACT:** People can get lead in their bodies by breathing or swallowing lead dust, or by eating soil or paint chips containing lead.
- FACT:** People have many options for reducing lead hazards. In most cases, lead-based paint that is in good condition is not a hazard.
- FACT:** Removing lead-based paint improperly can increase the danger to your family.

If you think your home might have lead hazards, read this pamphlet to learn some simple steps to protect your family.

Lead Gets in the Body in Many Ways

Childhood lead poisoning remains a major environmental health problem in the U.S.

Even children who appear healthy can have dangerous levels of lead in their bodies.

People can get lead in their body if they:

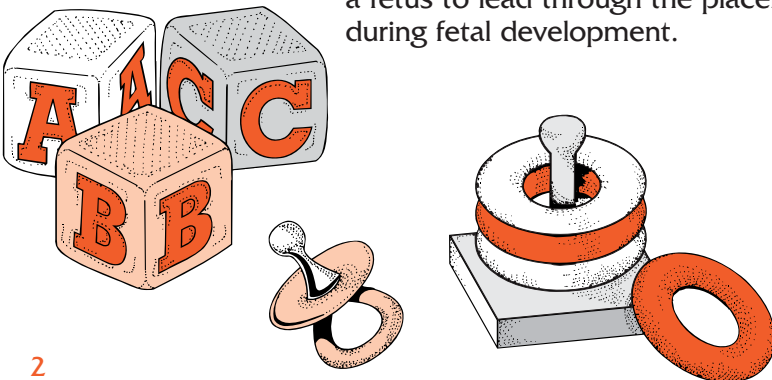
- ◆ Breathe in lead dust (especially during renovations that disturb painted surfaces).
- ◆ Put their hands or other objects covered with lead dust in their mouths.
- ◆ Eat paint chips or soil that contains lead.

Lead is even more dangerous to children under the age of 6:

- ◆ At this age children's brains and nervous systems are more sensitive to the damaging effects of lead.
- ◆ Children's growing bodies absorb more lead.
- ◆ Babies and young children often put their hands and other objects in their mouths. These objects can have lead dust on them.

Lead is also dangerous to women of childbearing age:

- ◆ Women with a high lead level in their system prior to pregnancy would expose a fetus to lead through the placenta during fetal development.



Lead's Effects

It is important to know that even exposure to low levels of lead can severely harm children.

In children, lead can cause:

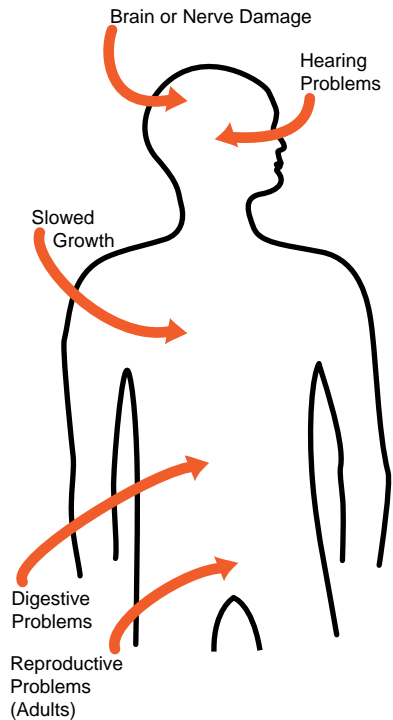
- ◆ Nervous system and kidney damage.
- ◆ Learning disabilities, attention deficit disorder, and decreased intelligence.
- ◆ Speech, language, and behavior problems.
- ◆ Poor muscle coordination.
- ◆ Decreased muscle and bone growth.
- ◆ Hearing damage.

While low-lead exposure is most common, exposure to high levels of lead can have devastating effects on children, including seizures, unconsciousness, and, in some cases, death.

Although children are especially susceptible to lead exposure, lead can be dangerous for adults too.

In adults, lead can cause:

- ◆ Increased chance of illness during pregnancy.
- ◆ Harm to a fetus, including brain damage or death.
- ◆ Fertility problems (in men and women).
- ◆ High blood pressure.
- ◆ Digestive problems.
- ◆ Nerve disorders.
- ◆ Memory and concentration problems.
- ◆ Muscle and joint pain.



**Lead affects
the body in
many ways.**

Where Lead-Based Paint Is Found

In general, the older your home, the more likely it has lead-based paint.

Many homes built before 1978 have lead-based paint. The federal government banned lead-based paint from housing in 1978. Some states stopped its use even earlier. Lead can be found:

- ◆ In homes in the city, country, or suburbs.
- ◆ In apartments, single-family homes, and both private and public housing.
- ◆ Inside and outside of the house.
- ◆ In soil around a home. (Soil can pick up lead from exterior paint or other sources such as past use of leaded gas in cars.)

Checking Your Family for Lead

Get your children and home tested if you think your home has high levels of lead.

To reduce your child's exposure to lead, get your child checked, have your home tested (especially if your home has paint in poor condition and was built before 1978), and fix any hazards you may have. Children's blood lead levels tend to increase rapidly from 6 to 12 months of age, and tend to peak at 18 to 24 months of age.

Consult your doctor for advice on testing your children. A simple blood test can detect high levels of lead. Blood tests are usually recommended for:

- ◆ Children at ages 1 and 2.
- ◆ Children or other family members who have been exposed to high levels of lead.
- ◆ Children who should be tested under your state or local health screening plan.

Your doctor can explain what the test results mean and if more testing will be needed.

Identifying Lead Hazards

Lead-based paint is usually not a hazard if it is in good condition, and it is not on an impact or friction surface, like a window. It is defined by the federal government as paint with lead levels greater than or equal to 1.0 milligram per square centimeter, or more than 0.5% by weight.

Deteriorating lead-based paint (peeling, chipping, chalking, cracking or damaged) is a hazard and needs immediate attention. It may also be a hazard when found on surfaces that children can chew or that get a lot of wear-and-tear, such as:

- ◆ Windows and window sills.
- ◆ Doors and door frames.
- ◆ Stairs, railings, banisters, and porches.

Lead dust can form when lead-based paint is scraped, sanded, or heated. Dust also forms when painted surfaces bump or rub together. Lead chips and dust can get on surfaces and objects that people touch. Settled lead dust can re-enter the air when people vacuum, sweep, or walk through it. The following two federal standards have been set for lead hazards in dust:

- ◆ 40 micrograms per square foot ($\mu\text{g}/\text{ft}^2$) and higher for floors, including carpeted floors.
- ◆ 250 $\mu\text{g}/\text{ft}^2$ and higher for interior window sills.

Lead in soil can be a hazard when children play in bare soil or when people bring soil into the house on their shoes. The following two federal standards have been set for lead hazards in residential soil:

- ◆ 400 parts per million (ppm) and higher in play areas of bare soil.
- ◆ 1,200 ppm (average) and higher in bare soil in the remainder of the yard.

The only way to find out if paint, dust and soil lead hazards exist is to test for them. The next page describes the most common methods used.

Lead from paint chips, which you can see, and lead dust, which you can't always see, can both be serious hazards.

Checking Your Home for Lead

Just knowing that a home has lead-based paint may not tell you if there is a hazard.



You can get your home tested for lead in several different ways:

- ◆ A paint **inspection** tells you whether your home has lead-based paint and where it is located. It won't tell you whether or not your home currently has lead hazards.
- ◆ A **risk assessment** tells you if your home currently has any lead hazards from lead in paint, dust, or soil. It also tells you what actions to take to address any hazards.
- ◆ A combination risk assessment and inspection tells you if your home has any lead hazards and if your home has any lead-based paint, and where the lead-based paint is located.

Hire a trained and certified testing professional who will use a range of reliable methods when testing your home.

- ◆ Visual inspection of paint condition and location.
- ◆ A portable x-ray fluorescence (XRF) machine.
- ◆ Lab tests of paint, dust, and soil samples.

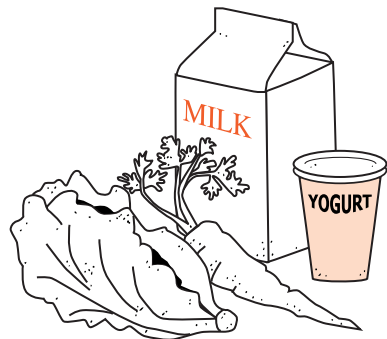
There are state and federal programs in place to ensure that testing is done safely, reliably, and effectively. Contact your state or local agency (see bottom of page 11) for more information, or call **1-800-424-LEAD (5323)** for a list of contacts in your area.

Home test kits for lead are available, but may not always be accurate. Consumers should not rely on these kits before doing renovations or to assure safety.

What You Can Do Now To Protect Your Family

If you suspect that your house has lead hazards, you can take some immediate steps to reduce your family's risk:

- ◆ If you rent, notify your landlord of peeling or chipping paint.
- ◆ Clean up paint chips immediately.
- ◆ Clean floors, window frames, window sills, and other surfaces weekly. Use a mop or sponge with warm water and a general all-purpose cleaner or a cleaner made specifically for lead. REMEMBER: NEVER MIX AMMONIA AND BLEACH PRODUCTS TOGETHER SINCE THEY CAN FORM A DANGEROUS GAS.
- ◆ Thoroughly rinse sponges and mop heads after cleaning dirty or dusty areas.
- ◆ Wash children's hands often, especially before they eat and before nap time and bed time.
- ◆ Keep play areas clean. Wash bottles, pacifiers, toys, and stuffed animals regularly.
- ◆ Keep children from chewing window sills or other painted surfaces.
- ◆ Clean or remove shoes before entering your home to avoid tracking in lead from soil.
- ◆ Make sure children eat nutritious, low-fat meals high in iron and calcium, such as spinach and dairy products. Children with good diets absorb less lead.



Reducing Lead Hazards In The Home

Removing lead improperly can increase the hazard to your family by spreading even more lead dust around the house.

Always use a professional who is trained to remove lead hazards safely.



In addition to day-to-day cleaning and good nutrition:

- ◆ You can **temporarily** reduce lead hazards by taking actions such as repairing damaged painted surfaces and planting grass to cover soil with high lead levels. These actions (called “interim controls”) are not permanent solutions and will need ongoing attention.
- ◆ To **permanently** remove lead hazards, you should hire a certified lead “abatement” contractor. Abatement (or permanent hazard elimination) methods include removing, sealing, or enclosing lead-based paint with special materials. Just painting over the hazard with regular paint is not permanent removal.

Always hire a person with special training for correcting lead problems—someone who knows how to do this work safely and has the proper equipment to clean up thoroughly. Certified contractors will employ qualified workers and follow strict safety rules as set by their state or by the federal government.

Once the work is completed, dust cleanup activities must be repeated until testing indicates that lead dust levels are below the following:

- ◆ 40 micrograms per square foot ($\mu\text{g}/\text{ft}^2$) for floors, including carpeted floors;
- ◆ 250 $\mu\text{g}/\text{ft}^2$ for interior windows sills; and
- ◆ 400 $\mu\text{g}/\text{ft}^2$ for window troughs.

Call your state or local agency (see bottom of page 11) for help in locating certified professionals in your area and to see if financial assistance is available.

Remodeling or Renovating a Home With Lead-Based Paint

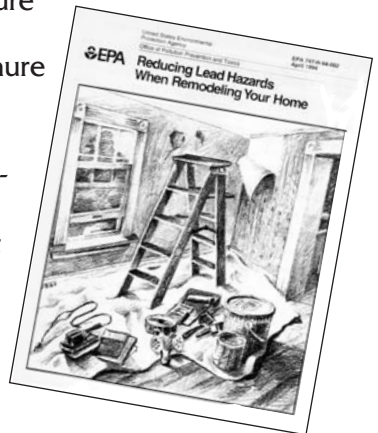
Take precautions before your contractor or you begin remodeling or renovating anything that disturbs painted surfaces (such as scraping off paint or tearing out walls):

- ◆ **Have the area tested for lead-based paint.**
- ◆ **Do not use a belt-sander, propane torch, high temperature heat gun, dry scraper, or dry sandpaper** to remove lead-based paint. These actions create large amounts of lead dust and fumes. Lead dust can remain in your home long after the work is done.
- ◆ **Temporarily move your family** (especially children and pregnant women) out of the apartment or house until the work is done and the area is properly cleaned. If you can't move your family, at least completely seal off the work area.
- ◆ **Follow other safety measures to reduce lead hazards.** You can find out about other safety measures by calling 1-800-424-LEAD. Ask for the brochure "Reducing Lead Hazards When Remodeling Your Home." This brochure explains what to do before, during, and after renovations.

If you have already completed renovations or remodeling that could have released lead-based paint or dust, get your young children tested and follow the steps outlined on page 7 of this brochure.



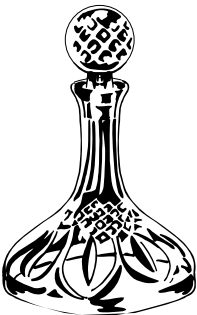
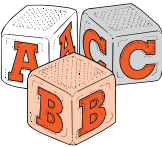
If not conducted properly, certain types of renovations can release lead from paint and dust into the air.



Other Sources of Lead



While paint, dust, and soil are the most common sources of lead, other lead sources also exist.



- ◆ **Drinking water.** Your home might have plumbing with lead or lead solder. Call your local health department or water supplier to find out about testing your water. You cannot see, smell, or taste lead, and boiling your water will not get rid of lead. If you think your plumbing might have lead in it:
 - Use only cold water for drinking and cooking.
 - Run water for 15 to 30 seconds before drinking it, especially if you have not used your water for a few hours.
- ◆ **The job.** If you work with lead, you could bring it home on your hands or clothes. Shower and change clothes before coming home. Launder your work clothes separately from the rest of your family's clothes.
- ◆ Old painted **toys** and **furniture**.
- ◆ Food and liquids stored in **lead crystal** or **lead-glazed pottery or porcelain**.
- ◆ **Lead smelters** or other industries that release lead into the air.
- ◆ **Hobbies** that use lead, such as making pottery or stained glass, or refinishing furniture.
- ◆ **Folk remedies** that contain lead, such as “greta” and “azarcon” used to treat an upset stomach.

For More Information

The National Lead Information Center

Call **1-800-424-LEAD (424-5323)** to learn how to protect children from lead poisoning and for other information on lead hazards. To access lead information via the web, visit **www.epa.gov/lead** and **www.hud.gov/offices/lead/**.

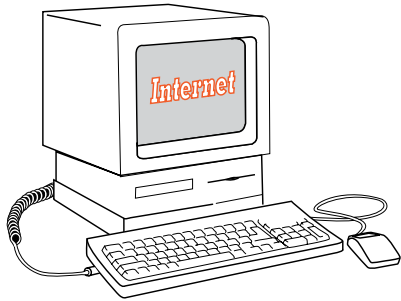


EPA's Safe Drinking Water Hotline

Call **1-800-426-4791** for information about lead in drinking water.

Consumer Product Safety Commission (CPSC) Hotline

To request information on lead in consumer products, or to report an unsafe consumer product or a product-related injury call **1-800-638-2772**, or visit CPSC's Web site at: **www.cpsc.gov**.



Health and Environmental Agencies

Some cities, states, and tribes have their own rules for lead-based paint activities. Check with your local agency to see which laws apply to you. Most agencies can also provide information on finding a lead abatement firm in your area, and on possible sources of financial aid for reducing lead hazards. Receive up-to-date address and phone information for your local contacts on the Internet at **www.epa.gov/lead** or contact the National Lead Information Center at **1-800-424-LEAD**.

For the hearing impaired, call the Federal Information Relay Service at **1-800-877-8339** to access any of the phone numbers in this brochure.

EPA Regional Offices

Your Regional EPA Office can provide further information regarding regulations and lead protection programs.

EPA Regional Offices

Region 1 (Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island, Vermont)

Regional Lead Contact
U.S. EPA Region 1
Suite 1100 (CPT)
One Congress Street
Boston, MA 02114-2023
1 (888) 372-7341

Region 2 (New Jersey, New York, Puerto Rico, Virgin Islands)

Regional Lead Contact
U.S. EPA Region 2
2890 Woodbridge Avenue
Building 209, Mail Stop 225
Edison, NJ 08837-3679
(732) 321-6671

Region 3 (Delaware, Maryland, Pennsylvania, Virginia, Washington DC, West Virginia)

Regional Lead Contact
U.S. EPA Region 3 (3WC33)
1650 Arch Street
Philadelphia, PA 19103
(215) 814-5000

Region 4 (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee)

Regional Lead Contact
U.S. EPA Region 4
61 Forsyth Street, SW
Atlanta, GA 30303
(404) 562-8998

Region 5 (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin)

Regional Lead Contact
U.S. EPA Region 5 (DT-8J)
77 West Jackson Boulevard
Chicago, IL 60604-3666
(312) 886-6003

Region 6 (Arkansas, Louisiana, New Mexico, Oklahoma, Texas)

Regional Lead Contact
U.S. EPA Region 6
1445 Ross Avenue, 12th Floor
Dallas, TX 75202-2733
(214) 665-7577

Region 7 (Iowa, Kansas, Missouri, Nebraska)

Regional Lead Contact
U.S. EPA Region 7
(ARTD-RALI)
901 N. 5th Street
Kansas City, KS 66101
(913) 551-7020

Region 8 (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming)

Regional Lead Contact
U.S. EPA Region 8
999 18th Street, Suite 500
Denver, CO 80202-2466
(303) 312-6021

Region 9 (Arizona, California, Hawaii, Nevada)

Regional Lead Contact
U.S. Region 9
75 Hawthorne Street
San Francisco, CA 94105
(415) 947-4164

Region 10 (Alaska, Idaho, Oregon, Washington)

Regional Lead Contact
U.S. EPA Region 10
Toxics Section WCM-128
1200 Sixth Avenue
Seattle, WA 98101-1128
(206) 553-1985

CPSC Regional Offices

Your Regional CPSC Office can provide further information regarding regulations and consumer product safety.

Eastern Regional Center

Consumer Product Safety Commission
201 Varick Street, Room 903
New York, NY 10014
(212) 620-4120

Western Regional Center

Consumer Product Safety Commission
1301 Clay Street, Suite 610-N
Oakland, CA 94612
(510) 637-4050

Central Regional Center

Consumer Product Safety Commission
230 South Dearborn Street, Room 2944
Chicago, IL 60604
(312) 353-8260

HUD Lead Office

Please contact HUD's Office of Healthy Homes and Lead Hazard Control for information on lead regulations, outreach efforts, and lead hazard control and research grant programs.

U.S. Department of Housing and Urban Development

Office of Healthy Homes and Lead Hazard Control
451 Seventh Street, SW, P-3206
Washington, DC 20410
(202) 755-1785

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U.S. EPA Washington DC 20460
U.S. CPSC Washington DC 20207
U.S. HUD Washington DC 20410

EPA747-K-99-001
June 2003

Sample Verification of Receiving Lead-Based Paint Pamphlet

I hereby certify that I have received and understand the EPA “Protect Your Family from Lead in Your Home” pamphlet.

Applicant’s Name

Address

Date

City/County Representative

WORK WRITE-UP AND COST ESTIMATE FORMAT (SAMPLE)

Applicant: Mrs. Beasley
425 Fourth Street

Application: #129

Inspector: Orry Marrinoux

Date Inspected: _____

		<u>Estimated Cost</u>
<u>Living Room</u>	10' x 15'	
Floors	Remove existing sub floor (approximately 210 square feet) and replace with plywood sub floor at least 5/8".	\$ _____
	Install sheet vinyl over wood surface, "Armstrong Standard" or equal (approximately 210 square feet).	\$ _____
Walls	Patch holes and cracks in existing plaster (approximately 6 square feet). Include lathing on south and west walls.	\$ _____
	Paint walls (approximately 480 square feet) with two coats of interior latex paint, "Sherman Williams Good" or equal with roller.	\$ _____
<u>Bedroom #2</u>	9' x 11'	
Window	Install screen and lock (3' x 4")	\$ _____
Closet	Install 16" x 36" #2 pine shelf and 1-3/8" clothes pole.	\$ _____
Walls	Paint with 2 coats of interior latex "Sherman Williams Good" or equal with roller.	\$ _____
Doors and Woodwork	Paint using semi gloss "Sherman Williams Good" or equal using brush.	\$ _____
<u>Hall</u>	4' x 10'	
Floor	Remove existing sub floor (approximately 40 square feet) and replace with plywood sub floor at least 5/8".	\$ _____
	Install vinyl asbestos floor tile "Armstrong Standard" or equal (approximately 40 square feet).	\$ _____

		Estimated <u>Cost</u>
<u>Hall (cont'd.)</u>		
	Install shoe and baseboard (approximately 20 linear feet).	\$ _____
Ceiling	Install frame and cover on access hole (approximately 3' x 3').	\$ _____
Electric	Remove existing hanging light cord and replace with NL approved ceiling fixture and switch.	\$ _____
Closet	Rebuild existing closet 3'9" x 2'0"; door size 2068; install 12" #2 pine shelf and 1-3/8" clothes pole.	\$ _____
Walls	Apply 2 coats interior latex "Sherman Williams Good" or equal with roller (approximately 200 square feet).	\$ _____
	Apply semi gloss paint to doors, door jambs and base board. "Sherman Williams Good" or equal with brush.	\$ _____
<u>Kitchen</u>		
	11'6" x 14'5"	
	Install shoe and baseboard approximately 50 linear feet.	\$ _____
	Apply 2 coats interior latex, "Sherman Williams Good" or equal with roller approximately 250 square feet.	\$ _____
Ceiling	Install 12" x 12" celotex tile over existing wood ceiling (approximately 165 square feet) with adhesive.	\$ _____
Windows	Remove existing wood windows, reset and install new trim approximately 2' x 3'.	\$ _____
	Paint window trim using semi gloss "Sherman Williams Good" or equal with brush.	\$ _____
Cabinets	Remove 3 base kitchen cabinets and countertop.	\$ _____
	Install 36" door base cabinets with 2 drawers and 2 cabinets and Formica counter top and 4" backsplash (cost allowance \$ _____).	\$ _____
	Install 36" wall cabinets 24" high over base cabinet (cost allowance \$ _____).	\$ _____

		Estimated <u>Cost</u>
<u>Kitchen (cont'd.)</u>		
	Install stainless steel sink in top 32" x 21" (cost allowance \$_____).	\$ _____
Electric	Install 10" ventilating fan, vent fan through wall over stove.	\$ _____
	Remove existing electrical panel box and install a new panel box (100 amp. minimum with breaker switch) and place all wiring inside wall. Replace all hazardous wiring as per code.	\$ _____
	Install 2 new electrical outlets in kitchen, check wiring, replace as necessary.	\$ _____
<u>Bathroom</u>		
	6' x 8'0"	
Floor	Remove existing sub floor (approximately 54 square feet) replace with plywood sub floor at least 5/8".	\$ _____
	Install vinyl asbestos floor tile, "Armstrong Standard" or equal (approximately 48 square feet).	\$ _____
Ceiling	Remove water damaged plaster down to lathes, replace lathes if damaged, and replaster (approximately 48 square feet), and paint with 2 coats of interior latex "Sherman Williams Good" or equal.	\$ _____
Walls	Scrape, seal and repaint all walls with 2 coats of interior latex "Sherman Williams Good" or equal.	\$ _____
Toilet	Remove and replace existing toilet with new toilet. "Standard quality."	\$ _____
<u>Exterior</u>		
Joists	Remove 4 rear joists, size 2" x 10" x 14" and replace with same size joists.	\$ _____
Facia and Trim	Remove 2 deteriorated barge rafters size 2" x 6" x 12'. Replace with same size rafters.	\$ _____
Screen Doors	Replace 2 existing deteriorated screen doors 3' x 6'8" with new aluminum screen doors.	\$ _____

Exterior (cont'd.)

Estimated
Cost

Exterior
Windows

Weatherstrip 8 windows with spring bronze.

\$ _____

Roof

Remove existing asphalt roofing down to existing sheathing. Remove and replace sheathing if deteriorated.

\$ _____

Install new asphalt/shingles/300 lb. Flash all valleys.
Install new aluminum gutters and down spouts.

\$ _____

Lead-Based Paint Regulations Changes

On September 15, 1999, HUD issued a new Federal lead-based paint regulation implementing Title X of the Housing and Community Development Act of 1992. This regulation makes many important changes in the lead-based paint requirements applicable to housing funded through HUD's Community Planning and Development (CPD) programs. State and local jurisdictions that receive funding from the Community Development Block Grant (CDBG) Program, HOME Program, McKinney Act homeless programs and other CPD programs.

Review the attached summary tables and documents that briefly explain the lead-based paint regulation requirements.

1. Summary of lead-based paint requirements by activity.
2. Four approaches to implementing lead hazard evaluation and reduction.
3. "Lead Speak"—A short glossary of commonly referred to lead-based paint terms.

)

SUMMARY OF LEAD-BASED PAINT REQUIREMENTS BY ACTIVITY

	Homeowner and Rental Rehabilitation (Subpart J)			TBRA (Subpart M)	Acquisition only and Homebuyer (Subpart K)
	≤\$5,000	\$5,000 - \$25,000	>\$25,000		
Approach to Lead Hazard Evaluation and Reduction	1. Do no harm	3. Identify and control lead hazards	4. Identify and abate lead hazards	2. Identify and stabilize deteriorated paint	2. Identify and stabilize deteriorated paint
Notification	Yes	Yes	Yes	Yes	Yes
Lead Hazard Evaluation	Paint Testing	Paint Testing and Risk Assessment	Paint Testing and Risk Assessment	Visual Assessment	Visual Assessment
Lead Hazard Reduction	Repair surfaces disturbed during rehabilitation	Interim Controls	Abatement (Interim Controls on exterior surfaces not disturbed by rehabilitation)	Paint Stabilization	Paint Stabilization
	Safe work practices Clearance	Safe work practices Clearance	Safe work practices Clearance	Safe work practices Clearance	Safe work practices Clearance
Ongoing Maintenance	For HOME rental only	For HOME rental only	For HOME rental only	Yes	Yes (if ongoing relationship)
Response to poisoned children	No	No	No	Yes	No
Options	Presume lead-based paint Use safe work practices on all surfaces	Presume lead-based paint and/or hazards Use standard treatments	Presume lead-based paint and/or hazards Abate all applicable surfaces	Test deteriorated paint. Use safe work practices only on lead-based paint surfaces.	Test deteriorated paint. Use safe work practices only on lead-based paint surfaces.

**FOUR APPROACHES TO IMPLEMENTING
LEAD HAZARD EVALUATION AND REDUCTION**

APPROACH 1. DO NO HARM		
Lead Hazard Evaluation	Lead Hazard Reduction	Options
<p>Paint testing performed on surfaces to be disturbed.</p>	<p>Repair surfaces disturbed during work.</p> <p>Safe work practices used when working on areas identified as lead-based paint.</p> <p>Clearance performed</p>	<p>Presume lead-based paint is present and use safe work practices on all surfaces being disturbed.</p>
APPROACH 2. IDENTIFY AND STABILIZE DETERIORATED PAINT		
Lead Hazard Evaluation	Lead Hazard Reduction	Options
<p>Visual assessment performed to identify deteriorated paint.</p>	<p>Paint stabilization of identified deteriorated paint.</p> <p>Safe work practices used.</p> <p>Clearance performed.</p>	<p>Perform paint testing on deteriorated paint. Safe work practice requirements only apply to lead-based paint.</p>
APPROACH 3. IDENTIFY AND CONTROL LEAD HAZARDS		
Lead Hazard Evaluation	Lead Hazard Reduction	Options
<p>Paint testing performed on surfaces to be disturbed.</p> <p>Risk assessment performed on entire dwelling.</p>	<p>Interim controls performed on identified hazards.</p> <p>Safe work practices used.</p> <p>Clearance performed.</p>	<p>Presume lead based paint and/or lead based paint hazards are present and perform standard treatments.</p>
APPROACH 4. IDENTIFY AND ABATE LEAD HAZARDS		
Lead Hazard Evaluation	Lead Hazard Reduction	Options
<p>Paint testing performed on surfaces to be disturbed.</p> <p>Risk assessment performed on entire dwelling.</p>	<p>Abatement performed on identified hazards.</p> <p>Interim controls performed on identified hazards on the exterior that are not disturbed by rehabilitation.</p> <p>Safe work practices used.</p> <p>Clearance performed.</p>	<p>Presume lead-based paint and/or lead-based paint hazards are present and perform abatement on all applicable surfaces – deteriorated, impact, friction, chewable surfaces, and surfaces to be disturbed.</p>

“LEAD SPEAK” – A BRIEF GLOSSARY

COMMON LEAD-BASED PAINT TERMS

Lead-Based Paint: Paint or other surface coatings that contain lead equal to or exceeding 1.0 milligram per square centimeter or 0.5 percent by weight or 5,000 parts per million (ppm) by weight.

Lead-Based Paint Hazards: Any condition that causes exposure to lead from dust-lead hazards, soil-lead hazards, or lead-based paint that is deteriorated or present in chewable surfaces, friction surfaces, or impact surfaces, and that would result in adverse human health effects.

Visual Assessment: A visual inspection of interior and exterior surfaces to identify specific conditions that may be lead-based paint hazards. A visual inspection does not identify lead-based paint. The assessment may be performed by a person trained in visual assessment. Training for visual assessment is available on HUD’s website at www.hud.gov/offices/lead.

LEAD HAZARD EVALUATION

Paint Testing: Testing of specific surfaces, by XRF (x-ray fluorescence) or lab analysis, to determine the lead content of these surfaces, performed by a certified lead-based paint inspector or certified risk assessor.

Lead-Based Paint Inspection: A surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation. It is performed by a certified paint inspector or risk assessor.

Risk Assessment: A comprehensive evaluation for lead-based paint hazards that includes paint testing, dust and soil sampling, and a visual evaluation. The risk assessment report identifies lead hazards and appropriate lead hazard reduction methods. A certified risk assessor must conduct the assessment.

Lead Hazard Screen: A limited risk assessment activity that can be performed instead of a risk assessment in units that meet certain criteria (e.g. good condition). The screen must be performed by a certified risk assessor. If the unit fails the lead hazard screen, a full risk assessment must be performed.

Clearance Examination: Clearance is performed after hazard reduction, rehabilitation or maintenance activities to determine if a unit is safe for occupancy. It involves a visual assessment, analysis of dust samples, and preparation of report. The certified risk assessor, paint inspector, or lead sampling technician (called a clearance technician in the HUD regulation) performing clearance must be independent from the entity/individual conducting paint stabilization or hazard reduction.

LEAD HAZARD REDUCTION

Paint Stabilization: An interim control method that stabilizes painted surfaces and addressed the underlying cause of deterioration. Steps include repairing defective surfaces, removing loose paint and applying new paint.

Interim Controls: Set of measures to temporarily control lead-based paint hazards. Interim control methods must be completed by qualified workers using safe work practices. Follow-up monitoring is needed.

Standard Treatments: A complete set of interim control methods that when used together temporarily control all potential lead hazards in a unit. Because they address all conditions, a risk assessment or other

evaluation is not needed. Standard treatments must be completed by qualified workers using safe work practices. As with interim controls, follow-up monitoring is needed.

Abatement: Measures to permanently control (i.e., 20 years or more) lead-based paint or lead-based paint hazards. EPA regulations exclude from the definition of abatement “renovation, remodeling, landscaping or other activities, when such activities are not designed to permanently eliminate lead-based paint hazards, but instead are designed to repair, restore, or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards.” [40 CFR 745.223]

LEAD POISONING

Environmental Intervention Blood Lead Level: The level of lead in blood that requires intervention in a child under age six. This is defined as a blood lead level of 20 µg/dL (micrograms per deciliter) of whole blood or above for a single test, or blood lead levels of 15-19 µg/dL in two tests taken at least three months apart.

KEY UNITS OF MEASUREMENT

µg (Microgram): A microgram is 1/1000th of a milligram (or one millionth of a gram). To put this unit into perspective, a penny weighs 2 grams. To get a microgram, you would need to divide the penny into 2 million pieces. A microgram is one of those two million pieces.

ft² (Square foot): One square foot is equal to an area that has a length of one foot (12 inches) and a width of one foot (12 inches).

µg/dL: Micrograms per deciliter used to measure the level of lead in children's blood to establish whether intervention is needed. A deciliter (1/10th of liter) is a little less than half a cup. As noted above, a microgram is the same weight as one penny divided into two million parts.

µg/gram: Micrograms per gram of sample, equivalent to parts per million (ppm) by weight. Used to measure lead in soil.

µg/ft²: Micrograms per square feet is the measurement used to measure levels of lead in dust samples. The clearance report should have the dust sampling results listed in µg/ft² (micrograms per square foot).

mg/cm²: Milligrams per square centimeter. Used to measure lead in paint.

percent: Percent by weight, used usually for lead-based paint (1 percent = 10,000 µg/gram)

ppm: Parts per million by weight, equivalent to µg/gram (10,000 ppm = 1 percent). Used to measure lead in paint and soil.

LEAD-BASED PAINT STANDARDS

Paint – Definition of Lead-Based Paint

Paint or other surface coatings that contain at least:

- 1 milligram per centimeters square (mg/cm²) of lead;
- 0.5 percent lead; or 5,000 parts per million lead by dry weight.

*In 1978 the Consumer Product Safety Commission banned the residential use of lead-based paint that contained greater than or equal to 0.06 percent or 600 ppm of lead.

Dust – Federal Thresholds for Lead-Contamination (Risk Assessment/Clearance)

- Floors 40 µg/ft²
- Interior window sills 250 µg/ft²
- Window troughs (Clearance only) 400 µg/ft²*

*Until EPA's final rule on lead-based paint hazards goes into effect, HUD's standards of 800µg/ft² for clearance of window troughs will remain in effect.

Soil – Federal Thresholds for Bare Soil Contamination

➤	Play areas used by children under age 6 µg/gram	400
➤	Other areas, if more than 9ft ² in total area of bare soil per property µg/gram*	2000
➤	Abatement required by HUD µg/gram	5,000

LEAD SAFE HOUSING REQUIREMENTS SCREENING WORKSHEET

This worksheet should be placed in the project file for any residential property that is assisted with Federal funds. Parts 1 and 2 should be completed for all projects. Parts 3 and 4 should be completed for rehabilitation projects.

Property Owner and Address: _____

Part 1: Exemptions from All Requirements of 24 CFR Part 35

If the answer to any of the following questions is yes, the property is exempt from the requirements of 24CFR Part 35. The regulatory citation of each exemption is cited as additional guidance.

- ❖ Was the property constructed after January 1, 1978? [35.115(a)(1)] YES NO
- ❖ Is this a zero-bedroom unit? (e.g. SRO, efficiency) [35.115(a)(2)] YES NO
- ❖ Is this dedicated elderlyⁱ housing? (i.e. over age 62) [35.115(a)(3)] YES NO
- ❖ Is this housing dedicated for the disabledⁱⁱ? [35.115(a)(3)] YES NO
- ❖ Has a paint inspection conducted in accordance with 35.1320(a) established that the property is free of lead-based paint? [35.115(a)(4)] YES NO
- The date of the original paint inspection was _____. An optional paint inspection conducted on_____ confirmed this prior finding.
- ❖ Has all lead-based paint in the property been identified and removed, and has clearance been achieved as cited below? [35.115(a)(5)] YES NO
- Clearance was achieved prior to September 15, 2000, and the work was done in accordance with 40CFR Part 745.227(b). YES NO
- Clearance was achieved after September 15, 2000, and the work was done in accordance with 24CFR Part 35.1320, 1325 and 1340. YES NO
- ❖ Will a currently vacant unit remain vacant until it is demolished? [35.115(a)(6)] YES NO
- ❖ Is the property used for non-residential purposes?ⁱⁱⁱ [35.115(a)(7)] YES NO
- ❖ Will any rehab **exclude** disturbing painted surfaces? [35.115(a)(8)] YES NO
- ❖ Are emergency actions immediately necessary to safeguard against imminent danger to human life, health or safety, or, to protect the property from further structural damage? (e.g. after natural disaster or fire) [35.115(a)(9)] YES NO
- ❖ Will the unit be occupied for less than 100 days under emergency leasing assistance to an eligible household?^{iv} [35.115(a)(11)] YES NO

Part 2: Limited Exemptions from Specific Hazard Reduction Requirements

The HUD Final Rule allows for limited exemptions from specific requirements due to the characteristics of the rehabilitation work, the structure or the occupants. If the answer to any of the following questions is yes, the grantee and/or occupant may waive certain requirements as described below.

- ❖ Is the amount of painted surface that is being disturbed below “de minimis” levels, as defined below? If so, safe work practices and clearance are not required in that work area.
 - Less than 20 square feet on an exterior surface [35.1350(d)(1)] YES NO
 - Less than 2 square feet in any single interior room [35.1350(d)(2)] YES NO
 - Less than 10% of surface area of an interior/exterior component [35.1350(d)(3)] YES NO
- ❖ Is the unit occupied by an elderly person(s)? If so, relocation of the elderly occupant(s) is not required if complete disclosure of the nature of the work is provided and informed consent is obtained prior to rehabilitation.^v YES NO
- ❖ Is a unit that is subject to abatement requirements listed or eligible for listing on the National Register of Historic Places, or does it contribute to a National Register Historic District? If so, the State Historic Preservation Office may request that interim controls be implemented rather than abatement. On-going maintenance and re-evaluation is required. [35.115(13)] YES NO

I have evaluated the site and property, the work specifications, and interviewed the occupants. In my professional opinion, this unit qualifies for the indicated exemption(s).

Signature

Date **LEAD SAFE**

HOUSING REQUIREMENTS SCREENING WORKSHEET
Addendum for Rehabilitation Projects
Parts 3 and 4

Parts 3 and 4 of this worksheet should be completed for any residential property that is to undergo rehabilitation with Federal funds. The completed form should be placed in the project file with Parts 1 and 2.

Part 3: Per Unit Level of Rehabilitation Assistance

- | | |
|---|----------|
| A. Average Federal Funding Per Unit | \$ _____ |
| B. Average Per Unit Rehabilitation <u>Hard Costs</u>
(not including costs of lead hazard evaluation and reduction) | \$ _____ |
| C. Lower of A or B | \$ _____ |

Part 4: Approach Required (Based on answer to 3.C., above)

- | | |
|--------------------|---|
| \$0 – \$5,000 | _____ Do No Harm (Test & Repair) |
| \$5,001 - \$25,000 | _____ Identify and Control Lead Hazards |
| \$25,001 and above | _____ Identify and Abate Lead Hazards |

Calculated by _____ Date _____

I have evaluated the site, the specifications, estimated the rehab hard costs and interviewed the occupants. In my professional opinion, this project meets the above requirement for federal lead hazard reduction under 24 CFR Part 35.

Signature

Date

ⁱ Defined as retirement communities or similar types of housing reserved for households composed of one or more persons over age 62, or other age if recognized by a specific Federal housing assistance program. However, if a child under age 6 resides or is expected to reside in such a unit, the unit is not exempt.

ⁱⁱ The housing must be a residential property designated exclusively for persons with disabilities, defined as any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of impairment, or is regarded by others as having such an impairment. However, if a child under age 6 resides or is expected to reside in such a unit, the unit is not exempt.

ⁱⁱⁱ Except that spaces such as entryways, hallways, stairways, etc. serving both residential and non-residential uses in a mixed-use property are not exempt.

^{iv} When a household is provided short-term emergency leasing assistance and will occupy a unit for less than 100 days, the unit is exempt from lead paint regulations. This emergency leasing exemption is attached to the unit, not the family, and is a one-time exemption. After being assisted for a total of 100 consecutive days, the unit becomes subject to regular Subpart K requirements. Multiple families cannot be cycled through the same unit at intervals of less than 100 days under this exemption.

^v HUD Interpretive Guidance, April 16, 2001, question # J-24.

Applying the Policy in the HUD/EPA Abatement Letter

The following provides sample scenarios of the some of the decisions that program administrators will face when determining if the work being done in a rehabilitation project is abatement.

The analysis of each scenario is based on two principles:

1. **Intent.** The HUD/EPA Abatement Letter of April 19, 2001 stresses the importance of intent in determining whether or not a specific activity constitutes abatement. Abatement is defined as an activity that is specifically intended to permanently eliminate lead-based paint or lead-based paint hazards.

The intention to permanently eliminate lead-based paint can be established in one of four ways:

- Abatement is required by a regulation such as the Lead Safe Housing Rule. (Example: Abatement of identified lead hazards conducted in the interior of a unit where the level of rehabilitation assistance is over \$25,000 per unit).
 - Abatement is required by a court or agency order. (Example: A court orders abatement of a unit after a lead-poisoned child is identified in the unit).
 - Project work specifications call for abatement. (Example: The project work specifications specifically state that lead is being permanently removed.)
 - A cost allocation document attributes the cost of an activity to lead hazard reduction **and** the activity in question is an abatement method. There are four abatement methods: component replacement, paint removal, enclosure , and encapsulation. (Example: For a \$18,000 HOME-funded rehabilitation project, a cost allocation document allocates the cost of window replacement to lead hazard reduction. Because the window replacement is classified as a lead hazard reduction cost **and** window replacement is “component replacement”, which is an abatement method, the window replacement is considered an abatement activity and must be performed by a certified abatement contractor.)
2. **Cost Allocation.** As explained above, the intent to abate may be established in a cost allocation document. This means that the allocation of costs – between “hard costs of rehabilitation” and “lead hazard reduction” can have significant implications on the nature of the job and hence, the qualifications of the personnel who do this job. The following scenarios illustrate this point.

Scenarios – Cost Allocation and Implications for Job Planning

(NOTE: For the sake of simplicity, all scenarios below assume full federal funding for the rehabilitation.)

Scenario 1: A \$12,000 rehab project (hard costs) does not include window replacement. The risk assessment identifies the windows as a hazard and provides a choice between window replacement (abatement) and friction treatments (interim controls). The rehab specialist decides to change the scope of his rehab project to include the replacement of windows (it turns out they are really old and there are compelling energy as well as lead reasons to replace them).

What does this mean for cost allocation purposes? In this case, the rehab specialist has two options.

Option 1: He can allocate cost of window replacement as a rehabilitation hard cost. In this case, an abatement crew is not required but safe work practices must be followed because lead-based paint is known to be present. Workers must, therefore be trained in safe work practices or supervised by a certified abatement supervisor.

Option 2: He can allocate the cost of window replacement to lead hazard reduction. In this case an abatement contractor will be required because window replacement is an abatement method. (It is component replacement).

Note: State regulations may affect these options. If the state regulation requires abatement certification and training for workers who perform any kind of work on a surface known to contain lead, then state requirements regarding the training and certification of such workers applies, regardless of how the costs are allocated.

Scenario 2: A \$28,000 rehab project (hard costs) includes window replacement (of \$8000). The risk assessment identifies the windows as a hazard and provides a choice between window replacement (abatement) and friction treatments (non-abatement). The risk assessment also identifies various other small hazards. The rehab specialist decides to go ahead with the window replacement. He then revises his work specs to include work on all hazards identified and finalizes his cost allocation document.

What does this mean for cost allocation purposes? In this case, the rehab specialist has two options.

Option 1: He can allocate the costs of the window replacement to lead hazard reduction. This would reduce the rehab hard costs to \$20K and allow them to perform interim controls as their method of lead hazard reduction (and use

trained workers). However, because component replacement is an abatement method, the window replacement must be done by an abatement crew.

Option 2: He can allocate the costs of the window replacement to rehab. This would bring the per unit rehab costs to \$28,000 (i.e. over \$25,000), so abatement of all hazards is required.

Scenario 3: A \$20,000 rehab project (hard costs) includes the replacement of the 8 windows on the first floor because they are old and don't work well anymore. Windows on the second floor are not scheduled for work. The risk assessment identifies all the windows in the unit as hazards and provides a choice between window replacement and window treatments. The risk assessment also identifies a number of other hazards. The rehab specialist decides to go forward with the replacement of the first floor windows. He opts to perform friction treatments on the remaining windows and to perform interim controls on the remaining hazards.

In the cost allocation document, he allocates the cost of the window replacement to rehabilitation costs. He allocates the cost of the friction treatments and all the reduction of the other hazards to lead hazard reduction. He uses workers trained in safe work practices to perform all the work.

Is this a permissible approach? Yes. None of the work on this job is abatement. Because of the way he allocated the costs, the window replacement is rehabilitation (not hazard reduction and therefore, not abatement). Further, the friction treatments on the remaining windows constitute interim controls, not abatement.

What if he had chosen to allocate the cost of the window replacement to lead hazard reduction? Then, it would be considered abatement because component replacement is an abatement method. In that case, he would need abatement workers to perform the window replacement. However, trained workers would be permitted to perform the friction treatments since that is an interim controls method.

Note: If a state law required work on any known to contain lead-based paint to be worked on by a certified contractor, then an abatement contractor would be required for all the lead hazard reduction work.

Scenario 4: A \$28,000 rehab project (hard costs) includes window replacement (of \$8000). The risk assessment identifies hazards throughout the unit (including the windows) and identified acceptable interim controls and abatement methods for each hazard. The cost of the abatement methods recommended by the risk assessor will total \$15,000. This cost is too high for the program to bear so they reconsider the scope of the project. The rehab specialist rewrites the scope of work to exclude the window replacement (thereby reducing the project hard costs to \$20,000) and include interim controls on all hazards, including the windows that

were originally scheduled for replacement. This option makes the project affordable to them.

Is this a permissible approach? Yes.

LEAD HAZARD EVALUATION NOTICE – SAMPLE FORM

Address: _____

Evaluation Completed (circle one): Paint Inspection Paint Testing Risk Assessment

Date: _____

Summary of Results:

_____ No lead-based paint or lead-based paint hazards were found.

_____ Lead-based paint and/or lead-based paint hazards were found. See attachment for details

Contact person for more information about the risk evaluation:

Printed name: _____

Signature: _____

Date: _____

Organization: _____

Street: _____

City & State _____

Zip _____

Phone #: _____

Person who prepared this notice:

Printed name: _____

Signature: _____

Date: _____

Organization: _____

Street: _____

City & State _____

Zip _____

Phone #: _____

Summarize the types and locations of lead-based paint hazards below or attach your own summary. The summary must list at least the bare soil locations, dust-lead locations, and/or building components (including type of room or space and the material underneath the paint), and types of lead-based paint hazards found:

Contaminated Soil		
Area	mg/g (ppm)	Location
___ None		
___ Perimeter	___ mg/g (ppm)	
___ Play Area	___ mg/g (ppm)	
___ Other	___ mg/g (ppm)	

Contaminated Dust		
Area	µg/SF	Location
___ None		
___ Windowsill	___ µg/SF	
___ Floor	___ µg/SF	
___ Other	___ µg/SF	
___ Other	___ µg/SF	

Other Hazards				
<u>Component*</u>	<u>Location</u>	<u>Condition</u> (good, fair, poor)	<u>Friction or</u> <u>Impact Surface?</u>	<u>Lead Content</u> (if known)
1.				___ mg/cm ² (ppm)
2.				___ mg/cm ² (ppm)
3.				___ mg/cm ² (ppm)
4.				___ mg/cm ² (ppm)
5.				___ mg/cm ² (ppm)
6.				___ mg/cm ² (ppm)
7.				___ mg/cm ² (ppm)
8.				___ mg/cm ² (ppm)
9.				___ mg/cm ² (ppm)
10.				___ mg/cm ² (ppm)
11.				___ mg/cm ² (ppm)
12.				___ mg/cm ² (ppm)
13.				___ mg/cm ² (ppm)
14.				___ mg/cm ² (ppm)

* Components include but are not limited to (interior and exterior) windows, doors, trim, fences, porches, walls and floors.

LEAD HAZARD PRESUMPTION NOTICE - SAMPLE FORM

The property listed below has not been evaluated for lead-based paint but it has been presumed that lead-based paint or lead based paint hazards are present.

Address/location of property or structure(s) this notice of presumption applies to:

Types of Presumption (Check all that Apply)

Lead-based paint is presumed to be present.

Lead-based paint hazard(s) is(are) presumed to be present.

Contact person for more information about the presumption:

Printed name: _____
Signature: _____
Date: _____
Organization: _____
Street: _____
City & State _____
Zip _____
Phone #: _____

Person Who Prepared this Notice of Presumption:

Printed name: _____
Signature: _____
Date: _____
Organization: _____
Street: _____
City & State _____
Zip _____
Phone #: _____

Summary of Presumption. List at least the bare soil locations, dust-lead locations, and/or building components (including type of room or space and the material underneath the paint)

Presumed Hazards

Bare Soil (list any areas of bare soil):

Dust Locations (check the following that apply):

- Window sills
- Window troughs
- Floors

Other presumed lead hazards (check any of the following components that have deteriorated paint or are friction or impact surfaces):

Locations

Exterior

- Windows _____
- Doors _____
- Trim _____
- Cladding _____
- Outbuildings _____
- Fences _____
- Porch A _____
- Porch B _____

Interior

- Trim _____
- Doors _____
- Windows _____
- Walls _____
- Floors _____
- Ceilings _____
- Other _____

SAMPLE REHABILITATION GRANTING AGREEMENT

DATE: _____ REFERENCE #: _____

OWNER(S): _____ ADDRESS: _____

THIS AGREEMENT, made this ____ day of _____, by and between the City/County of _____, (hereinafter referred to as the Grantee), and _____ (hereinafter referred to as Owner(s)).

WHEREAS, the Grantee is eligible to make rehabilitation grants/loans as provided for under the Housing and Community Development Act of 1977, amending the same Act of 1974; and,

WHEREAS, said grant referred to in the Granting Agreement between the Commonwealth of Kentucky and the Grantee, as a FORGIVABLE LOAN; and

WHEREAS, the Owner(s) have met all of the qualifications prescribed under the rules and regulations of the above mentioned Acts and the regulations heretofore adopted by the Grantee for the making of such grants; and

WHEREAS, Owner(s) have heretofore made application for such grant to the Grantee in the amount of _____ DOLLARS (\$_____), and the application has been approved by the duly authorized officers for the Grantee on _____.

NOW, THEREFORE, in consideration of the above premises and other good and valuable consideration, the parties hereto agree as follows:

1. **DESCRIBED PROPERTY TO BE REHABILITATED**

The Grantee shall give and make a rehabilitation loan to the above referenced Owner(s) in the amount of _____ DOLLARS (\$_____) to be used for the improvements of the premises located on the real property described as follows:

SEE LEGAL DESCRIPTION ATTACHMENT "A"

2. CONDITIONS AND RESTRICTIONS

As a condition for the making of the grant by the Grantee to the Owner(s), the Owner(s) agree:

- (a) They will not sell or transfer owner(s)hip of the property for five (5) years from completion of the rehabilitation activities (except to comply with Kentucky Law relative to estate settlement).
- (b) They will continue to occupy the premises themselves for the five (5) year period.

3. RETENTION OF LIEN

It is agreed that by the signing of this instrument, the Grantee shall, and does, have a lien on the described and rehabilitated property for the total amount of the grant received by the Owner(s) (including any change orders required). This lien shall be retained until it is amortized as follows:

- (a) The lien shall be amortized over a five (5) year period from the date of the completion of the rehabilitation.
- (b) If the Owner(s) should sell the property:
 - 1) Within the first twelve months after the completion of the rehabilitation then they will repay the entire amount granted;
 - 2) After the 1st anniversary of rehab completion but before the 2nd, they must repay 80% of the grant;
 - 3) After the 2nd anniversary, but before the 3rd, repay 60% of the grant;
 - 4) After the 3rd anniversary, but before the 4th, repay 40% of the grant;
 - 5) After the 4th anniversary, but before the 5th, repay 20% of the grant;
 - 6) In the event that the undersigned retain ownership of the aforesaid real estate for five (5) years from the date of this Agreement, the Promissory Note and the accompanying Real Estate Mortgage securing the Promissory Note shall be released by the Grantee and the undersigned shall have no obligation to repay the Promissory Note.
- (c) Owner(s) acknowledge that due to change orders during construction, the amount of the grant as stated above, may be adjusted either up or down to reflect the actual cost of rehabilitation. Therefore, upon final inspection and acceptance of the work, Owner(s) agree to execute a new Note and Mortgage in an amount equal to the actual costs of rehabilitation as evidenced by the original grant and adjusted by approved and executed change orders.

4. VIOLATION AND ENFORCEMENT

Should Owner(s) violate item 2 or item 3 of this Agreement either before or after the completion of the rehabilitation and/or the signing of this Agreement and remain in default for more than thirty (30) days after written notice of such violation, the grant herein shall become fully (100%) repayable to the Grantee in the amount of the

remaining portion of the forgivable loan and a lien shall affix to the above-described premises. Said lien may be enforced by the Grantee by proper proceedings in County Circuit Court. The Owner(s) waive and will waive all rights to trial by jury in any proceeding instituted by the Grantee to enforce any lien granted in the Agreement whether under Section 2 or Section 3. If payback of funds are received, a pro rata percentage based upon initial rehabilitation cost as outlined in item 1 above, shall be paid to Grantee for the CDBG funds.

5. EASEMENTS

The Owner(s) agree as part of this Rehabilitation Granting Agreement to provide to the Grantee all easements necessary for water, sewer, street widening, sidewalks or other public facilities/improvements as required to carry out the Housing Program in the designated Target Area.

6. NOTICE

Any notice by the Grantee to the Owner(s) shall be in writing and shall be deemed to be duly given only if delivered personally or mailed by certified mail in a postpaid envelope addressed to the Owner(s) at the address given above. Any notice herein will be deemed given at the time it is duly deposited and certified in any U.S. Post Office or Branch Post Office or personally delivered to the Owner(s).

7. MAINTENANCE

Owner(s) will be required to maintain the rehabilitated structure and property on which it is located for the five (5) year term of the financial assistance. Maintenance will be examined in relation to the rehabilitation work performed as per the work write-up and the applicable minimum property standards. The Grantees designated Enforcement Officer will perform periodic inspections, inform the property owner of any items, which have deteriorated, and require corrective actions. This action may, as a last resort, include Owner(s) early payback of financial assistance. If the property is not maintained, the Grantee's designated Enforcement Officer will write a letter to the Owner(s), giving the Owner(s) thirty (30) days to perform said maintenance or to remove debris or junk from the property. If the Owner(s) do not correct said items within thirty (30) days, the Grantee may undertake corrections of said items, or hire someone to correct said items, with the cost of doing so placed as a tax lien on the property. The Owner(s) may appeal this action to the Governing Body.

8. ENTIRE AGREEMENT, MODIFICATION SEVERABILITY

This Agreement contains the entire agreement between the parties and shall not be modified in any manner except by an instrument in writing executed by all parties. If any detail or provision of this agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, shall not be affected thereby and each term and provision of this agreement shall be valid and be enforced to the fullest extent permitted by law.

NAME OF HOUSING PROJECT

SAMPLE CONTRACT FOR REHABILITATION

OWNER: _____

CASE # _____

ADDRESS: _____

AMT. OF **CDBG** FUNDS: \$ _____

AMT. OF **OTHER** FUNDS: \$ _____

OTHER Source: _____

TOTAL CONTRACT AMT: \$ _____

Phone: _____

DATE APPROVED: _____

CONTRACTOR: _____

ADDRESS: _____

Phone: _____

THIS AGREEMENT made this _____ day of _____, by and between: _____ hereinafter called the "Owner" and _____ hereinafter called the "Contractor." The Contractor and Owner for the consideration stated herein mutually agree as follows:

ARTICLE 1. DEFINITIONS

Contractor - person, proprietorship, partnership or corporation hired to perform rehabilitation work pursuant to the _____ Project .

Owner - the owner of a house and lot, which has been designated to be rehabilitated with Community Development Block Grant Program funds.

Grantee – The City/County of _____ who is the applicant that was awarded the Community Development Block Grant Program funds for which a portion will be used to perform rehabilitation work to the Owner house.

Name of Grant Administrator/Agency - acting for and on behalf of the Grantee as manager of the Community Development Block Grant Project.

Contract Change Order - An addendum to the contract, which increases or decreases the scope of the work to be performed and may lower or increase the contract price.

ARTICLE 2. STATEMENT OF WORK

The Contractor shall, upon receipt of a written "Notice to Proceed," furnish all supervision, technical personnel, labor, materials, tools, equipment and services and perform all work required for the rehabilitation of the above property. All work shall be in strict accordance with the Standard Specifications for Residential

Rehabilitation, Contract Documents, Local Existing Structures Code, Kentucky Building Code, National Electrical Code, Kentucky State Plumbing Code, including all Addenda hereto and Drawings (if any), as prepared by Name of Grant Administrator as agent for and on behalf of the Grantee.

ARTICLE 3. LEAD-BASED PAINT

If work involves disturbing or removing surfaces that may have been coated with lead-based paint, the contractor shall comply with the Code of Federal Regulations, Title 24, Part 35, concerning Lead-Based Paint.

All workers involved in lead hazard reduction activities must have received HUD-approved training in lead-safe work practices or be supervised by a state-certified abatement supervisor. Workers in jobs receiving more than \$25,000 in federal rehabilitation assistance that require abatement of lead-based paint must be certified abatement workers and be supervised by a state-certified abatement supervisor.

ARTICLE 4. CONFLICT OF INTEREST CLAUSE

No member of the governing body of the community and no other officer, employee, or agent of the community who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract; and the Contractor shall take appropriate steps to assure compliance. No Contractor responsible for provision of goods and/or services under this Contract shall be forced or encouraged to forfeit any portion of the Contract amount in order to secure this Contract.

ARTICLE 5. CONTRACT DOCUMENTS

The executed Contract Documents shall consist of the following:

- | | |
|--|----------------------------------|
| A. This Contract | E. Special Instructions (if any) |
| B. General Conditions/Specs | F. Drawings (if any) |
| C. Work Write-up | G. _____ |
| D. <u>Addenda (if any) (See Attached Exhibit A)</u> | H. _____ |

This Contract, together with other documents enumerated in this ARTICLE 5, which said other documents are as fully a part of this Contract as if hereto attached or herein repeated, forms the Contract between the parties hereto.

This Contract, together with other documents enumerated in this ARTICLE 5, comprises the entirety of the Contract between the parties. All prior negotiations, offers, statements, and conditions are merged herein and parties hereto so agree and so covenant.

ARTICLE 6. NON-LIABILITY

The parties of this Contract hereto agree to hold the Grantee or its designated representatives harmless for any damages concerning or arising out of the undertaking and execution of this Contract.

ARTICLE 7. CONTRACTOR RESPONSIBILITIES

- a. The Contractor shall commence work within **ten (10)** calendar days of receipt of written Notice to Proceed. The written Notice to Proceed will be issued by the Grantee on behalf of the Owner within 30 days of the signing of this contract. If the Notice to Proceed is not issued within 30 days, the contract will be terminated. Contractor shall satisfactorily **complete work within _____ (_____)** calendar days of the date of the written Notice to Proceed, **time being of the essence**. The Contractor shall make every effort to speed the work along by working outdoors on days

when outdoor working conditions are favorable and by working indoors on days when outdoor working conditions are unfavorable.

- b. Subcontracting: The Contractor shall not be required to employ any subcontractor whom he/she has a reasonable objection to.

The Contractor agrees that he/she is completely responsible to the Owner for the acts or omissions of his subcontractors and of the persons either directly or indirectly employed by them, as he/she is for the acts and omissions of persons employed by him/her. **Nothing contained in the Contract documents shall create any contractual relation between any subcontractor and the Owner;** however, should the Owner or Grantee, as agent for the Owner, be required to expend funds to subcontractors or for another contract as necessary for completion of contract work, it is agreed by the Contractor that reimbursement will be made to the Owner or Grantee, and that any court costs or attorney fees expended to finalize contract requirements will be paid by the primary contractor.

- c. Equal Employment and Federal Labor Standards: The Owner will not discriminate against any employee or applicant for employment because of race, creed, color, age or national origin.

The Contractor shall abide by Federal, State, and Local regulations pertaining to Equal Employment as set forth in Executive Order 11246 and by the rules, regulations, and orders of the Secretary of Labor, the Secretary of Housing and Urban Development, and the State of Kentucky pursuant thereto. In addition, the Contractor certifies that he will abide by the terms and conditions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, and all applicable non-discrimination rules for legislation for rehabilitation of a residential property.

- d. Assignment of Contract: The Contractor shall not assign the Contract without written consent of the Owner and approval of the Grantee.

- e. Permits, Fees, Engineering Studies and Registered Surveys: The Contractor shall obtain and pay for all necessary permits, inspection charges and licenses for the authorization and execution of the work and labor performed. The Owner shall furnish all engineering studies and registered surveys as required and specified.

- f. Compliance With Code: The Contractor shall perform all work under the Contract in a journeyman-like manner and in conformance with applicable codes, ordinances, regulations, and requirements whether or not covered by the specifications and drawings for the work as made part of the contract.

- g. Protection and Storage: The Contractor shall protect the premises and furnishings from damage. Drop cloths shall be used when required. Passages and hallways shall be kept clear of materials and equipment. The premises shall be protected from weather and natural elements.

- h. Clean Up and Clearance: The Contractor shall keep the premises clean and orderly during the course of the work and remove all debris at the completion of the work. Materials and equipment that have been removed and replaced as part of the work shall belong to the Contractor, unless stated otherwise in the specifications. If lead-hazard abatement is involved clearance is required. Clearance may not be performed sooner than one hour after completion of the final cleanup. Clearance must be performed by a state certified Risk Assessor, Lead-Based Paint Inspector or Sampling Technician.

- I. Inspection by Contractors: The Contractor shall certify that he/she has visited the premises and familiarized himself/herself with all existing conditions so that the work is complete in every detail. Each Contractor shall inspect the work of others which affects his/her work and be sure that such work

is correct before proceeding with his/her own work.

- j. Insurance: The Contractor shall furnish and maintain, throughout the life of the Contract, Contractor's public liability insurance and property damage insurance. Public liability insurance shall be in an amount not less than \$000,000 for injuries including accidental death to any one person or one accident; property damage insurance shall be in an amount not less than \$000,000. The Contractor shall furnish the Grantee with satisfactory evidence of his/her compliance with all these provisions. Worker's Compensation and Unemployment Insurance shall be in conformity with the requirements of the State of Kentucky.
- k. Warranty: The Contractor shall guarantee the work performed for a period of one (1) year from date of final acceptance of all work required by this Contract. Upon written notice from the Owner to the Contractor and Grantee, the Contractor shall, within fourteen (14) calendar days, remedy any defects due to faulty material or workmanship at no charge to the Owner and remedy or pay for any damage to other work resulting therefrom. If, for any reason, the Contractor fails to remedy any defects for which he/she has been duly notified, the Owner may, at his/her option, employ another contractor to remedy the defect. The Contractor that is party to this Contract shall be held liable for any cost incurred by the Owner resulting from the employment of another contractor to remedy the defect. The contractor shall also be held liable for any court costs or attorney fees as necessary to fulfill the rehab contract requirements. Furthermore, the Contractor shall furnish the Owner, in care of the Grantee, all manufacturers, suppliers, and subcontractors written guarantees and warranties covering material and equipment furnished under this contract.
- l. Final Release: Prepare, execute and file with the Grantee a Final Invoice, Release of Liens and Warranty, and Waiver of Liens.
- m. Information Exchange: The Contractor shall agree to submit to the Owner or Grantee, upon request, any information concerning work performed or to be performed under this Contract.
- n. Default: The Contractor shall have the right, with approval of the Grantee, upon ten (10) days written notice to the Owner and Grantee, to declare the Owner in default based upon the following reasons:
 - (1) Owner fails to arrange satisfactory working conditions for the Contractor.
 - (2) Owner refuses to allow Contractor to use existing utilities as stated herein, in performance of the work.
 - (3) Owner prohibits the Contractor from performing work without justification.
- o. Debarment: Contractor certifies, by submission of its proposal and execution of this Contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- p. Contractor's Compliance: Contractor will comply with any and all applicable state, federal and local laws, ordinances, regulations and codes, including by not limited to, Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CAR, Part 5), the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CAR, Part 3), Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity" as amended by Executive Order 11375 of October 13, 1967 and as supplemented in Department of Labor regulations (41 CAR Chapter

60), the Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (29 CAR Part 5), Executive Orders 11625, 12432 and 12138 (Minority/Women's Business Enterprises) as supplemented in 24 CAR 85.36(e), the Lead Based Paint Poinsoning Prevention Act (24 CAR part 35), and rules regarding conflict of interest as provided in 24 CAR 85.36 and OMB Circular 110.

ARTICLE 8. OWNER'S RESPONSIBILITIES

- a. Unless otherwise stated herein, it shall be assumed that the premises will be occupied during rehabilitation work.
- b. The Owner shall cooperate with the Contractor to facilitate the performance of the work, including but not limited to the removal of and replacement of rugs, coverings, dishes, furniture, etc., as necessary.
- c. The Owner shall permit the Contractor to use, at no cost, existing utilities, such as lights, power, phone (local calls only), water and heat (except in the case of room additions or in such cases where the family vacates the house during the rehab work, the Contractor shall be responsible for heat), necessary in carrying out and completing the work.
- d. The Owner shall grant, at no cost, any right-of-way and/or easements necessary to facilitate rehabilitation activities.
- e. The Owner shall have the right to terminate this Contract based upon the following conditions:
 - (1) Contractor fails to furnish materials or execute work in accordance with the provisions of this contract.
 - (2) Contractor fails to proceed within the work time limit specified, or fails to complete the work within the time limit specified in this Contract;
 - (3) Contractor fails to maintain insurance in the amounts stipulated above.
 - (4) Any other provisions of this Contract are otherwise violated by the Contractor;
 - (5) Upon any of the conditions set forth in subsection (1) (2) and (3) above, the Owner shall have the right to give notice, in writing, to the Contractor that the Contractor shall be declared in default in ten (10) calendar days if the violation does not stop or if satisfactory arrangements have not been made for correction of the violation. If the violation does not stop or satisfactory arrangements to correct the violation have not been made by the Contractor after ten (10) days of the issuance of the written notice, the Contractor shall be declared in default and the Contractor's right to proceed pursuant to this Contract shall be terminated. In the event the Contractor is thus declared to be in default, the Owner, with approval of the Grantee, shall proceed to have the work completed, and shall apply to the cost of having the work completed, any money due the Contractor under this Contract, and the Contractor shall be responsible for any damages resulting to the Owner by reason of said default.
- f. The Owner shall "promptly" notify the Contractor of any defects pursuant to the guarantee stated in Article 6, sub-section n of this Contract.

ARTICLE 9. INSPECTION

Both the Owner and Contractor shall permit the Grantee, or its designated representative, to examine the rehabilitation work. All work done and all materials furnished will be subject to Grantee approval. **If any work should be covered up without the approval or consent of the Grantee, it must, if required by the Grantee, be uncovered for examination at the Contractor's expense.**

Re-examination of questioned work may be ordered upon request of the Owner and, if so ordered, the work must be uncovered by the Contractor. If such work is found to be in accordance with the Contract documents, the Owner shall pay the cost of re-examination and replacement. If such work is found to be not in accordance with the contract documents, the Contractor shall correct such work and pay such costs.

The final inspection of the work shall not relieve the Contractor of any of his/her obligations to fulfill his/her contract as prescribed, and defective work shall be made good and unsuitable materials shall be replaced even though such defective work and/or materials have been previously overlooked and accepted on estimates for payment.

ARTICLE 10. CONTRACT CHANGE

Modifications, changes, additions or deletions may be made to this Contract by written instrument signed by the Contractor and the Owner with prior approval of the Grantee for the following reasons:

- a. In the event it is discovered during construction that all code violations will not be adequately corrected with work described in the standard specifications, a "Contract Change Order" shall be initiated and made effective.
- b. In the event that one or more Contract Change Orders initiated to meet standards have made it prohibitive to complete the work with available funds, a Contract Change Order shall be initiated to delete any work not required to meet code.

ARTICLE 11. METHOD OF PAYMENT

- a. Contracts not exceeding **\$0,000** shall be due and payable within thirty (30) calendar days following completion of all terms of this Contract and final acceptance of same by the Owner and Grantee.
- b. Contracts over **\$0,000**:
 - (1) Partial payment of **0%** of the contract amount may be requested by the contractor after the HOUSE HAS BEEN "BLACKED-IN" OR "SECURED" (INCLUDING ROOF, DOORS WITH LOCKS AND WINDOWS).
 - (2) Partial payment of **0%** of the remaining funds may be requested by the contractor after **0%** of the work has been completed and acceptance of same by the Owner, Inspector and Grantee.
 - (3) Final payment of the remaining **0%** shall be due and payable within thirty (30) calendar days following completion of all terms of this contract and final acceptance of same by the Owner, Inspector, and Grantee.

ARTICLE 12. CONTRACT EXTENSION AND PENALTY CLAUSE

If the Contractor is unable to complete any portion of the work, in the time stated herein, due to inclement weather, an extension of up to thirty (30) calendar days may be granted. Contract extensions shall be granted,

only on a day-by-day basis, with approval of the Grantee. Contract extensions will be granted only in the following manner: The Contractor shall contact the Grantee on the day he/she intends to claim as an extension day. Approval for an extension will be granted only when there is absolutely no work that can be done on that day due to inclement weather. (If there is interior work to be done, no extension will be given.)

ARTICLE 13. DISPUTE RESOLUTION

The Grantee has established Rehabilitation Guidelines for this project that include Grievance Procedures. A copy of the Grievance Procedures has been provided to you. Those procedures will be followed to resolve disputes of any kind.

ARTICLE 14. PAYMENT

Upon approval of a Federal Grant and/or Loan to the Owner, the Grantee shall utilize the project account for payment of the contractor in performing the rehabilitation as specified in this Contract. The Owner, by signing this Contract, agrees to the endorsement of his/her rehabilitation check for payment of the work from the project account to be disbursed by the Grantee in accordance with the terms and conditions of these contract documents. The Grantee will act as the designee of the Owner in authorizing disbursement of such funds to the Contractor in the manner set forth in this Contract.

The Owner authorizes the Grantee to drawdown the amount of the contract plus any change orders which may be required, and approved by the Grantee) for payment to the Contractor for the aforementioned work.

ARTICLE 15. CONTRACT AMOUNT

For the consideration named herein, the undersigned Contractor agrees to furnish all work and material and complete the work as shown on these contract documents for the **lump-sum of \$_____** (_____ **dollars**). The Owner agrees to pay the Contractor from his/her own funds, the sum of \$_____ **and for any work in addition to that specified on the work write-up.**

ARTICLE 16. OWNER'S RESPONSIBILITY FOR MAINTENANCE

Owner will be required to maintain the rehabilitated structure and property on which it is located for the five (5) year term of the financial assistance. Maintenance will be examined in relation to the rehabilitation work performed as per the work write-up and the applicable minimum property standards. The designated Enforcement Officer will perform periodic inspections, inform the property owner of any items that have deteriorated, and request corrective actions. The Grantee reserves the right to take any appropriate action necessary to insure that the rehabilitated property is maintained. This action may, as a last resort, include early payback of financial assistance. If the property is not maintained, the Grantee's designated Enforcement Officer will write a letter to the Owner, giving the Owner thirty (30) days to perform said maintenance or to remove debris or junk from the property. If the Owner does not correct said items within thirty (30) days, the Grantee may undertake correction of said items, or hire someone to correct said items, with the cost of doing so placed as a tax lien on the property. The Owner may appeal this action to the Governing Body.

THIS AGREEMENT/CONTRACT ENTERED INTO AS OF THE DAY AND YEAR FIRST WRITTEN ABOVE.

CONTRACTOR

HOMEOWNER

HOMEOWNER

SUBSCRIBED AND SWORN to before me this _____ day of _____, 2002.

NOTARY PUBLIC, STATE AT LARGE, KY

My Commission Expires: _____.

SAMPLE NOTICE TO PROCEED

TO: Contractor

FROM: Homeowner Name(s)

SUBJECT: Notice to Proceed with Rehabilitation Construction

Name of Homeowner(s), as owner(s) of the property located at Address award the rehabilitation contract to Name of Contractor, on Date. Contractor is hereby notified to commence work set forth in the contract on or before Date.

All work is to be done in accordance with program specifications, conditions provided in the contract, and the work write-up that has my (our) initials on each page and signature on last page.

The project must be fully complete within Number consecutive calendar days after Date. The date of completion of all work is, therefore Date.

If the contractor does not commence work within the specified time, I (We) may upon proper notification, consider the rehabilitation contract to be in default.

Signature of Homeowner	Date
------------------------	------

Signature of Homeowner	Date
------------------------	------

Signature of Contractor	Date
-------------------------	------

Signature of Grantee	Date
----------------------	------

SAMPLE PRECONSTRUCTION CONFERENCE CHECKLIST

Homeowner, Contractor and Rehabilitation Specialist (Construction Advisor) should review the following items:

- _____ Clarify the role and responsibility of Homeowner
- _____ Clarify the role and responsibility of Contractor
- _____ Clarify the role and responsibility of Rehab Specialist
- _____ Review inspection procedures
- _____ Review contractor payment schedules
- _____ Review procedures for change orders
- _____ Review terms and conditions of the Rehabilitation Contractor
- _____ Explain the work to be performed by the Contractor
- _____ Execute the Rehab Contract

I (We), the undersigned, have on this date participated in a preconstruction conference with the Rehab Specialist from (Agency) and the Contractor prior to the signing of the rehab contract. I (We) acknowledge that I (we) understand the items discussed above, have been given adequate explanations to our questions, and are aware that assistance will be provided by the staff of the housing rehabilitation program as requested. I (We) further understand and acknowledge that housing rehabilitation program assumes no responsibilities for work performed and does not warrant any work performed.

Signature of Homeowner Date Signature of Homeowner Date

Homeowner(s) Address: _____

I, the undersigned, hereby certify that the preconstruction conference was held on this date between the homeowner(s), Rehab Specialist, and myself. I understand the procedures to be followed as discussed above and understand and agree that the work performed must meet the standards of performance required by the housing rehabilitation program and established by the program specifications and work write-up.

Signature of Contractor & Title Date

I, the undersigned, hereby certify that I participated in a preconstruction conference held on this date between the homeowner(s), contractor and myself.

Signature of Rehabilitation Specialist Date

**SAMPLE CERTIFICATION OF INSPECTION
AND
CONSTRUCTION CONTRACT PAYMENT REQUEST**

INTERIM INSPECTION # _____ FINAL INSPECTION _____ CASE #: _____

OWNER: _____

ADDRESS: _____

CONTRACTOR: _____

This is to acknowledge completion of _____% of the construction work in accordance with the contract dated _____.

Please proceed with payment to the contractor as follows:

ORIGINAL CONTRACT AMOUNT \$ _____

CHANGE ORDERS: #1 (+/-) \$ _____

#2 (+/-) \$ _____

TOTAL CONTRACT AMOUNT \$ _____

LESS AMOUNT OF PREVIOUS PAYMENTS \$ _____

CONTRACT BALANCE AVAILABLE \$ _____

TOTAL REQUESTED THIS PAYMENT \$ _____

REMAINING CONTRACT BALANCE AVAILABLE \$ _____

I certify that the above payment is correct and that said payment is justified by the work, which has been completed.

CONTRACTOR

DATE

I have examined the above request for payment and find that it is fair and reasonable payment for the work performed on my property and approve said payment.

PROPERTY OWNER

DATE

I have inspected the rehabilitation work on the above-named contract and found the work to be satisfactory and in full compliance with the Rehab Specifications and the Work Write-Up. I certify that the Contractor has delivered all necessary documents and papers. I authorize payment.

REHABILITATION INSPECTOR

DATE

GRANTEE REPRESENTATIVE

DATE

NOTE: The check for payment to the contractor cannot be issued prior to date of each approved inspection.

CHANGE ORDER REQUEST # _____

TO CONSTRUCTION CONTRACT

REHAB CASE # _____

ADDRESS: _____

OWNER _____

The parties to the rehabilitation/construction contract dated _____ have agreed upon the following unforeseen work that was not visible on the initial inspection:

DESCRIPTION

AMOUNT

DESCRIPTION	AMOUNT
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

TOTAL OF CHANGE ORDER

\$ _____

The Contractor agrees to perform this work for **\$** _____

Which is to be added to the original contract of **\$** _____

The total amount of this contract is now **\$** _____

The time of the Contract shall be increased _____ days
decreased _____ days
no change _____

CONTRACTOR

OWNER

DATE

DATE

REHAB INSPECTOR

GRANTEE

DATE

DATE

Sample Notice of Lead Hazard Reduction

Property Address: _____

Today's Date: _____

Summary of the Hazard Reduction Activity:

Start Date: _____

Completion Date: _____

Location and type of activity. (List the location and type of activity conducted or attach a copy of the summary page from the clearance report or the lead hazard scope of work providing this information.)

Date(s) of clearance testing: _____

Summary of results of clearance testing:

- (a) _____ No clearance testing was performed.
- (b) _____ Clearance testing showed clearance was achieved.
- (c) _____ Clearance testing showed clearance was not achieved.

List any components with known lead-based paint that remain in the areas where activities were conducted. List the location of the component (e.g. kitchen-door, bedroom-windows).

Person who prepared this summary notice

Printed Name: _____

Signature: _____

Title: _____

Organization: _____

Address: _____

Phone: _____

Fax: _____

Owner: _____

Date: _____

(Give to Property Owner with work-write up)

If you have any questions about this summary, please contact _____ at _____.

SAMPLE CONTRACT TERMINATION AND RELEASE OF LIEN FORM

GENERAL CONTRACTOR'S AFFIDAVIT AND LIEN WAIVER

UNIT/PARCEL # _____ **CONTRACTOR:** _____

OWNER: _____

ADDRESS: _____

THAT I, the undersigned, being duly sworn, do depose and say that I terminate construction on the above described property.

THAT the improvements on the subject property have been fully completed in substantial conformity with the contract.

THAT I accept \$ _____ as full and final payment on the improvements on the subject property.

THAT all the materials used in said improvement, all labor performed thereon and all fees, industrial insurance and permits, in connection with the said improvements which might give rise to liens on the within described property have been paid in full.

Listed below are all subcontractors and major materialmen included in this work. Attached are waivers of liens from all of them as substantiation of the above statement.

Name of Subcontractor or Materialmen and Address

THAT the affidavit hereby waives any lien or right to lien which he/she may have against the described property and warrants to save harmless the said Property Owner and the Community Development Office of the City/County of from any liens which are now in existence, or may hereafter arise by reason of said improvements, and cause the same to be released of record immediately.

THAT the foregoing waiver and these statements are an express warranty and representation to the Community Development Agency of the City/County of and the Property Owner of the facts herein sworn to and is made for valuable consideration, receipt whereof is acknowledged.

That undersigned hereby guarantees the work performed for a period of one (1) year from the date of final acceptance of all the work required by the contract, and Certification of Final Inspection, dated _____. He/she also attaches herewith all manufacturers' and suppliers' written guarantees and warranties covering materials and equipment furnished under the contract.

CONTRACTOR

OWNER

GRANTEE

SUBSCRIBED AND SWORN to before me this _____ day of _____ 20____.

NOTARY PUBLIC

My Commission Expires:

CONTRACTOR'S WARRANTY

The following items shall be considered under warranty by the Building Contractor:

1. Siding - Vinyl siding falls off. Areas of vinyl siding generally at risk are the top run of siding or the gable ends. NOTE: Siding is supposed to be loose. If one or two interlocking sections become un-connected, it is the owner's responsibility to snap them back together again.
2. Brick - Brick will naturally fade in color over time. Color change is not a warranty item. Bricks are constructed on a brick ledge and are secured to the framed walls with brick ties. Bricks and mortar should not crack unless there has been a ground disturbance. Settling brick, cracked brick, and brick sections sagging away from the framed wall will be inspected by the LPA to determine the problem and correction.
3. Roof - New shingles installed in the heat of summer, generally bond together quickly into a solid unit. Shingles installed in the cooler months of the year do not bond until the sun heats them. If shingles blow off, the contractor is to replace them. If shingles merely look uneven or loose, it is because they have not yet heated together. This is not a warranty item.
4. Foundations - Houses are constructed according to the latest code approved by local authorities. Footers are installed below the frost line. Often, over time, small cracks will appear between concrete blocks. These cracks do not affect the structural integrity of the building, and are not considered part of the warranty.
5. Water Standing Beneath the Structure - Existing houses that have not been raised are not warranted against this item. New houses are constructed at the proper height according to code. If there is standing water under the (either new or rehabbed) house, the HOMEOWNER should first check to be sure that foundation vents are open to allow moisture to escape. If the vents do not correct the problem, then the problem will be examined on a parcel-by-parcel basis. THIS IS NOT A NORMAL WARRANTY ITEM.
6. Windows - Windows that have been re-glazed and painted are not weather tight. The possibility of draft stoppage is corrected as much as possible in a rehab, but old windows are never as draft tight as new windows. Drafts are not a warranty item.

Stuck Windows - The windows are to be operable when the final inspection is made. New windows are expected to operate easily over time. Old windows that have been painted may be stuck shut after a rainy period or after remaining closed through the winter. Unsticking these windows is not a warranty item. New windows that do not operate after being closed for the span of winter will be inspected by the Agency as to the cause and repair.

Storm Windows - Storm windows are not draft or wind proof. If storm windows

do not operate after an in operated period, and if the homeowner cannot operate them without causing damage to the window, the windows will be inspected and a correction method determined by the Agency.

Broken Glass - Windows broken after the final inspection are not a warranty item. Broken windows must be repaired immediately by the homeowner to prevent other damage to the house.

7. Exterior Doors - Doors that have been rehabbed (painted, weather-stripped and adjusted) or replaced with new units are not warranted over time for the condition of the paint, weather-stripping or adjustment. The reason is that new paint may not properly bond over time to old paint. The house may settle over time causing further misalignment of the door and the weather-stripping.

New House Doors - These should remain aligned over time as they are installed as a unit. If the door fails to shut properly, it will be inspected by the Agency to determine the cause and proper correction of the problem. The owner may be responsible for making the correction.

Storm Doors - Storm doors are inspected at the project completion and will work properly to pass inspection. Adjustment of the latch is not a warranty item. Damage to the storm doors due to wind, or misuse (leaving the door unlatched to catch the wind or over stressing the hydraulic piston) is not a warranty item. Bent cylinder rods are not a warranty item.

Broken Glass - Door glass broken after the final inspection is not a warranty item. Broken glass must be repaired immediately by the homeowner to prevent other damage to the house.

8. Interior Doors - Interior doors that have been replaced or adjusted may become misaligned over time. Note that doors are designed to carry their own weight only and will not properly support clothes, coats and people while remaining aligned. If doors begin to stick or are difficult to operate during the one-year period, they will be inspected by the Agency and a correction will be determined. If there is evidence that the doors have been misused by the owner/occupant (operating doors with hangers or clothes between the door and jamb), the remedy will automatically be the responsibility of the owner.

9. Exterior Paint - Most houses will not be painted as part of the project, only special cases such as historic buildings will be painted. Those houses that are painted will receive quality paint, but realistically, new paint over possible lead-based paint will not last more than a year. If there is a paint problem, the house will be inspected and a determination will be made on a parcel-by-parcel basis.

Interior Paint - The paint is inspected at the final close of the contract. If the paint becomes discolored or peels, apparently due to excessive moisture or another reason, the job will be inspected and a correction recommended. If the paint is damaged by mistreatment by the homeowner/occupant through misuse, lack of cleaning or scratching, the warranty is void and the owner is responsible to have

the damaged areas repainted immediately to prevent structural damage.

10. Water Heater, Furnace - If the water heater should fail to perform, the owner should first, if gas, check the pilot light, or if electric, check the breaker (NOTE: electric heat pumps and hot water heaters are generally double-breakered with one in the main box and one by the unit, check both). If the pilot does not remain lighted or the breaker immediately kicks, the owner should immediately contact the contractor for repairs during the one-year warranty timeframe.
11. Plumbing - Stoppages in the drains and traps are the responsibility of the homeowner. In addition, if there is a leak in a hand-tightened trap, it is the owners responsibility to tighten the trap (no tools are necessary). Major leaks such as cracked pipes or a leak at a permanent (soldered or glued) fitting may be a warranty item (piping is guaranteed by the contractor to fifteen (15) degrees). A determination will be made as to the cause. If the house was unheated or the plumbing abused, the warranty is void. If the foundation vents are left open in the winter, the warranty is void. A minor leak such as a loose connection at a threaded fitting (pressure or drain) is not a warranty item and must be immediately corrected by the owner tightening the loose fitting. A pressure problem that was not present at the final inspection will be inspected by the Agency and a determination of cause and a remedy will be recommended.
12. Gutters - Stopped up gutters are not a warranty item. Gutters that have been damaged by a storm or ice are not a warranty item. Gutters that have pulled loose due to improper installation will be inspected by the Agency and a remedy recommended.
13. Extended Warranties - Those items such as heat pumps, furnaces, hot water heaters, etc., that carry extended warranties for the item (either parts or parts and labor) are the responsibility of the owner. The contractor will service the unit if it fails during the first year. The owner may contract with the installer, separate from he agency, to maintain the unit for an extended period, or may contact a local repairman for service.

Owner

Contractor

Date

Witness

Kentucky Community Development Block Grant Project Benefit Profile (Sample)

Total Beneficiaries _____

Project # _____

Grantee _____

Racial Category	Activity		Activity		Activity		Activity		Activity	
	Total	Hispanic	Total	Hispanic	Total	Hispanic	Total	Hispanic	Total	Hispanic
White										
Black/African American										
Asian										
American Indian/Alaskan Native										
Native Hawaiian/Other Pacific Islander										
American Indian/Alaskan Native & Other										
Asian & White										
Black/African American & White										
American Indian/Alaskan Native & Black/African American										
Other Multi-Racial										
Total										
Female Head of Household										
Low to Moderate Income Breakdown	Number	%	Number	%	Number	%	Number	%	Number	%
Extremely Low Income (0 - 30%)										
Very Low Income (31 - 50 %)										
Low Income (51 - 80%)										
Total LMI										

Racial Category	Activity		Activity		Activity		Activity		Activity	
	Total	Hispanic	Total	Hispanic	Total	Hispanic	Total	Hispanic	Total	Hispanic
White										
Black/African American										
Asian										
American Indian/Alaskan Native										
Native Hawaiian/Other Pacific Islander										
American Indian/Alaskan Native & Other										
Asian & White										
Black/African American & White										
American Indian/Alaskan Native & Black/African American										
Other Multi-Racial										
Total										
Female Head of Household										
Low to Moderate Income Breakdown	Number	%	Number	%	Number	%	Number	%	Number	%
Extremely Low Income (0 - 30%)										
Very Low Income (31 - 50 %)										
Low Income (51 - 80%)										
Total LMI										

Kentucky Community Development Block Grant Project Benefit Profile (Sample)

Grantee _____

Project Number _____

1	2		3		4		5	
Activity Number	Extremely Low Income (0 - 30%)		Very Low Income (31 - 50%)		Low Income (51 - 80%)		Total LMI	
	#	%	#	%	#	%	#	%

Job Creation/Retention Requirements

Date that jobs are required to be created/retained by _____

Jobs Projection per Grant Agreement
Actual Jobs to Date

TOTAL		LMI	
Created	Retained	Created	Retained

Please attach a list of any factors affecting the creation of the required number of jobs.

SAMPLE CERTIFICATION OF 60 DAY FOLLOW-UP INSPECTION
BY GRANTEE & HOMEOWNER

HOMEOWNER(S): _____

ADDRESS: _____

CONTRACTOR: _____

JOB COMPLETION DATE: _____ DATE OF INSPECTION: _____

A 60 DAY FOLLOW-UP INSPECTION has been completed on the above described property that was rehabilitated/reconstructed with Community Development Block Grant financial assistance.

The Homeowner and the Grantee/Representative agree to date that the rehabilitation work performed is satisfactory.

There were problems (as noted) that requires the Grantee to assist the Homeowner in obtaining corrective action: _____

Contractor was contacted on Date by Name.

Follow-up work was satisfactorily performed on Date.

Signature of Homeowner

Date

Signature of Homeowner

Date

Signature of Grantee/Representative

Date

SAMPLE REHABILITATION PROGRAM FILE CHECKLIST

(All documentation must have the appropriate signature(s) and date(s))

- ❑ Rehabilitation Guidelines and Council Resolution of Adoption
- ❑ Pending Applications and Disqualified Applicants, Family Survey, Work Write-ups and Cost Estimates
- ❑ Master Complaint File
- ❑ Rehab Contract File (for each job)
 - ❑ Proof that Recipient Received a Copy of the Grievance Procedures
 - ❑ Household Survey/Rehabilitation Assistance Application
 - ❑ Proof of Ownership
 - ❑ Applicant Release for Verification of Income
 - ❑ Verification of Income and Employment
 - ❑ Certification of Primary Residence
 - ❑ Proof of Current House Insurance
 - ❑ Work Write-ups and Cost Estimates that Document Rehabilitation Activities and Cost Versus Lead-Based Paint Activities and Cost, if applicable
 - ❑ Proof that Applicant Initialed Each Page and Signed Last Page of the Work Write-up
 - ❑ Lead-Based Paint Hazards Notification, as applicable
 - ❑ Pamphlet – Protect Your Family From Lead In Your Home
 - ❑ Disclosure Form for Target Housing Rental and Leases
 - ❑ Lead Hazard Evaluation Notice
 - ❑ Lead Hazard Presumption Notice
 - ❑ Lead Hazard Reduction Notice
 - ❑ Lead-Based Paint Inspection/Testing Report or Risk Assessment Report or Lead Hazard Screen Report
 - ❑ Lead Hazard Clearance Test Report
 - ❑ Certification of Safe Work Practices
 - ❑ Certification of Inspectors, Risk Assessors and Supervisors
 - ❑ Executed Loan/Grant Documents
 - ❑ Executed Contract (with contractor) Documents
 - ❑ Homeowner Authorization for Agency to Act as Agent, if applicable

- ❑ Bid Opening Minutes that includes names of all contractors present at the meeting, list of bids received, and amount of each bid
- ❑ Notice to Proceed
- ❑ Progress and Final Inspection Reports
- ❑ Progress Payments and Final Payment Documentation (including cancelled checks)
- ❑ Change Orders, if any
- ❑ Notice of Owner's Acceptance of Work
- ❑ General Contractor/Subcontractor/Materialmen Affidavit, Warranties and Release of Liens
- ❑ Promissory Note, if applicable
- ❑ Real Estate Mortgage, if applicable
- ❑ Follow-up Visit Inspection (within 60 days of job completion)
- ❑ Copies of Written Complaints, Resolution, and Correspondence (also include in Master Complaint File)
- ❑ Copies of Rent Restriction and Anti-Eviction Agreements
- ❑ Counseling Report – Homeowner Maintenance/Life Skills Education

**DECLINE STREET REDEVELOPMENT
PROJECT**

**URBAN RENEWAL PLAN
ANYTOWN, KENTUCKY**

JANUARY 2000

DECLINE STREET REDEVELOPMENT PROJECT

URBAN RENEWAL PLAN

Prepared For:
Anytown, Kentucky
100 Main Street
Anytown, KY 40000

Prepared By:
Proficient Consulting

JANUARY 2000

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INTRODUCTION

CHAPTER 1

PURPOSE

Anytown has recognized the slum/blighted conditions in the Decline Street area of the City and is pursuing funding to address this area. The City is initiating a Community Development Program to revitalize and improve living conditions in this neighborhood. In initiating this Community Development Program, the City is recognizing and responding to accelerating deterioration and blight, the inadequacies of public facilities, and shortage of suitable housing for low and moderate income families in the community, and requests by area residents for assistance in upgrading their neighborhood.

The purpose of this Urban Renewal Plan (also known as a Development Plan) is to outline the actions to be taken for the implementation of the Community Development Program. This program will seek to stimulate and guide (through the activities specified herein) public and private investments in the redevelopment of the Decline Street area. This project area as outlined in Chapter 2 is the focus of this Urban Renewal Plan.

To achieve this, Anytown will initiate a Community Development Program to perform the activities specified in this plan in accordance with the provisions of the Kentucky Revised Statutes, Chapter 99.

In accordance with KRS 99.370(2) and KRS 99.540, this plan addresses the following topics:

1. Location, character and extent of public and private land ownership and uses proposed within each project area.
2. Proposed land acquisition, demolition and clearance activities within the project area.
3. Proposed redevelopment and improvements within the project area.
4. Proposed rehabilitation activities of all types within the project area.
5. Relationships of this plan to local development objectives, strategies and standards.
6. Maximum density and building requirements within the project area.
7. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) will be followed by the City during relocation procedures.

COMMUNITY BACKGROUND

Anytown is a City located in eastern Kentucky containing 10 square miles. In 1990, the City had a population of 802. The population increase to 810 in 2000. Of the 810 people residing in the City in 2000, 701 (86.5%) were White, 82 (10.1%) were Black, 5 (0.6%) were American Indian, 6 (0.7%) were Asian, and 7 (0.9%) were listed as "Other". In addition, there were 9 persons (1.1%) that reported as being two or more races. In 2000, 85 residents of the City were Hispanic or Latino (10.5%).

The Decline Street area of Anytown is a minority community located in the south end of the city. The area has a large concentration of dilapidated housing with some newer homes. Five (5) of the older homes have no usable indoor toilet. Four (4) households do not have indoor water service.

PROJECT AREA LOCATION

The Community Development Block Grant received by Anytown was obtained to assist in the redevelopment of the Decline Street project area. Appendix A contains various maps that depict the location of the neighborhood that is covered by the Urban Renewal Plan. As can be seen from reviewing the project area map, the Decline Street area includes properties located from 100-400 Decline Street, as well as those located on Slum Street, Revive Street and Narrow Lane.

PROJECT OVERVIEW

A Community Development Block Grant has been approved by the Governor's Office for Local Development to provide funding for the redevelopment of the Decline Street project area. The project funded with this grant is known as the Decline Street Redevelopment Project. This project will take approximately twenty-four months to complete and will accomplish the following tasks:

1. Seven (7) parcels of land containing seven (7) structures and three (3) mobile homes will be acquired in order to eliminate title problems and allow clearance of these structures.
2. Eighteen (18) structures will be cleared in order to eliminate a concentrated area of dilapidated housing and enable seven (7) owners to build homes that have running water and public sewer.
3. Ten (10) families will relocate into decent, safe, and sanitary housing. Six (6) LMI homes will be connected to a public sanitary sewer system in order to provide indoor plumbing and eliminate malfunctioning septic tanks.
4. Three (3) substandard houses will be rehabilitated to International Property Maintenance Code and will be provided with public sewer. One (1) house, constructed prior to 1978, will be tested for lead based paint and addressed in accordance with new HUD lead based paint regulations.

5. Three (3) City roadways included as part of the project area will be upgraded in order to improve the flow of storm water runoff and restore road conditions after construction activities are complete. Installation of 5,750 linear feet of 8” sanitary sewer lines will be installed in order to eliminate malfunctioning septic systems and outdoor bathroom facilities. Water lines will be extended in order to serve all homes within the project area.

PROJECT GROUP RESPONSIBILITIES

For the project to succeed, a number of different groups must work together. Table 1 presents these groups and their responsibilities. As these presentations reveal, the City Council is ultimately responsible for all phases of the project and therefore retains all control of the project.

TABLE 1 PROJECT GROUP RESPONSIBILITIES DECLINE STREET REDEVELOPMENT PROJECT	
GROUP	RESPONSIBILITY
Anytown City Council	Legal applicant for all funds; <u>final</u> approval of and responsibilities for all project activities; approval of all project documents and plans; final decisions on all administrative appeals. Maintenance of all accounting records.
Proficient Consulting	Provides technical assistance to the City Council regarding Federal procedures and practices which most efficiently implement this plan. Responsible for establishing project accounting procedures. Implements the policies of the City Council; carries out the day to day activities of the project, supervises all remaining staff and consulting professionals. Complete administration of the project.

AMENDMENT PROCESS

Any provision of this Urban Renewal Plan may be amended if the City Council determines that it is necessary and desirable to do so. Such an amendment must be approved in the same manner as was the adoption of this Urban Renewal Plan (including a public hearing). Amendments refer to major, substantive changes in the proposal set forth in the Urban Renewal Plan.

CHAPTER 2

PROJECT AREA DESCRIPTION

The purpose of this chapter is to describe the project area as it presently exists. Particular emphasis will be placed on housing and socioeconomic conditions as these factual matters are central to the City Council's determination that the project area is a slums/blight area and therefore eligible for Urban Renewal activities as defined by KRS 99.

SOCIOECONOMIC CONDITIONS

As previously described the Decline Street area of rural Anytown is a minority community located in the south end of the city. The Decline Street project area contains a concentration of LMI families living in substandard housing. Of twenty-four (24) occupied structures in the neighborhood, ten (10) are dilapidated and require demolition. Five (5) of these homes do not have indoor toilets. Four (4) homes do not have indoor water with one (1) home only having water to a sink.

Furthermore, door to door socioeconomic surveys conducted within the project area in July, 1999 revealed a substantial level of need. Of the twenty-three (23) households in the project area, seventeen (74%) are LMI, six (26%) are very low income, and seven (30%) are extremely low income. Seven (7) of the households are elderly, sixteen (16) are disabled, and eight (8) have female-headed households.

HOUSING CONDITIONS

There is a limited supply of affordable standard housing in Anytown. In addition, Anytown has both concentrated and scattered site substandard housing. As standard affordable housing is limited in rural Anytown, the best option for both the community and residents is to construct stick built replacement homes in the project area.

A survey of housing conditions, 100% exterior and 75% interior, was completed in July of 1999. In the Decline Street project area, eighteen (18) out of thirty-two structures (56.3%) are considered to be dilapidated, deteriorated, or obsolete and require clearance.

EXISTING LAND USE

Appendix A contains the Decline Street Redevelopment Project Area Map. The map depict the land use as residential in nature surrounded by farms and rural uses to the south of the city with the exception of one inactive commercial structure located on Decline Street. All structures included in the project area are single family residential in nature.

EXISTING ZONING

Anytown has adopted Citywide planning and last updated their Comprehensive Plan in 1994. The City also has zoning and subdivision regulations. According to the zoning regulations the area is zoned R-2, low to medium density residential. The minimum lot size for single family residential homes on public sewers is 7,500 square feet. Any new lots created as part of the Decline Street Redevelopment Project would meet or exceed the minimum standards.

Most existing lots will also meet these standards. Any that do not would be considered non-conforming lots of record under the “grandfather” provisions of the ordinance.

INFRASTRUCTURE

Anytown will re-pave and make ditching and drainage improvements along approximately 2800 linear feet of city (Decline Street, Slum Street, Revive Street, and Narrow Lane) once construction activities are complete. In addition, 5,750 linear feet of 8” sewer lines will be installed to serve all homes located within the project area. The Anytown Water and Sewer Commission has also agreed to extend a 3” water main approximately 400 feet to the end of Narrow Lane to serve the last two houses on this road.

CHAPTER 3

GOALS AND OBJECTIVES

INTRODUCTION

The purpose of this chapter is to (1) summarize the needs of the Decline Street neighborhood and (2) to develop goals and objectives to address these needs. These goals and objectives will guide the implementation of the project. This chapter will also present an approximate schedule for the implementation of the project.

GOALS AND OBJECTIVES

The following goals and objectives will define the project's mission and guide its implementation:

GOAL: *To eliminate blighting conditions within the project area.*

OBJECTIVE:

- (a) To clear all dilapidated structures within the project area and relocate all displaced households into suitable housing.
- (b) To use code enforcement to clear dilapidated structures and require rehabilitation of other remaining substandard units.
- (c) To acquire and clear additional properties as necessary or advantageous to completing the mission of the project.

OBJECTIVE: *To increase housing opportunities for LMI residents of the Decline Street Neighborhood.*

- (a) To assist homeowners in purchasing or constructing decent safe and sanitary replacement housing.
- (b) To improve lot layouts where possible.

GOAL: *To enhance the quality of life in the Decline Street Neighborhood by improving the infrastructure in the area.*

OBJECTIVE:

- (a) To repave and improve three (4) City streets upon completion of all other activities to restore any deterioration.
- (b) To extend 5,750 linear feet of 8" sewer lines to all homes located within the project area.
- (c) To extend a 3" water main approximately 400 feet to the end of Narrow Lane to serve the last two houses on this road

PROJECT SCHEDULE

The performance schedule, included in Appendix A, presents an approximate timeline for the completion of the Decline Street Redevelopment Project. This schedule is presented for informational purposes only. Major activities are identified in the quarter in which they begin and are to be continuous until the quarter where completion is noted.

CHAPTER 4

DEVELOPMENT PLAN

INTRODUCTION

The purpose of this chapter is to present and briefly discuss the development activities to be initiated and completed within the project area. Some of these activities may not be included as part of the redevelopment plan for the Decline Street neighborhood.

This Urban Renewal Plan must clearly address and discuss the following points:

1. Relationship of the project to the Comprehensive Plan.
2. Land acquisition and demolition.
3. Redevelopment proposals.
4. Public Improvements.
5. Rehabilitation proposals.
6. Zoning and land use change.
7. Public and private ownership of property upon completion of the project.

The project may be reduced to five key activity groups:

1. Property acquisition. This includes acquisition of lots and houses as well as any necessary easements for public facilities work.
2. Clearance of structures not suitable for rehabilitation. This includes asbestos inspections prior to demolition and disposal at a permitted facility.
3. Relocation of families into standard housing.
4. Housing construction and rehabilitation. This includes testing for lead based paint on all homes built prior to 1978 and addressing lead based paint in accordance with new HUD regulations.
5. Public improvements. This activity includes the repaving of project area streets, the installation of drainage improvements, and extension of water and sewer lines. (If applicable)

Each of these five groups will be briefly discussed in this chapter. Later chapters will present more information regarding these activity groups.

RELATIONSHIP TO THE COMPREHENSIVE PLAN

The Anytown Planning Commission updated their Comprehensive Plan for the City in May 1994. The overall housing goal for Anytown, included as part of the plan, is to “develop housing and residential areas which provide safe, sound, and decent housing for all families and individuals, both private ownership and rental properties, at affordable prices.” Some objectives to achieve this goal are as follows: (1) Improve and conserve the quality of new and existing housing through the enforcement of the Subdivision regulations, Zoning Ordinance, building permits, and building codes;” (2) Encourage the development of both single and multi-family housing within areas that are served by existing utility facilities; and (3) Encourage and provide for assisted owner and rental housing units for the area’s low income and elderly population. Although the plan does not specifically address the project area, the redevelopment of Decline Street neighborhood is in conformance with these provisions.

PROPERTY ACQUISITION-CLEARANCE

All acquisitions will be done in accordance with the Uniform Act. Approximately seven (7) parcels of land including seven (7) dilapidated stick-built homes and one (1) mobile home will be acquired. This will allow clearance of a total of eight (8) structures and resolve title problems with the properties so replacement homes can be built. Acquired properties will be re-lotted to meet City requirements and sold back to the owner-occupants for construction of replacement homes.

For additional information on Property Acquisition, refer to Chapter 6 of this Urban Renewal Plan. For additional information on Relocation matters, refer to Chapter 7 of this Urban Renewal Plan.

PUBLIC IMPROVEMENTS

City roads located within the project area (Decline, Slum, Revive Streets and Narrow Lane) currently need ditching and drainage improvements in order to adequately channel storm water runoff. As demolition and construction activities will degrade the condition of the road, Anytown will re-pave and make ditching and drainage improvements along approximately 2800 linear feet of Decline, Slum, Revive Streets and Narrow Lane. Sanitary sewer also needs to be extended to the project area as many of these homes have malfunctioning septic systems or outdoor bathroom facilities. Therefore, 5,750 linear feet of 8” sewer lines will be extended to serve all homes located within the project area. In addition, the Anytown Water and Sewer Commission will extend a 3” water main approximately 400 feet to the end of Narrow Lane to serve the last two (2) houses on this road. In general, eliminating the poor road and unsanitary conditions in the neighborhood will increase the quality of life for those residents living there.

NEIGHBORHOOD REDEVELOPMENT

The City will stimulate neighborhood redevelopment by assisting homeowners and renters in obtaining any necessary financing to construct or purchase replacement homes. Present project area residents will have priority in purchasing lots.

For additional information on Neighborhood Redevelopment, refer to Chapter 9 of this Urban Renewal Plan.

HOUSING REHABILITATION

Three (3) LMI owners are living in substandard houses that need to be rehabilitated to International Property Maintenance Code. Of the three (3) structures, two (2) are in need of moderate rehabilitation and one (1) needs major rehabilitation. As part of rehabilitation activities, testing and elimination of lead based paint will be conducted in accordance with new HUD guidelines for structures built prior to 1978. At the present time, only one (1) of the homes to be rehabilitated as part of this project was built prior to 1978.

FUTURE LAND USE

The thirty-two (32) structures located within the Decline Street neighborhood includes twenty-eight (28) single family stick-built homes, three (3) mobile homes, and one (1) double wide mobile home. While some housing will be eliminated in the project area, it will remain single family residential in nature due to the construction of single-family replacement homes in the neighborhood. One inactive commercial building is located adjacent to the project area off of Decline Street Road. However, the character and future land use of this area is not expected to change from single family residential in the future.

CHAPTER 5

FINANCING AND COSTS

INTRODUCTION

KRS 99.370 requires disclosure of (1) the means of financing the proposed Urban Renewal activities and (2) the costs associated with said Urban Renewal activities. The purpose of this chapter is to provide this information.

COSTS

Table 2 presents the estimated costs associated with the implementation of the project as set forth in the 2000 Kentucky CDBG Housing Application for the Decline Street Redevelopment Project.

TABLE 2

ESTIMATED PROJECT COSTS

DECLINE STREET REDEVELOPMENT PROJECT

Acquisition	\$ 91,600
Clearance	25,000
Relocation	373,406
Public Facility Improvements	307,562
Rehabilitation	79,500
Planning and Administration	100,000
Contingencies	54,647
TOTAL COSTS	\$ 1,031,715

FINANCING

Table 3 presents information relative to the sources of funds available for defraying project costs. No deficits are expected to be incurred during the life of the project.

TABLE 3
SOURCES OF PROJECT FUNDS

Community Development Block Grant	\$ 1,000,000
Anytown (cash)	11,715
Lot sales, rents	20,000
TOTAL FUNDING	\$ 1,031,715

In addition to a cash contribution of \$11,715 for street improvements, Anytown will provide in-kind labor and equipment for clearance activities at an estimated value of \$47,000 and in-kind labor for road drainage improvements estimated at \$4,000. The City of Anytown will waive an estimated eight (8) water tap-on fees at \$500 each (seven (7) new houses and one existing house at the end of Narrow Lane). They will also waive an estimated 20 sewer tap-on fees at \$300 each (seven (7) new houses and thirteen (13) existing homes). The total in-kind value of these tap fee waivers is \$10,000. The City of Anytown will also extend a 3” waterline approximately 400 feet at the end of Narrow Lane. The value of this in-kind service is estimated at \$3,200 (400 linear feet at \$5.00 plus two (2) meters valued at \$400 and one valve at \$400).

CHAPTER 6

ACQUISITION-CLEARANCE-DISPOSITION

INTRODUCTION

The purpose of this Chapter is to discuss the aspects of the project relative to Property Acquisition, Clearance, and Disposition. This Chapter will summarize the provisions and procedures of the City's Property Acquisition and Disposition Policy" which is the "Uniform Act".

PROPERTIES DESIGNATED FOR PURCHASE

To complete the project objectives, it will be necessary for the City to acquire approximately seven (7) parcels of land including seven (7) dilapidated stick-built homes, and one (1) mobile home. The Decline Street Redevelopment Project Map, located in Appendix A, identifies the properties that are designated for purchase. The primary purpose of property acquisition will be to clear dilapidated properties, make lots available for construction of replacement homes, and to clear title to those properties which are currently in estates.

ACQUISITION OF OTHER PROPERTY

It is not intended at this time to purchase properties other than those designated by the project area map in Appendix A. It is possible, however, that unforeseen events in the execution of the project could necessitate the purchase of additional properties. Property not designated for purchase may be acquired if, in the opinion of the City, the purchase of the property is necessary for the success of the project. The procedure for this is set forth in KRS 99.460.

EXEMPTION FROM ACQUISITION

A property designated for purchase as part of Decline Street Redevelopment Project may be exempted from acquisition if the City Council determines that the purchase of the property is not necessary to accomplish the mission of the project.

EMINENT DOMAIN

Under KRS 99.360 and 99.550, the City may exercise the power of Eminent Domain. The procedure for the exercise of this power is set forth in KRS 99.420. The City will make every attempt, however, to avoid the use of this power.

ACQUISITION PROCEDURES

Any property to be acquired by the City will be appraised by at least two (2) and sometimes three (3) appraisers to determine Fair Market Value. These appraisals are calculated in consideration of the characteristics of the properties as they presently exist and not on their potential value upon completion of the project. The City will then offer the property owners the amount determined by the two (three) appraisers to represent Fair Market Value or "just compensation".

Any acquisition will be conducted in accordance with all applicable federal and state regulations. Federal regulations are set forth in the "Uniform Act" and its implementing regulations. This Act covers such topics as procedures for acquisition and disposition; determination of just compensation; and the grievances and appeals procedure. The Uniform Act and its implementing regulations are the official property acquisition policies of the City.

VOLUNTARY ACQUISITION POLICY

Voluntary acquisition shall be permitted only if the property has not been designated for acquisition. Only vacant land will be acquired by voluntary acquisition. The City may decline to purchase any property. Property owners will be responsible for paying any taxes due and for providing clear title to the property. Anytown will pay other closing costs such as surveying, legal fees and recording fees.

CODE ENFORCEMENT

All property owners in the Decline Street Project Area shall be required to maintain existing buildings in accordance with the International Property Maintenance Code. Any property found to be deficient shall be repaired to meet the International Property Maintenance Code or shall be demolished and removed. Any property which is found to be in substantial noncompliance with the Code may be declared a public nuisance. The City Council may demolish and clear dilapidated structures with written owner's permission.

HEARING PANEL

The Mayor, with the City Council's approval, shall appoint three (3) individuals who shall constitute a Hearing Panel for the purpose of conducting hearings pursuant to this plan. Members of the Hearing Panel may not be employees of the City and shall serve without compensation. An enforcement officer shall not be a member of the Hearing Panel.

NOTICE OF VIOLATION

When any property is declared a public nuisance, notice of the violation shall be given as follows:

Written notice of the violation and an order to remedy the violation shall be delivered or sent by certified mail to the owner or responsible person of the property.

If the City is unable to determine or locate the owner or responsible person of the property, the notice of violation shall be posted in a conspicuous place on or near the property, and it shall be published pursuant to Chapter 424 of the Kentucky Revised Statutes in a newspaper of general circulation in Anytown, Kentucky.

Notice to any one owner of the property shall constitute notice to all other owners of the same property.

Notice mailed to an owner at the last address shown on the property tax roll maintained by the City P.V.A. office shall constitute notice to all owners of the property. Each owner of property located in the project area shall have a duty to notify the City of the proper mailing address of the owners of the property in a timely manner.

PERIOD TO CURE

In the written notice, the owner or responsible person shall be afforded a period during which to cure the violation. The following periods to cure shall apply: (a) 45 calendar days for dilapidated structures; and (b) 90 calendar days for structures damaged by fire. The City may extend the period to cure for an additional time not to exceed the original period. All periods to cure shall begin when notice is mailed.

HEARING

Any owner of property declared a nuisance under this plan shall have the right to a hearing before the Hearing Panel. A hearing request must be made within 15 calendar days of mailing the Notice of Violation. A request for a hearing shall be timely submitted in writing, signed by the requesting owner, containing the current mailing address and telephone number of the requesting owner, and received by or delivered to the Mayor’s office no later than 15 calendar days following the date of mailing the Notice of Violation. Upon receipt of a timely submitted written request, the City shall schedule a hearing before the Hearing Panel as soon as reasonably possible. Written notice of the date, time, and location of the hearing shall be mailed to the owner or responsible person who requested the hearing. At the hearing, both the owner or responsible person and the City's representative shall be allowed to present evidence and to cross-examine witnesses. The rules of evidence shall not apply. At the conclusion of the hearing, the Hearing Panel shall go into closed session, to discuss whether the notice of violation and order to remedy was appropriate under the circumstances. The decision of the panel shall be made by majority vote and announced in open session following deliberations. A written order containing the findings and decisions of the Hearing Panel shall be filed with the Mayor and mailed to the owner within five (5) business days following announcement of the Panel's decision.

ABATEMENT BY CITY

If the owner or responsible person of property in violation fails to properly cure or remedy the violation within the time prescribed in the notice, or within seven (7) days following entry of an order by the Hearing Panel upholding a notice of violation, whichever is later, then the City, in its discretion and without obligation, may enter upon the property and take such action as it deems appropriate to cure the violation and abate the nuisance. Such action may include, the cutting or removing of grass and weeds, the removal of trash, debris, garbage, refuse, materials, waste, junk, litter, and other matter constituting a violation, the repair of any unsafe or unsanitary condition, and the demolition and removal of any dilapidated structure. The City may file a lien against the property for the reasonable value of labor, materials, and equipment used in remedying the situation together with any legal costs incurred by the City.

CLEARANCE

All structures acquired by the City will be demolished or otherwise prepared for redevelopment. Where purchase for redevelopment is not appropriate, the City may elect to use Code Enforcement as described above to bring about demolition of the dilapidated structure.

PROPERTY DISPOSAL

Properties to be purchased by the project will be disposed or redeveloped in the following manner:

1. Acquired properties not suitable for residential redevelopment may be sold to adjoining property owners for side yards or additions to existing lots. Priority shall be given to improving adjacent lots to meet zoning regulations.
2. Persons displaced by this project shall have first priority to purchase land acquired for this project. Owners have priority over renters. Those with an earlier date of occupancy have priority over later residents.
3. Any vacant lots suitable for residential development remaining at the end of the project shall be used for construction of LMI housing. Habitat for Humanity will be given first priority.
4. For further details on redevelopment activities, please refer to Chapter 10 of this plan.

CHAPTER 7

RELOCATION

INTRODUCTION

The implementation of the proposals of this Urban Renewal Plan will result in the displacement of approximately ten (10) households. Seven (7) owners and three (3) renters require relocation into standard housing. The purpose of this chapter is to present the key provisions of the "Relocation Policy" which will govern this relocation process. Anytown will use "The Uniform Act" as it's implementing regulations in the displacement and relocation of project area residents. A relocation plan for the Decline Street Redevelopment Project is presented in Appendix B and gives further details. The temporary relocation policy can also be found in Appendix B.

RELOCATION FINDING

In accordance with KRS 99.370(4), the Anytown City Council finds that there is and will continue to be a feasible method for the temporary or permanent relocation of households displaced from the project area. The Agency further finds that there are few decent, safe and sanitary units outside the project area at rents or prices within the financial means of the displaced families. Therefore, last resort replacement housing will be constructed as needed to provide decent, safe and sanitary units to displaced residents. The City will provide a financing program for the displaced residents, which will give homeowners in the project area the opportunity to construct replacement homes. Lots will be purchased as needed in order to ensure that sufficient land is available for construction of replacement housing.

RELOCATION RESOURCES

Because all households being displaced by this project are owner-occupants, the approved CDBG application provides for the construction of new single family homes for owner/occupants who will be relocated once their existing home is demolished. For those displaced residents that choose not to participate in the construction of new homes, housing available on the private market will be used as relocation resources.

ELIGIBILITY

A household must meet all of the following tests before being eligible for receiving Relocation benefits:

1. Receive a Notice of Relocation Eligibility.
2. Homeowners must have owned and occupied their home for a period of not less than 180 days prior to the date of Notification of CDBG Grant Award.
3. Renters must have lawfully occupied their rental dwelling for a period of not less

than 90 days prior to the date a written offer to purchase is made to acquire the property they are living in. All displaced parties must be willing to relocate to decent, safe and sanitary homes which meet all applicable local, state and federal regulations and ordinances.

4. All occupants displaced from their homes shall be eligible for moving expenses.
5. Permanent moving expenses will only be paid once to any family or for any one structure.

RELOCATION BENEFITS

Relocation benefits will be determined on a case by case basis in accordance with the Uniform Relocation Act and Section 104(d) of the Housing and Community Development Act of 1974, as amended. An Anti-displacement and Relocation Plan has been developed and is included as Appendix B.

MISCELLANEOUS

No household will be required to move without at least 90 days notice. Eviction will be used only as last resort and will not effect the eligibility for relocation benefits of any displaced person or business.

GRIEVANCE PROCEDURE

Residents have the right to appeal any action of the City for failure to properly determine their eligibility for or the amount of a relocation payment or payment for incidental expenses or certain litigation expenses. A resident's acceptance of the amount offered by the City does not limit the right to appeal the City's determination and seek a larger payment.

An appeal must be filed within 60 days after the City provides written notification of its determination of claim amounts. The first level of appeal is to the City Council. In response to an appeal, the City will provide residents a copy of the decision, a statement of the facts and legal basis upon which it is based, a description of any additional benefits granted and notification of the right to appeal the decision to the Department of Local Government.

If not satisfied with the City Council's determination, residents may appeal to the Department of Local Government, 1024 Capital Center Drive, Frankfort, Kentucky 40601. A state review may be obtained by sending a written request to the Department of Local Government within 30 days after receiving a letter containing the City's decision, together with a written statement of the facts. A full copy of the grievance procedure can be found in Appendix D.

CHAPTER 8

PUBLIC FACILITIES IMPROVEMENTS

INTRODUCTION

The purpose of this Chapter is to briefly identify the public improvements to be installed or completed during the course of the project.

City roads located within the Decline Street project area (Decline Street, Slum Street, Revive Street and Narrow Lane) currently need ditching and drainage improvements in order to adequately channel storm water runoff. As demolition and construction activities will degrade the condition of the road, Anytown will re-pave and make ditching and drainage improvements along approximately 2800 linear feet of city streets in the project area. Sanitary Sewer also needs to be extended to the project area as many of these homes have malfunctioning septic systems or outdoor bathroom facilities. Therefore, 5,750 linear feet of 8" sewer lines will be extended to serve the last two (2) houses on this road. In general, eliminating the poor road and unsanitary conditions in the neighborhood will increase the quality of life for those residents living there.

CHAPTER 9

HOUSING REHABILITATION AND NEW CONSTRUCTION

INTRODUCTION

The purpose of this chapter is to summarize the key provisions of the rehabilitation and new construction component of the Decline Street Redevelopment Project.

Three (3) LMI owners are living in substandard houses that need to be rehabilitated to International Property Maintenance Code. Of the three (3) structures, two (2) are in need of moderate rehabilitation and one (1) needs major rehabilitation. As part of rehabilitation activities, testing and elimination of lead based paint will be conducted in accordance with new HUD guidelines for structures built prior to 1978. At the present time, only one (1) of the homes to be rehabilitated as part of this project was built prior to 1978.

A more detailed explanation of the procedures to be followed during implementation of this component is contained in the project's Rehabilitation Plan located in Appendix B.

ELIGIBILITY

Eligibility requirements for housing rehabilitation financial assistance is detailed in the Housing Rehabilitation guidelines found in Appendix C. There are no restrictions on period of ownership, however, those who have lived in the project area the longest shall have first priority for funding.

The Housing Rehabilitation Officer will inspect units for deficiencies utilizing the BOCA National Maintenance Code. The Rehabilitation Officer will complete work write-ups for the needed repairs of each property. These work write-ups will be utilized as the scope of work in contracting procedures.

Each property owner to receive rehabilitation assistance will complete an application to be provided by the City. The staff will verify all financial information on the applicant. This information will be confidential. The staff will then determine, according to guidelines set forth in the Rehabilitation Plan, the type of financial assistance available. This will then be discussed with the property owner. Subsidies will be based on income and assets of the property owner.

FINANCIAL ASSISTANCE-HOUSING REHABILITATION

The financial assistance to be provided participating property owners will have one or a combination of two possible forms. These two forms of assistance are:

1. Forgivable (Deferred) Loans: LMI owner-occupants are eligible for forgivable deferred loans. These loans are made directly by the City. The source of the funds are from the CDBG grant. The loan is forgiven at a rate of 20% per year. At the end of five (5) years, the entire loan is forgiven. If the property changes hands before the entire loan is forgiven, some repayment of the loan may be

required. Payment schedules in these cases will be determined by the staff of the agency and approved by the City Council. Payment scheduled in these cases will be based on individual situations.

2. **Leveraged Loans:** Over income households and owners of rental properties may be eligible for leveraged loans. A portion of the leveraged loan will be made by the City from CDBG funds. CDBG financing will be in the form of a five (5) year forgivable deferred loan. The remaining funds will be provided by the property owner's through their own funds or financing provided by a lender. Only health and safety concerns will be addressed for properties occupied by over income families. Over income owner occupants will be required to pay two-thirds of the rehabilitation costs. Owners of rental properties may be eligible for partial financing from CDBG funds if one or more tenant households are LMI. To determine the owners contribution, the income and expenses for the property will be considered as well as the ability to pay for any over income renter-occupants. The maximum owner contribution will be two-thirds of the rehabilitation costs for properties occupied by LMI persons. The owner contribution may be higher for properties occupied by over income families.

FINANCIAL ASSISTANCE-NEW CONSTRUCTION

1. Tenants who are displaced from their homes will be eligible to purchase any available lots for construction of a replacement home for \$1.00 upon approval of a loan construction of the home. Renters can use their relocation payment for a down-payment. Any renter that uses their relocation payment as a down payment to purchase or construct a home shall receive a minimum of \$5,250 for down payment assistance as their relocation payment. Relocation Payments: Funds are available through the CDBG program for relocation payments to homeowners to construct replacement houses on their property. Under the "make-whole" provisions of the Uniform Act, Owners will be left in the same financial condition as before the relocation in terms of amount of mortgage on the property and ownership interest.

Any financing to be provided by a renter to construct a replacement home must be approved prior to the bidding. The renter shall be required to be pre-qualified for financing to purchase a home prior to being provided extensive assistance in locating a replacement home. Any renter that is not current on payment of their rent to the current or prior owner shall not be eligible for homeownership counseling. Renters who wish homeownership counseling must authorize a credit check. This is to eliminate wasted effort on part of the staff if the renter cannot be approved for financial assistance.

SELF HELP

In recognition of the fact that some property owners may wish to do some of the rehabilitation work themselves, the City may provide assistance for self-help rehabilitation. The exact nature of the self-help to be provided will be based on each individual situation.

Possibilities for self-help include the purchase of material by the agency while the property owner provides the labor. Review and approval of self-help proposals will be made by the Project Manager. Property owners may appeal to the City Council if they are not satisfied with the Project Manager’s decision.

PRIORITIES

Table 4 presents the priority schedule for rehabilitation work. Households with incomes above 80% of median shall be assisted only after all households with incomes at or below 80% of median family income. Property owners are required to have paid all back property taxes and utility bills before being eligible for rehabilitation assistance or new housing construction.

TABLE 4 REHABILITATION PRIORITY SCHEDULE DECLINE STREET REDEVELOPMENT PROJECT	
Group Priority	Comments
1. Emergency	LMI Emergency cases which directly threaten health or safety. Other cases where hardship circumstances require priority status. This category requires approval of the Project Manger.
2. Elderly Households	LMI, Age 62 or older and head of household.
3. Physically Handicapped	LMI, Head of household is physically handicapped.
4. Female Head of Household	LMI, Head of household is female.
5. Large Families	LMI, Five or more members of household.
6. All others	All other low to moderate income families served on a first-come basis with those living in the project area the longest receiving first priority. Over income families (those with incomes over 80% of median family income for the area) shall only be served after LMI families have been addressed. Over-income families will be prioritized by need based on ability to pay. Those with the least ability to pay shall have highest priority.

NOTE: Priority group determined by type of household occupying the house. Lower income residents shall be given priority over higher income residents.

RENT RESTRICTIONS/RENTAL REHABILITATION

Rental properties shall be eligible for partial forgivable deferred loans based on an analysis of income and expenses for the property. Landlords participating in the program will be subject to rent restrictions for five (5) years beyond the date of loan closing. Rent increases will be limited to ten percent over a five (5) year period. This restriction is imposed in light of the generous financial assistance made available to them.

LOAN INSURANCE

Where appropriate, the City may require the loan recipient to purchase FHA Title I Loan Insurance. This loan insurance policy protects the lender in the event of default; 90% of the total loan amount is protected by the policy. Use of the FHA Title I Policy allows loans to be made to many persons, who otherwise might not qualify for loans. It also has the advantage of normally not requiring that a lien or mortgage be placed on the property. The cost of insurance is usually very low and is built into the monthly repayment amount when required.

UNITS TO BE REHABILITATED

Figure 1 shows all residential structures which are slated for rehabilitation work as part of the Decline Street Redevelopment Project.

CHAPTER 10

NEIGHBORHOOD REDEVELOPMENT

The primary goal of redevelopment will be to relocate displaced residents of the project area into decent, safe and sanitary housing. The secondary goals will be to eliminate blighting conditions such as substandard lots, provide necessary public utilities to residents, improving road conditions, and clearance of title problems which have lead to deferred maintenance of several properties in the neighborhood.

LAND DISPOSITION

After acquired properties in the Decline Street neighborhood are cleared of dilapidated structures, rubbish, and brush, they will be used for the construction of replacement or LMI housing or sold to adjacent property owners to create lots which meet the City's proposed zoning requirements. Use of properties acquired and sold by the City for redevelopment will be subject to restrictions by the City Council. The City may assemble multiple acquired parcels to meet specific public use needs or facilitate their redevelopment.

Priority for the sale of properties acquired under this Community Development program will be given to, in order:

1. Project area property owners who are being displaced as a result of property acquisition;
2. Project area tenants who are being displaced;
3. Habitat for Humanity for the construction of homes for low and moderate income persons; and
4. The general public.

CHAPTER 11

MISCELLANEOUS

CITIZENS PARTICIPATION

The Anytown City Council recognizes the critical role of citizen participation in assuring the success of the project. A public hearing was held to solicit citizen comment prior to submittal of the grant application for funding. This public hearing is documented in the CDBG grant application.

DURATION OF PLAN

This Urban Renewal Plan is in effect until the completion of the project.

DEVELOPMENT RESTRICTIONS

No building permit shall be issued for any structure or use within the project area during the duration of this Urban Renewal Plan unless the proposed activity is found to be in conformance with this Urban Renewal Plan (KRS 99.380). This determination will be made by the Project Manager. The determination may be appealed to the City Council in conformance with the Grievance Procedures.

EVIDENCE OF ADOPTION

Per the requirements of KRS 99.370 and 99.540, a number of legislative and other public actions and findings of fact are necessary to adopt this Urban Renewal Plan and initiate the completion of its redevelopment proposals.

1. The City will hold a public hearing at the Anytown City Hall, on February 15, 2000 at 7:00 p.m. to solicit public comment on the proposed redevelopment project and this plan.
2. By approval of this Urban Renewal Plan, the Anytown City Council finds that the Decline Street Redevelopment Project meets the definition of slums and blight contained in KRS 99.340. These areas meet the definition of slum area by virtue of the degree of dilapidated housing as documented in this Urban Renewal Plan.
3. This plan must be adopted by the Anytown City Council and approved by the
Anytown Planning Commission.

APPENDIX B

DECLINE STREET REDEVELOPMENT PROJECT

ANYTOWN, KENTUCKY

RELOCATION AND ANTI-DISPLACEMENT PLAN

In the implementation of the Decline Street Redevelopment Project, it will be necessary to relocate families living in deteriorated structures in the project area to safe, decent and sanitary housing. Approximately ten (10) families, seven (7) owners and three (3) renters, included as part of the project presently live in dilapidated structures and will have to be relocated to suitable housing.

A. Administration

All relocation activities in Anytown will be administered by the designated Community Development officer and in accordance with the Uniform Relocation Act and the U.S. Department of Housing and Urban Development's relocation procedures

B. Purpose

The purpose of this relocation function is to provide maximum assistance to persons and families displaced as part of the Community Development programs acquisition and clearance activities in obtaining suitable, safe, decent, and sanitary replacement housing.

C. Relocation Standards

1. Physical and Occupancy Standards

All units considered for relocation purposes must meet the HUD Section 8 Housing Quality Standard and appropriate building codes and have the appropriate number of bedrooms for the family size.

2. Ability to Pay

No individual or family should be referred to a comparable replacement dwelling for which the anticipated rent or mortgage payments and utilities will exceed 30% of their gross monthly income, including relocation benefits.

3. Environmental Standards

A suitable replacement housing unit must be in a location free of adverse environmental conditions and of similar accessibility as the displaced former residence to public services, utilities, employment, commercial facilities, churches, recreation, etc.

4. Non-Discrimination

All replacement housing considered for this relocation activity are open to all persons regardless of race, color, religion, handicapped status, or national origin, in a manner consistent with Title VII of the Civil Rights Act of 1968.

5. Proposal for Assuring Availability of Replacement Housing

- a. It is anticipated that owner occupants will construct replacement homes on their existing lots. However, should this not be the case, all persons being relocated will be assisted in purchasing or constructing replacement homes in other areas of the City. If necessary, the City will use condemnation powers to purchase lots in order to make suitable building sites available to those being displaced. Those displaced will be given first priority in purchasing lots available for construction of new homes outside the project area. Owners will receive "make whole" benefits so they are no more in debt than before they were relocated.
- b. As there are only three renters to be relocated, they will be assisted in finding a replacement rental property in Anytown. Renters who wish to become homeowners will be given priority to purchase any available lots in the project area. Renters can use their relocation assistance as a down payment to purchase or construct a replacement home. Renters who wish to become homeowners will be given homeownership counseling.
- c. Priority for the sale of properties acquired under this Community Development program will be given to, in order:
 1. Project area property owners who are being displaced as a result of property acquisition.
 2. Project area tenants who are being displaced.
 3. Habitat for Humanity for construction of homes for low and moderate income persons.
 4. The general public with LMI families given priority.
- c. Any displacee who chooses not to construct new housing in the

project area will be assisted in finding suitable replacement housing elsewhere. Public housing and other assisted housing units will be given top priority for replacement housing referrals. The following requirements for replacement housing shall apply.

1. Replacement housing for relocation activities must be inspected prior to referral to displacees and subsequent to occupancy to insure that it meets the HUD Housing Quality Standards.

2. No persons being relocated as part of this Community Development Program may be referred to a unit which:

- a. Is structurally deficient, lacks appropriate water and sewer service, has inadequate weatherization, or is inaccessible to handicapped displacees or otherwise fails to meet the HUD Housing Quality Standards and other building codes;

- b. Has loan payments or rent greater than the displacees ability to pay;

- c. Is in a blighted area for which no redevelopment is planned; and

- d. Is in an inconvenient location from the person's place of employment and for which commercial activities, recreation, church, etc. are not accessible.

6. Relocation Assistance Advisory Services

At the earliest possible date, persons to be displaced as part of the Community Development Program will be contacted and informed of the relocation procedure, replacement housing referrals, financial assistance, and social services assistance available under the relocation activity. Eligible persons will be informed verbally and given written information statements about the relocation process and financial assistance to insure their understanding of the program and a smooth relocation.

7. Housing Discrimination Complaint:

If a person displaced by this relocation activity is unable to purchase or rent a replacement dwelling because of alleged discriminating practices pertaining to race, color, creed, or national origin, a HUD Housing Discrimination Complaint Form shall be made available, completed, and filed for each family or individual so aggrieved.

8. Social Services

Persons being relocated will be provided with needed social services counseling prior and subsequent to their relocation. The Community Development Agency shall endeavor to assure the availability of counseling services related to job, financial, educational, health, and other social services. Referrals will be made to governmental, civil, and community agencies.

D. Equal Opportunity

1. The City shall take such actions as listed below to assure that all displaced persons are provided with the maximum opportunities to select replacement housing within the community's total housing supply; lessen racial ethnic, and economic concentrations; and facilitate desegregation and racially inclusive patterns of occupancy and use of public and private facilities:
 - a. Make full use of HUD properties, multiple listing services, and normal real estate management and brokerage services.
 - b. Inform members of minority groups of housing opportunities in non-traditional neighborhoods and provide services to familiarize them with such neighborhoods.
 - c. Cooperate fully with fair housing groups, human relations bodies, and other social groups, civic and religious groups interested in facilitating freedom of residence.

E. Grievance Procedure

1. Each person being displaced as part of this relocation activity will be informed both verbally and in writing about the grievance procedure. The grievance procedure will operate as follows:
 - a. A person may file a written appeal with the Community Development officer in any case in which the person believes that the agency has failed to properly determine the person's eligibility for, or the amount of a payment required under the Uniform Act, or a relocation payment required under these regulations. Persons may also request an appeal concerning a review of the quality and adequacy of replacement housing. Any person requiring assistance in filing an appeal will be assisted by the Community Development officer.
 - b. Appeals must be filed within 60 days after the person receives written notification of the agency's determination on the person's claim.
 - c. All appeals will be reviewed in a timely manner and the persons filing

the appeal will be notified in writing of the agency's decision, the basis for that decision, and procedures for further appeal.

- d. A person has a right to be represented by legal counsel or other representative in connection with his or her appeal, but solely at the person's own expense.
- e. If the appellant is not satisfied with the Community Development officer's decision, they may then take the appeal to the Anytown City Council. The City Council will then review the appeal and issue a decision.
- f. The agency shall permit a person to inspect and copy all materials pertinent to his or her appeal except materials which are classified as confidential by the agency.
- g. If the Anytown City Council disapproves an appeal, the appellant is entitled to a review by the Department of Local Government, 1024 Capital Plaza Center, Frankfort, Kentucky 40601. A state review may be obtained by sending a written request to the Department of Local Government at the above address within 30 days after receiving the review findings from the City Council.

F. Relocation Payments

- 1. Relocation payments shall be in full conformance with the provisions of the Uniform Act of 1970, as amended.
- 2. Fixed payment for moving expenses shall be determined in accordance with Department of Transportation, Federal Highway Administration's (49 CFR, Part 24) the fixed relocation payment schedule.

G. Temporary Relocation

Temporary relocations must be approved by the project manager. Families that move of their own accord without prior approval for a temporary relocation will not be eligible for reimbursement of costs. Circumstances when temporary relocations may be approved include the following:

- 1. The occupant's house must be demolished in order for their replacement house to be constructed requiring them to temporarily re-locate to another house.

Occupants will be encouraged to stay with friends or relatives especially when the temporary relocation is for a short period of time (30 days or less). Relatives and friends may charge the relocated family rent for providing shelter. However, the rent must be reasonable and not exceed one-half of the fair market rent for the

unit.

For longer relocations, the temporarily relocated family will first be given the option of renting any available housing the City may have acquired that would be suitable for temporary housing. Next, the City will work with the local public housing authority to provide temporary housing. If these sources are not available, the family will be assisted in finding a local, moderately priced hotel room (for short relocations) or other available rental properties. Rents must be reasonable for the area and generally should not exceed the fair market rent for the area. For owner-occupants, the City will pay the monthly rent and any reasonable direct out of pocket moving costs. For tenants, the City will pay the difference in cost between the rent the occupant was paying and the cost at the temporary facility and any reasonable direct out of pocket moving costs. **All rents and out of pocket moving costs must be documented by receipts.** In general, the occupant will be responsible for utilities at the temporary site on the same basis as the house they were relocated from.

H. Eviction Procedures

Eviction procedures will occur only as a last resort in the project area. Eviction will in no way effect the claimant's eligibility for relocation payments.

I. Other Provisions

If questions arise concerning any area not addressed in this Relocation Policy, the provisions of the Uniform Act of 1970, as amended, shall apply.

J. Anti-Displacement Plan

1. A total of eighteen (18) dilapidated structures included in the Decline Street Redevelopment Project are unsafe, cannot be rehabilitated, and require clearance. Ten (10) of these structures are occupied or occupiable. Eight (8) of these homes are occupied by LMI households. The structures to be cleared are shown on the project area map included in Appendix A. The number of LMI bedrooms lost to demolition and to be replaced are shown on the One-For-One Replacement Form included at the end of Appendix B.
2. The performance schedule attached as Appendix A shows the anticipated time schedule for the commencement and completion of demolition activities.
3. Seven (7) new replacement homes will be constructed as part of the project. This includes one (1) four-bedroom house, one (1) 3-bedroom house, and three (3) 2-bedroom units. These units with a total of thirteen (13) LMI bedrooms will replace most of the seventeen (17) LMI bedrooms lost through demolition. It is anticipated that the remaining four (4) LMI bedrooms needed will be replaced by the Habitat for Humanity. The project area map in

Appendix A shows the anticipated location of the construction of replacement homes.

4. The source of funds for the construction of replacement homes will be CDBG grant funds in the form of relocation payments, and excess payments to meet make whole provisions. A total of \$373,406 of the \$1,000,000 total funds will be used for relocations. The anticipated timing of replacement home construction is shown in Appendix A, the performance schedule.
5. The replacement homes will be constructed for residents displaced by the redevelopment project. Five (5) LMI owner-occupant households require relocation into standard housing. As 71% of the owners of the replacement homes are LMI, it is anticipated that this percentage of replacement homes will continue to be occupied by LMI families for the next ten years.

**A RESOLUTION ADOPTING THE DECLINE STREET
REDEVELOPMENT PROJECT
URBAN RENEWAL PLAN**

NOW, THEREFORE, BE IT RESOLVED THAT:

WHEREAS, in accordance with KRS Chapter 99, an Urban Renewal Plan, also know as the Development Plan, has been prepared for the City of Anytown and said plan addresses the Decline Street Redevelopment Project, and

WHEREAS, the Decline Street Redevelopment Project Urban Renewal Plan documents conditions which meet the definition of slums and blight contained in KRS 99.340, and

WHEREAS, after due public notice, a public hearing was held by the City of Anytown on February 15, 2000 at 6:30 P.M. to solicit public comment on the Urban Renewal Plan and the proposed housing project.

NOW, THEREFORE, be it resolved by the Anytown City Council:

The City finds that there is a feasible method for the temporary or permanent relocation of families displaced from the development area.

The City finds that the project area identified within the plan is a slum or blighted area.

The City finds that the Development Plan will afford maximum housing opportunity consistent with the sound needs of the community as a whole for redevelopment of the development area by private enterprise.

The City finds that the Development Plan conforms to the general or master plan, including the Comprehensive Plan, for the development of the community as a whole.

The City finds that Federal or State assistance is necessary to enable the development area to be redeveloped in accordance with the Development Plan, and funds will be available for the community share of the cost.

That based on the foregoing, the Anytown City Council hereby adopts and approves the Decline Street Redevelopment Project Urban Renewal Plan, also known as the Development Plan, dated January 2000, attached hereto and incorporated herein by reference.

Adopted this _____ day of _____, 2000 by the Anytown City Council, Anytown, Kentucky.

Mayor _____

Attest:

SHORT FORM

URBAN RENEWAL PLAN REQUIRED FOR VOLUNTARY REHABILITATION/RECONSTRUCTION AS REQUIRED BY THE KENTUCKY REVISED STATUTE 99.530-99.590

I. BOUNDARY OF PROJECT AREA(S)

The Boundary of a proposed Project Area(s) for this Voluntary Rehabilitation/Reconstruction Urban Renewal Plan shall be the corporation boundaries of the _____ City/County. All proposed Community Development Block Grant and other rehabilitation/reconstruction activities will be carried out within this designated boundary.

II. PUBLIC PURPOSE AND STATEMENT OF DEVELOPMENT OBJECTIVES

1. Introduction

Recognizing the dangers of blight, deterioration and obsolescence to the continued stability and vitality of the _____ City/County, the _____ City/County has developed a revitalization program for upgrading and stabilizing property located within the designated area(s).

The purpose of the program is to assist in removal of blighted conditions in the area(s), assist in rehabilitation of dwellings capable of being upgraded to Kentucky Residential Building Code and to promote new development in area(s) which are presently identified as blighted through reconstruction on existing property.

2. To protect the health, safety, and public welfare of residents, visitors and workers in the designated area(s) by elimination of the hazardous or unsafe condition of structures in the redevelopment area(s).
3. The rehabilitate/reconstruction of residential structures on a voluntary basis utilizing the Kentucky Residential Housing Code.
4. To enhance affordability of homeownership for low- and moderate-income households through the use of public loans, grants or a combination thereof to reduce the cost of rehabilitation/reconstruction.
5. To preserve and create an environment within the project area(s) which will protect the health, safety and general welfare of the project area(s). To preserve existing values of properties remaining within the area(s) as well as adjacent properties.

III. GENERALIZED LAND USE PLAN

The Generalized Land Use Plan shall be the same as the existing zoning districts of the _____ City/County as approved by the local Planning and Zoning Commission.

IV. URBAN RENEWAL TECHNIQUES TO BE UTILIZED TO ACHIEVE PLAN OBJECTIVES

Section 1. Rehabilitation

The goal of property rehabilitation in the designated area(s) is to provide a decent, safe and sanitary environment for the residential reuse of households currently utilizing these structures. Fundamental to this goal is the restoration of all existing structures feasible of rehabilitation to a condition meeting Kentucky Residential Building Code or, where the structure cannot be rehabilitated, the reconstruction of this structure on the same property, and of a similar residential structure, that meets the Kentucky Residential Building Code. The procedures to be utilized for the purpose of rehabilitating property will be those attached to this Short Form Urban Renewal Plan identified as Exhibit 1.

Section 2. Temporary Relocation, if applicable

Only temporary relocation will be utilized as part of this voluntary rehabilitation/reconstruction program. A feasible, temporary relocation policy has been identified and meets the requirements of the Rehabilitation Guidelines.

V. PROVISIONS NECESSARY TO MEET REQUIREMENTS OF APPLICABLE STATE OR LOCAL LAW

1. A determination that the Development Plan is not in conflict with the City/County's Comprehensive Plan.
2. A Public Hearing on the Urban Renewal Plan has been held by the City/County prior to adoption of the Plan to solicit to citizen input.
3. The City/County has approved the Development Plan, and procedures for implementing the Voluntary Rehabilitation/Reconstruction Community Development Block Grant Program.

VI. PROCEDURES FOR CHANGES TO THE APPROVED URBAN RENEWAL PLAN

If the City/County desires to modify this plan, they may do so after the necessary public hearings on the proposed changes in accordance with applicable State and Local Law. Any changes affecting any property or contractual rights can be effectuated only in accordance with applicable State and Local law and provided that, if modified after sale or lease of land in the area(s), such modifications is consented to in writing by the owner and the lessees of the properties directly affected by this modification.

VII. DURATION OF COMMUNITY DEVELOPMENT PLAN OBJECTIVES

All land-use provisions and building requirements specified in this plan shall be applicable upon the date of approval of this plan and shall remain in affect for a minimum of five (5) years. Modification of the land-use plan and the various building codes and development regulations shall only be undertaken after appropriate public hearings and proper notification of all affected property owners.

Chapter 11: Economic Development

Introduction

This chapter provides information and requirements governing the use of KCDBG funds for economic development activities. It specifically discusses the eligible activities and national objective documentation, legal agreements, and public benefit standards mandated for economic development projects. It also briefly addresses the other types of implementation requirements that may accompany an economic development project.

Section 11-A. Eligible Activities and National Objectives

Economic development projects involve activities that are designed to create new jobs, retain existing employment opportunities, stimulate private investment, and revitalize or facilitate the growth and diversification of the local economy. In DLG's economic development program, there are three emphases:

42 U.S.C. 5305(a)
and 24 CFR 570.482

- ✓ Working with small commercial businesses with less than 5 employees with technical assistance and financial support to grow a locally based economy in a new fashion;
- ✓ Expanding employment opportunities for persons from low- and moderate-income families through assistance to industrial or commercial clients by creating and/or retaining jobs; and
- ✓ Benefiting low- and moderate-income families through other means such as job training and support services.

Eligible Activities

The CDBG statute and regulations recognize five key ways that economic development may be undertaken:

- ✓ **Special economic development undertaken by/for public and nonprofit entities.** These are economic development projects undertaken by nonprofit entities and grantees (public entities). These activities are typically funded under DLG's Traditional Economic Development Program. DLG's Non-Traditional Economic Development Program may provide funds for related support services such as job training, childcare, peer support, counseling, and transportation.
- ✓ **Economic development undertaken by neighborhood-based and other nonprofit organizations.** These are activities designed to assist in neighborhood revitalization or community economic development and are carried out by certain types of organizations. These activities are funded under DLG's Traditional and Non-Traditional Economic Development Programs. The types of organizations eligible to carry out activities under this part include the following:
 - Neighborhood-based nonprofit organizations;
 - Local development corporations;
 - Nonprofit organizations serving the development needs of non-entitlement areas (e.g., development districts); and
 - Entities organized under section 301(d) of the Small Business Investment Act of 1958.

In addition to the requirement that the organization be eligible as one of the organizational types listed above, the entity must be carrying out neighborhood revitalization or community economic development projects.

- ✓ **Special economic development undertaken by for-profit entities.** These are economic development projects undertaken by for-profit entities. These activities are typically funded under DLG's Traditional Economic Development Program.

All of the activities above are subject to requirements related to the public benefit test generated due to the expenditure of KCDBG funds. See Section B of this chapter for a further discussion of these requirements.

Additional economic development activities that are also eligible under the KCDBG program include:

- ✓ **Microenterprise development.** These are activities 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. 24 CFR Part 570.482(c)
 - Eligible microenterprise activities include the provision of:
 - One-on-one and classroom technical assistance, advice, and business services to owners of microenterprises and persons developing microenterprises;
 - General support to owners of microenterprises and persons developing microenterprises;
 - Training and technical assistance or other support services to increase the capacity of grantees or subrecipients to carry out microenterprise activities using performance based measures; and
 - Loans and other assistance to persons owning or developing a microenterprise. A “person developing a microenterprise” refers to a person who has expressed an interest and who is, or after an initial screening process is expected to be, actively working toward developing a business, which will be a microenterprise at the time it is formed.
- ✓ **Public facilities.** These are public works activities, typically infrastructure that support economic development endeavors. These activities involve the acquisition, construction, reconstruction, or installation (including design features and improvements that promote energy efficiency) of public works or facilities (except for buildings for the general conduct of government), and site or other improvements.

Ineligible Activities

In 2006, HUD published a final rule on the prohibition of using CDBG funds for “job pirating” activities—activities in which a community offers CDBG assistance to businesses to move existing operations from another community to its own.

The prohibition applies to projects that involve the following:

- ✓ The funding will assist in the relocation of a plant, a facility or operation; and
- ✓ The relocation is likely to result in a significant loss of jobs (anything more than 500 jobs or .1 percent job loss to a local area between 25-500 jobs) in the area from which relocation occurs.

Any recipient of CDBG funds used to relocate a business must sign a written agreement including: a statement of intent of relocating from one labor market area to another and the number of jobs that

will be relocated to each labor market area; a certification from the business that none of the relocations will result in a significant job loss; and a provision for reimbursement should the provided assistance result in a relocation prohibited by the regulation. Furthermore, all jobs targeted for transfer should be in place at the new location within three years.

This prohibition does not apply to assisting a business that starts a new operation in a new location that is unrelated to current operations and then later reduces operations. This prohibition also does not affect non-profits that do business assistance. Activities that involve the Uniform Relocation Assistance and Real Property Acquisition Act (URA) or assistance to microenterprises are also exempt from this rule. Finally, the prohibition does not apply to businesses that purchase property or equipment in one area and then move to another location.

Grantees should consult with DLG to ensure that “job pirating” activities are not funded with CDBG.

Meeting a National Objective

As discussed in Chapter 1: Project Administration, projects must not only be eligible under the CDBG rules, but they must also meet a national objective. DLG makes initial determinations regarding eligibility and national objective compliance at the time grant applications are reviewed; however, grantees with approved projects must maintain documentation to show that the national objective requirements were actually met by the completion of each project.

Chapter 1: Project Administration

There are three national objectives with the primary one being benefit to low- and moderate-income persons (LMI). Within the LMI national objective, there are four categories and the one typically used for economic development projects is job creation and retention. Other LMI options that could be used are discussed at the end of this section.

42 U.S.C. 5305(c)(1)

LMI Job Creation/Retention

A job creation/retention activity is one that creates or retains permanent jobs, of which 51 percent or more are held by persons from low- and moderate-income families.

24 CFR 570.483(b)(4)

- ✓ For job creation activities, the grantee and the assisted business(es) must document that permanent jobs have been *created*, and that at least 51 percent of the jobs, computed on a full-time equivalent (FTE) basis, involve the employment of low- and moderate-income persons.
- ✓ In order to consider jobs *retained* as a result of CDBG assistance, there must be clear and objective evidence that permanent jobs will be lost without CDBG assistance. For these purposes, “clear and objective” evidence that jobs will be lost would include:
 - Evidence that the business has issued a notice to affected employees or made a public announcement to that effect, and/or
 - Analysis of relevant financial records convincingly shows that the business is likely to have to cut back employment in the near future without the planned intervention.
- ✓ Further, to meet the LMI jobs national objective, 51 percent or more of the retained jobs must either:
 - Be known to be held by LMI persons at the time CDBG assistance is provided, and/or

-
- The job can reasonably be expected to turn over within the following two years and that it will be filled by an LMI person upon turnover.

In addition, job creation and retention activities trigger the Community Planning and Development (CPD) Outcome Performance Measurement System. Specifically, additional data collection and reporting is required regarding the job classifications, the number of jobs with health care benefits and, for job creation only, the number of persons served who were formerly unemployed immediately prior to holding the job.

A prior written commitment to hire or retain LMI persons must be on file for each assisted business. The business must also provide a hiring plan that details the number of jobs to be created/retained, the number of jobs held or to be filled by LMI persons, a description of the job, any special skills or training required and the timetable for hiring. The plan must indicate who will be responsible for hiring, collecting required data, and training to be provided.

As a general rule, each assisted business shall be considered individually for purposes of determining if at least 51 percent of the jobs created or retained will be for LMI persons. However, when CDBG funds are used to acquire, develop or improve real property (e.g., an industrial park), the 51 percent requirement may be met by measuring jobs in the aggregate for all the businesses that locate on the property as a direct result of the CDBG assistance.

When counting jobs, the following policies apply:

- ✓ Part-time jobs must be converted to full-time equivalents (calculated on the basis of 2,000 hours per year).
- ✓ Only permanent jobs may be counted.
- ✓ Transferred jobs (those that involve one employee moving from one location to another) may not be counted.
- ✓ Seasonal jobs may be counted only if the season is long enough for the job to be considered the employee's principal occupation.
- ✓ Jobs indirectly created or retained by an assisted activity may not be counted.

Tip: The documentation required for demonstrating compliance with the job creation/retention national objective is different for jobs/businesses located in areas meeting certain poverty levels and for employees living in those areas. Contact DLG or review the Guide to National Objectives and Eligible Activities for State CDBG Programs for more information.

Guide to National Objectives and Eligible Activities for State CDBG Programs
<https://www.hudexchange.info/resource/2179/guide-national-objectives-eligible-activities-state-cdbg-programs/>

The grantee is required to monitor the progress of the assisted business in fulfilling the hiring and LMI job requirements. The business should maintain employee surveys and Equal Employment Opportunity (EEO) information, along with payrolls or employee lists from each phase in a business's hiring plan, to document compliance with KCDBG requirements. It is recommended that these records be maintained separately from a business's individual personnel records and reported to the grantee on a regular basis.

The business must continue to collect income verifications and other required information for all applicants and employees until they reach the number of jobs promised in the hiring plan and the jobs are monitored or verified by DLG. The form to collect and document this information is provided as Attachment 11-1. When all jobs have been created or retained, DLG may monitor the hiring and LMI job documentation at the business. The business must maintain KCDBG records for a period of five years after the recipient's final grant close-out has been completed.

Attachment 11-1:
Employee Survey Form
Attachment 11-2: Employee
Characteristics Summarization

Other LMI Options

Another national objective used for economic development is low- and moderate-income area benefit. This national objective may be used when the activity will benefit a LMI area. For example, if the grantee is funding a grocery store in a neighborhood that is at least 51 percent LMI, that project may qualify under the area benefit national objective. If this national objective is used, the grantee must document the service area of business and then demonstrate through Census or survey data that at least 51 percent of the residents are LMI.

Microenterprise activities may be undertaken under the low-and moderate-income limited clientele national objective only if the owner of the business is LMI (i.e., has income at or below 80 percent of the area median income). In these cases, the grantee must document the income of the business owner. (The business employees may be non-LMI.)

Some Non-Traditional Economic Development projects support LMI workers with job training and placement or other support services such as peer support, counseling, childcare, and transportation. This could also include public/service facilities in support of economic development activities. This type of project may qualify under the low- and moderate-income limited clientele national objective. To meet this national objective, generally, at least 51 percent of the persons benefiting from the activity must be low- and moderate-income. For additional ways to meet the LMI limited clientele national objective, contact DLG.

Finally, economic development projects may occasionally be undertaken under the slum and blight national objective. Use of this national objective is limited and will be reviewed by DLG on a case-by-case basis.

Section 11-B. Agreements, Loan/Lease Documents, Security Requirements and Closings

Legally Binding Agreements

Economic development projects must involve a Legally Binding Agreement to further detail the minimum requirements of each respective party involved in the project. A sample agreement is provided as Attachment 11-3.

Attachment 11-3:
Sample Legally Binding Agreement

In some instances, the grantee may be passing the grant through a third party entity such as a subrecipient or a Local Development Authority (LDA). In those projects, an agreement must also be entered into with the third party entity. A tri-party agreement can be used in those instances among the grantee, the company or participating party, and the third party. A subrecipient or LDA is a nonprofit or public entity (other than the grantee) that is selected to play one or more roles in the project.

The grantee has some latitude in negotiating the best arrangement possible with the subrecipient or LDA and the assisted business provided they are within the confines of the grant agreement. The grantee must also develop specific procedures and requirements necessary to guarantee its security.

There are basically three requirements of a Legally Binding Agreement. It must set forth:

- ✓ Basic activities as established in Exhibits A, B and C of the grant agreement;
- ✓ Provisions required in Section 7 of the grant agreement and any other applicable provisions; and
- ✓ A statement that the agreement is contingent upon release of funds thereby avoiding any environmental review concerns.

When entering into an agreement with a business, a resolution establishing the authority of person(s) to enter into the legally binding agreement on behalf of the business must be attached to the agreement. A sample resolution is provided in Attachment 11-4.

Attachment 11-4:
Sample Resolution of Authority

The opinion of the grantee's legal counsel must accompany all legal documents. The certification to be used for this purpose is provided as Attachment 11-5. The grantee's legal counsel opinions may be combined into one document but must be clearly applicable to all legal documents. At a minimum, legal counsel must certify the authority of each party to sign, state that the document constitutes a valid and legally enforceable contract under the laws of the Commonwealth, and indicate that all documents are in conformance with the grant agreement.

Attachment 11-5:
Sample Certification of
Legally Binding Agreements
and Loan/Lease Documents

Loan/Lease Documents

The Legally Binding Agreement does not incorporate a loan/lease agreement that provides the financial terms of a project and any other special conditions. Therefore, loans/leases must be executed by separate agreement and must be submitted to DLG as part of the evidentiary materials at the grant agreement stage of the process.

Loan/lease documents must contain:

- ✓ Rate and term of loan/lease;
- ✓ Payment terms, default provisions;
- ✓ Any special conditions attached to the loan/leases;
- ✓ Any other provisions deemed appropriate by legal counsel; and
- ✓ A call provision allowing collection of CDBG funds for failure to meet job projections.

Grantees should be aware that there are several different types of leases. An operating lease is a traditional lease whereby the party leasing the property (lessee) from the owner of the property (lessor) pays the lessor a fee for use of the property. A capital lease allows the lessee to record the property as an asset because of certain conditions of the lease (e.g., ownership of the property will transfer to the lessee at the end of the lease term). A lease-purchase agreement is a lease agreement for the lease, use, and ultimate purchase of industrial equipment by the lessee with CDBG funds. The payment of the CDBG

funds will go to the lessor. A sample lease-purchase agreement is provided as Attachment 11-6 to this chapter.

As stated previously, the opinion of the grantee's legal counsel must accompany all legal documents (use Attachment 11-5). In addition, loan/lease documents must be filed with the county clerk.

Attachment 11-6:
Sample Lease-Purchase
Agreement

Attachment 11-5:
Certification of Legally Binding
Agreements

Security

Security for the loan is a very serious matter that can cause numerous problems if not done properly. An important consideration is that the loan be secured as soundly as possible and that the repayment schedule and payment procedures are understood clearly by both the debtor and the grantee. The bank or attorney should be able to produce a repayment (amortization) schedule with principle and interest clearly delineated. Grantees should follow the grant agreement in terms of monthly and annual repayment requirements.

The security documents must describe property to be mortgaged or offered for lien in as much detail as available and clearly identify the position for which security is offered.

- ✓ Mortgages against real property must contain, at a minimum:
 - A legal description of the property,
 - Certification of ownership, and
 - Identification of any claims against the property.
- ✓ Equipment liens must contain the same information as mortgages except that the legal description is to include the make, model number, and serial number of each item of equipment being used as security.

Security agreements must be filed with the county clerk and other appropriate local or state agencies.

Loan Closings

If the economic development project involves a loan to a business, a loan closing must be held to execute the required documents. At loan closing, promissory notes, loan agreements, mortgages, or other appropriate documents must be signed. Signed security documents must be immediately recorded unless specific collateral cannot be identified by serial number or model number (such as equipment not yet delivered). In such instances, alternate security must be approved by DLG prior to the draw of funds.

Documents must be prepared by an attorney and be accompanied by certification containing at a minimum, the following information:

- ✓ Real Property Transfer
 - Title indicating the property is free and clear for transfer as offered;
 - Any deed limitations, covenants, or restrictions applicable to the property;
- ✓ Security Documents
 - Certification that property records have been researched;

-
- Certification that the collateral position(s) required is available; and
 - Certification that the KCDBG loan is not subordinated below the level required by the grant agreement.

DLG must be notified in advance of the grantee’s intent to close a loan. All required evidence and documents must be submitted with the request for payment. At that time, the grantee must declare a tentative closing date. Since Automated Clearing House (ACH) transfers occur on the 15th and 30th of the month, loan closings should be held on these dates or within a five day period after these dates of the month. DLG staff may attend loan closings to verify that documents are signed and filed.

A desk closing can be conducted if all legal documents are signed, filed, and submitted to DLG prior to the release of funds. All security documents must be recorded in the county courthouse to assure proper lien filing. This includes lease documents, especially those that are to be capitalized.

Section 11-C. Public Benefit

The CDBG Statute and regulations require that activities undertaken under the Traditional Economic Development and Non-Traditional Economic Development

Programs have a financial analysis conducted in accordance with HUD and DLG guidelines to determine the feasibility and viability of the project and parties involved. Information would be submitted as a part of the application package and will be reviewed by DLG.

42 U.S.C. 5305(a)(14)–(17)
and 570.482(e) and (f)

Tip: Applicants should not negotiate the final loan terms with the third party for-profit business. Consult with DLG before negotiating. Any pre-negotiated terms are subject to change by DLG.

There are two types of requirements related to public benefit. First, there are requirements related to the ratio and use of public and private funds (underwriting) and second, there are requirements related to the jobs or goods and services benefits of the KCDBG-funded activity. Each of these is described below.

Ratio and Use of Public and Private Funds

The Federal CDBG regulations contain Guidelines and Objectives for Evaluating Project Costs and Financial Requirements. These guidelines are designed to assist grantees in underwriting economic development projects and in determining which projects are financially viable and will result in the most efficient use of CDBG funds.

The use of the guidelines provided as an appendix to the Federal CDBG regulations at 24 CFR Part 570 is required. In other words, grantees must use either the guidelines provided in the regulations or an equivalent set of guidelines.

24 U.S.C 570 Appendix A—
Guidelines and Objectives for
Evaluating Project Costs and
Financial Requirements.

There are several underwriting criteria that grantees should follow. Each of these criteria is discussed below.

Leverage and Use of KCDBG Funds

Under the KCDBG Program, the impact of CDBG must be maximized and the use of the KCDBG funds must be reasonable. In general, the grantee should clearly establish that there is a need for the investment of public resources.

DLG requires that to demonstrate the need to use KCDBG funds, the grantee must show that all other public and private sources of funds have been reviewed and applied to the project (as feasible). Typically, projects that are eligible for KCDBG funding have a financing gap once all other sources are analyzed.

A financing gap is determined as follows:

- ✓ **Step 1:** Determine the budget.
- ✓ **Step 2:** Calculate the amount of debt the project can support.
- ✓ **Step 3:** Compute the amount of equity the project can generate or the owner has available.

If the budget is greater than/equal to the sum of debt plus equity, then there is a financing gap. If the budget is less than the sum of debt plus equity, there is no financing gap and, therefore, no need for public investment.

Funding Commitments

Before KCDBG funds are disbursed, ensure that all debt and equity are firmly committed to the project.

All other sources of funds do not have to be in place prior to application. However, the authorization of a KCDBG grant or loan may be made contingent upon conventional financing.

DLG wants to avoid the risk of approving and disbursing funds to finance a portion of the project without sufficient funds from other sources to complete the development.

Reasonable Costs

All costs under the KCDBG program must be reasonable and must demonstrate the efficient and effective use of funds. DLG will review the project budget to ensure that proposed costs are reasonable. Applicants should review this budget prior to submission of the application.

If the budget is overstated, it would be unwise to devote scarce public resources to the project as this surplus usually ends up as an unintended fee to a developer or entrepreneur.

Conversely, if the budget is understated, the quality of the project may be adversely affected which could also reduce income available for debt service. In extreme cases, the project may go unfinished.

Applicants can control these risks in the following ways:

- ✓ Receive project quotes from independent third parties;
- ✓ Cost certify;
- ✓ Compare subject with cost of comparable projects;
- ✓ Use guaranteed contracts, performance bonds or letters of credit; and
- ✓ Use retainages for contractor's fee, developer's fee or leasing reserve.

Reasonable Return

The financial benefit the business receives should approximate a market return. Applicants should review the pro-formas and other information submitted by the third-party business and ensure that return is reasonable. DLG will not fund projects where KCDBG funds are subsidizing an excess return to the business.

Reasonable rates of return will vary by location and project type. Applicants needing guidance on reasonable rates of return are encouraged to contact DLG.

Project Feasibility

KCDBG will review all economic development applications to ensure that projects appear feasible and are likely to succeed. Applicants should conduct a similar analysis prior to submission of the application.

Once an applicant has established the need for public funds, it must estimate repayment terms. If the terms are too harsh, the survival of the economic development venture is jeopardized. If the terms of repayment are too lenient, the public funds will overly compensate the project. As noted above, financing terms should not be finalized until DLG approves of the project.

KCDBG Funds Disbursed Pro Rata

As a general rule, KCDBG funds should be disbursed proportional to the percentage of the project they fund. For example, if KCDBG funds are 20 percent of the project, KCDBG funds should not exceed 20 percent of the aggregate proceeds disbursed. One exception might be if funds are allocated to acquisition and the property must be purchased first.

Program Income/Miscellaneous Revenue

Economic development activities funded by CDBG typically generate repayments. In some cases, repayments of CDBG are considered program income and subject to all CDBG and related requirements. Certain activities by nonprofit development entities that qualify under Section 105(a)(15) of the CDBG statute are exempt from the program income requirements and thus those funds are considered miscellaneous revenue/LDA proceeds. Both types of funds can be placed in a revolving loan fund if the DLG provisions governing such are met. Refer to Chapter 3: Financial Management for more information on the definition and use of program income, including revolving funds.

24 CFR 570.489
Chapter 3: Financial Management

Public Benefit Standards

When CDBG funds are used for economic development projects under statutory sections 5305(a) (14), (15) and (17), the Federal CDBG rules require the application of specific Public Benefit Standards. The Public Benefit Standards are really a “cost per job” or “cost per goods and services” calculation used to determine if the CDBG financial assistance is appropriate. Use of these standards is mandatory.

The Public Benefit calculation must be done before the economic development activities are undertaken, and is separate from the national objective requirement that 51 percent of the jobs actually created or retained be taken by LMI persons.

The grantee is strongly advised to enter a performance agreement with the business(es) that specifies the hiring commitments and time frames and that holds the business responsible for repayment of any CDBG funds required due to a failure to fulfill CDBG hiring requirements. At its option, DLG may require such a performance agreement as a condition of funding.

There are two types of public benefit standards that the grantee may use. The dollars per job test is available to any economic development project. The goods and services test is available to economic development projects that provide goods and services to a LMI community. When a project both creates jobs and provides goods and services, grantees may document benefit under either option.

Calculating Dollar per Job Public Benefit

The dollar per job public benefit calculation begins by determining the total number of jobs to be created or retained as a result of the activity for each particular business for which the activity is principally being undertaken. When counting jobs within each applicable business for public benefit purposes, include all jobs to be directly created or retained as a result of each economic development activity.

The total “CDBG cost per job” is then calculated by dividing:

- ✓ The total dollar amount of CDBG funds to be spent for the activity, by
- ✓ The total number of permanent jobs created or retained by the business for which the project is principally being undertaken.

Total number of jobs is based upon full-time equivalents (FTEs). For DLG, full-time is based upon 2,000 hours per year. If a permanent, part-time job is created, the grantee must determine the proportion of an FTE that is created. For example, a half time person is .5 FTEs.

It is DLG’s policy not to allow grantees to expend more KCDBG than \$20,000 per job created or retained.

Public Facilities Projects With Per Job Cost of \$10,000 or Less and Job Tracking

Sometimes KCDBG funds are used for public facility activities that are designed to create jobs. An example of this might be a water/sewer line constructed for an industrial park.

When the KCDBG cost of the project is \$10,000 or less per job, the public benefit standards are not triggered. If the cost exceeds \$10,000 per job, the standards are triggered. Note that in addition to the public benefit standards, the national objectives are calculated differently depending on whether the project exceeded \$10,000 per job. If this is the case, the grantee is required to complete an assessment plan/restrictive covenant requiring job reporting recorded on properties benefiting from the infrastructure improvement. It must cover any other business for a one-year period.

24 CFR 570.483(b)(4)(vi)(F)

Calculating Goods and Services Public Benefit

The second option for proving a sufficient public benefit is to show that goods and services are being provided to LMI families in a local service area. Thus, this public benefit option is only provided to those projects where the business will sell goods or services to the public. This generally means that the activity will be retail in nature.

This test is calculated by first determining the number of people living in the service area of the business. The grantee must then determine the portion of those people who are LMI. The grantee then divides the KCDBG expenditure by the total number of LMI people in the service area to obtain an estimate of the KCDBG dollars per LMI person receiving goods or services.

If the KCDBG expenditure per LMI person exceeds \$350 per LMI person, the project is generally deemed to have an insufficient public benefit.

Documenting Public Benefit

Public benefit calculations are included as a part of the KCDBG application. However, grantees must maintain files detailing their compliance with these requirements. In general, grantee files should contain:

- ✓ Documentation of the amount of KCDBG funds received;
- ✓ Documentation of the basis for the estimated number of jobs to be created/retained or the number of LMI families in the service area; and
- ✓ Documentation of the calculation showing that the applicable public benefit standard was met.

Section 11-D. Applicability of Other Requirements

Economic development projects funded by DLG are subject to the range of requirements established in the other chapters of this manual. This section briefly highlights how these requirements are applied to economic development activities. For more detail about these requirements, please see the other chapters of this manual.

Project Administration

In general, all of the requirements explained in Chapter 1: Project Administration apply to economic development. Of particular interest for economic development are the submission requirements prior to release of funds. For these projects, in addition to all standard submission items, grantees must submit:

Chapter 1: Project Administration

- ✓ The legally binding commitments between subrecipients or LDA's, participating parties, and the grantee.
- ✓ Loan or lease agreements (as applicable), including the rate and term of loan or lease, payment terms, default provision, and any special conditions. The documents must contain a call provision should the project fail to meet the job requirements or other grant conditions.
- ✓ Security documents (as applicable), including describing the property to be mortgaged and the lien position.
- ✓ Certification by legal counsel for the above documents, including certifying to the authority of each party to sign, that the contract is legally enforceable, and that the documents are in accord with the grant agreement.
- ✓ Grantee Revolving Fund Guidelines (as applicable).

In addition, HUD's performance measurement data collection requirements apply to economic development projects. Specifically, activities qualifying under the job creation and retention national objective must report jobs by job classifications, such as whether the person filling the job were previously unemployed, and whether the job includes health care benefits. The job classifications are provided as Attachment 11-7 to this chapter.

Attachment 11-7:
Job Classifications
for Performance Measurement

Environmental Review

No KCDBG funds for economic development may be committed or drawn down until the environmental review is completed. Grantees must follow all the rules described in Chapter 2: Environmental Review.

Chapter 2:
Environmental Review
24 CFR Part 58

Depending upon the type of economic development project, different levels of environmental review may be required. For example, Non-Traditional projects that provide job training are likely to be exempt from environmental review. On the other hand, Traditional projects where a business will receive funding and where it will construct an industrial facility may require an environmental assessment (EA).

Grantees are encouraged to carefully read Chapter 2 as it applies to their specific project and consult with DLG regarding any questions.

Financial Management

Chapter 3 provides an overview of the financial management requirements. In addition to all of the standard financial requirements, grantees of economic development projects must follow specific procedures pertaining to agreements, leases, loan documents and security. Refer to Section B of this chapter for more information.

Chapter 3: Financial Management

Procurement and Contracting

Certain economic development activities may trigger procurement requirements. For example, if a grantee or a subrecipient/LDA is directly undertaking an economic development construction project, the hiring of that construction contractor is subject to the procurement requirements stated in Chapter 4: Procurement. However, procurement requirements do not apply to private, for-profit entities receiving CDBG assistance though costs must be reviewed to ensure reasonableness and eligibility.

Chapter 4: Procurement
Chapter 5: Contracting

Grantees should also review Chapter 5 to ensure that all contracting provisions are met including ensuring the inclusion of all applicable required provisions in contract documents.

Labor Standards

As noted in Chapter 6: Labor Standards and Construction Management, the federal and state labor standards provisions may be triggered for KCDBG projects. For economic development projects, this will typically occur when there will be construction in the activity. For example, the grantee might provide funds for construction of infrastructure to a facility or to finance purchase of equipment and its installation.

Chapter 6: Labor Standards
and Construction Management

Specifically, Davis Bacon and the Copeland Anti-Kickback Acts will be triggered for any economic development activity where the construction contract exceeds \$2,000. When CDBG funds are used in whole or in part to finance equipment, the applicability of wage rates to the installation cost must be determined. An equipment analysis must be completed, in which all items of equipment are included along with an explanation of related installation/modification costs. Please contact DLG if assistance is needed in making this determination.

In addition to these requirements, other related requirements may also apply to the economic development project, including:

- ✓ Section 3;
- ✓ Equal Opportunity;
- ✓ The Contract Work Hours and Safety Standards Act; and
- ✓ Various Kentucky laws.

Grantees are encouraged to carefully read Chapter 6 and consult with DLG to determine if Davis Bacon and other labor standards requirements are triggered for individual economic development activities.

[Chapter 6: Labor Standards and Construction Management](#)

Acquisition and Relocation

The Uniform Relocation Assistance and Real Property Acquisition Act (URA) may be triggered for some economic development activities. Chapter 8: Relocation, Displacement, and One-for-One Replacement and Chapter 9: Acquisition discuss these requirements in detail.

The acquisition requirements of the URA may apply to the purchase of sites or properties for economic development activities. If the grantee will use or threaten to use its power of eminent domain, it must comply with the involuntary sales requirements set out in the URA and in Chapter 8 of this manual. These requirements include advisory services, appraisals, review appraisals, and payment of just compensation.

[Chapter 8: Relocation, Displacement, and One-for-One Replacement](#)
[Chapter 9: Acquisition](#)
[HUD Handbook 1378](#)

This involuntary acquisition process is less common for economic development activities. However, it may occur in instances such as when a grantee wishes to undertake commercial revitalization of a specific area and thus will acquire all sites in that area. See Chapter 9 for more detailed information about when the involuntary sales procedures are required.

In the instance when a private entity (such as a business) will buy property or when a grantee is buying property but not under threat of eminent domain, the voluntary sales transaction requirements are used. Under these instances, a voluntary sales notice is submitted to the seller informing him or her that the buyer party either does not have the power of eminent domain (businesses) or will not use its power of eminent domain (grantees) in purchasing the property. See Chapter 9 for more information about voluntary sales.

Relocation can be triggered by economic development activities. See Chapter 8 for more details on relocation requirements.

Fair Housing & Equal Opportunity

The fair housing and equal opportunity requirements described in Chapter 7: Fair Housing and Equal Opportunity apply to economic development projects in the same way that they apply to other types of KCDBG activities. Grantees should ensure compliance with the requirements stated in Chapter 7, as applicable.

[Chapter 7: Fair Housing and Equal Opportunity](#)

Amendments and Close-Out

Economic development projects follow the standard DLG requirements for grant amendments. Grantees should review Chapter 12: Amendments and Monitoring for more information on the amendment process.

[Chapter 12: Amendments and Monitoring](#)
[Chapter 13: Project Closeout](#)

In preparing the Project Completion Report at close-out, there are certain special requirements that apply to economic development projects. These requirements may be found in Chapter 13: Project Closeout.

- ✓ As noted above, the grantee must document jobs created and/or retained if that is the national objective used. It is the grantee's responsibility to determine specific statistical information on those persons benefiting from the project.
- ✓ The grantee must also document the investment of other funds into the project. The investment may include private investment, public investment, and program income. For each area, the grantee will give the source of investment, use, amount per grant agreement, and amount invested to date. Documentation may take the form of loan agreements, construction contracts, invoices, payrolls, cancelled checks, etc. A certification from the company's treasurer and president may also suffice for the documentation.

Sample Economic Development

EMPLOYEE SURVEY

*For
Administrative/Company
Use*

Over: _____
LMI: _____
VL: _____
XL: _____

Benefiting Community _____

Name _____

Address _____

Phone _____

Demographic Information

1. **Race** White _____
 Black/African American _____
 Asian _____
 American Indian/Alaskan Native _____
 Native Hawaiian/Other Pacific Islander _____
 American Indian/Alaskan Native & Other _____
 Asian & White _____
 Black/African American & White _____
 American Indian/Alaskan Native & Black/African American _____
 Other Multi-Racial _____

Ethnicity Non-Hispanic _____ Hispanic _____
 United States Citizen _____ Nationalized Citizen _____ Lawfully Present Alien _____

2. Female Head of Family: Yes _____ No _____
 3. Age _____
 4. Job Classification _____
 5. Annual/Hourly Wage _____
 6. Brief Description of Duties _____
 7. Number of Persons in Family _____
 8. Status of employment prior to this position: _____ employed _____ unemployed

Total Gross Annual Family Income: In the column showing the number of people in your family, check (only one) income range that totals the gross annual family income.

Total Gross Annual Family Income (SAMPLE)								
1 person	Below 8,000	<input type="checkbox"/>	8,000 to 13,350	<input type="checkbox"/>	13,350 to 21,400	<input type="checkbox"/>	Above 21,400	<input type="checkbox"/>
2 persons	Below 9,150	<input type="checkbox"/>	9,150 to 15,300	<input type="checkbox"/>	15,300 to 24,450	<input type="checkbox"/>	Above 24,450	<input type="checkbox"/>
3 persons	Below 10,300	<input type="checkbox"/>	10,300 to 17,200	<input type="checkbox"/>	17,200 to 27,500	<input type="checkbox"/>	Above 27,500	<input type="checkbox"/>
4 persons	Below 14,450	<input type="checkbox"/>	11,450 to 19,100	<input type="checkbox"/>	19,100 to 30,500	<input type="checkbox"/>	Above 30,500	<input type="checkbox"/>
5 persons	Below 12,400	<input type="checkbox"/>	12,400 to 20,650	<input type="checkbox"/>	20,650 to 33,000	<input type="checkbox"/>	Above 33,000	<input type="checkbox"/>
6 persons	Below 13,300	<input type="checkbox"/>	13,300 to 22,150	<input type="checkbox"/>	22,150 to 35,450	<input type="checkbox"/>	Above 35,450	<input type="checkbox"/>
7 persons	Below 14,200	<input type="checkbox"/>	14,200 to 23,700	<input type="checkbox"/>	23,700 to 37,900	<input type="checkbox"/>	Above 37,900	<input type="checkbox"/>
8 persons	Below 15,150	<input type="checkbox"/>	15,150 to 25,200	<input type="checkbox"/>	25,200 to 40,350	<input type="checkbox"/>	Above 40,350	<input type="checkbox"/>

NOTE: These are sample incomes only. Insert the appropriate incomes for your community in place of those shown.

I hereby certify that the above information is true and accurate to the best of my knowledge and fully understand this information could be subject to verification by the city/county, the State or HUD. Falsifying this information could result in payback of CDBG funds

Signature

Date

Interviewer

SAMPLE - EMPLOYEE CHARACTERISTICS SUMMARIZATION

(Name of Company)
(Company Address)
(City, State, Zip)

(Date)

(Name of Executive Director)
(Agency Name)
(Address)
(City, State, Zip)

Dear: _____:

Listed below is a summarization of the employee characteristics required to be reported in accordance with the _____ (Name of Company) Community Development Block Grant. A distribution of these characteristics by employee is attached.

Date of Report: _____ Number of Employees: _____

CHARACTERISTICS

Income:

Low to Moderate	#	___	%	___
Low	#	___	%	___
Extremely Low	#	___	%	___

Race:

White	LMI	#	___	%	___
	Total	#	___	%	___
Black	LMI	#	___	%	___
	Total	#	___	%	___
Asian	LMI	#	___	%	___
	Total	#	___	%	___
American Indian/ Alaska Native	LMI	#	___	%	___
	Total	#	___	%	___
Native Hawaiian/ Other Pacific Islander	LMI	#	___	%	___
	Total	#	___	%	___
White & Black	LMI	#	___	%	___
	Total	#	___	%	___
White & Asian	LMI	#	___	%	___
	Total	#	___	%	___
White & American Indian/Alaska Native	LMI	#	___	%	___
	Total	#	___	%	___
Black & American Indian/Alaska Native	LMI	#	___	%	___
	Total	#	___	%	___
Other Multi-Racial	LMI	#	___	%	___
	Total	#	___	%	___

Female Head of Household:

LMI	#	___	%	___
Total	#	___	%	___

Sex:

Male	LMI	#	___	%	___
	Total	#	___	%	___

Female

LMI	#	___	%	___
Total	#	___	%	___

Ethnicity:

Hispanic/Latino	LMI	#	___	%	___
	Total	#	___	%	___

If you have any questions, please feel free to contact me.

Sincerely,

(Name and Title)

LEGALLY BINDING AGREEMENT
(Sample)

NOTE: This sample agreement represents a format that can be adapted by the grant recipient to be used as either a two-party or three-party document depending on the particular needs of the project. The sample can be modified for use based on the provisions of the grant agreement. The sample provides a legal mechanism that can be executed between a grantee and either a for-profit corporation, nonprofit corporation, water/sewer district, or other related organization. Modification of this agreement is to be conducted in line with the content and requirements of the Grant Agreement.

This agreement entered into this _____ day of _____, 2____, by and between the _____ (Council/Fiscal Court) _____, hereinafter referred to as the Recipient, (and/or) the _____ (Organization/District) _____, hereinafter called the Nonprofit (and/or) the _____ (Company) _____, hereinafter called the Participating Party. This agreement is being executed in three original contracts, each of which is deemed an original.

WHEREAS, the Recipient has entered into a Grant Agreement with the Commonwealth of Kentucky, Department of Local Government (DLG), and

WHEREAS, the payment of funds to the Recipient under the terms of the Grant Agreement is contingent upon the Nonprofit (and/or) Participating Party contracting to undertake certain responsibilities, and

WHEREAS, the funds made available under the terms of the Grant Agreement will directly benefit the Participating Party (and/or) Nonprofit,

NOW, THEREFORE, for and in consideration of the sum of ONE DOLLAR (\$1.00) paid to the Nonprofit (and/or) Participating Party, and in further consideration of the mutual promises and covenants hereinafter contained, IT IS AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

NOTE: **For two-party agreement include either Item 1 or 2 as appropriate.**
 For three-party agreement include both Item 1 and 2 as appropriate.

ITEM 1:

The Recipient and Nonprofit do hereby agree to carry out and perform all of the activities required of it under the terms and conditions of the Grant Agreement, which agreement is incorporated herein by reference as if copied in full.

The Nonprofit agrees as follows:

- a) To perform project activities as enumerated in Exhibit B-2 of the Grant Agreement as enumerated below:
 - i. **List activities as contained in the Grant Agreement.**
 - ii.
 - iii. **...etc.****Include b) and c) if applicable**
- b) Nonprofit shall assure that the (Loan/Lease) Agreement with the Participating Party shall contain provisions granting access to employment records by the Recipient and the Commonwealth for the sole purpose of confirming compliance with job requirements set forth in Exhibit A and CDBG benefit requirements.
- c) Nonprofit shall assure that the recapture of CDBG funds will be deposited in a Revolving Fund Account (RF). Recaptured funds will be used for activities set forth in the application dated _____, 2____. The Nonprofit shall assure compliance with proper accounting and reporting requirements related thereto. The Nonprofit shall obtain project approval from the Recipient for the expenditure of funds as specified in the RF document.

ITEM 2:

The Recipient and Participating Party do hereby agree to carry out and perform all of the activities required of it under the terms and conditions of the Grant Agreement, which agreement is incorporated herein by reference as if copied in full.

The Participating Party agrees as follows:

- a) To perform project activities as enumerated in Exhibit C of the Grant Agreement as enumerated below:
 - i. **List activities as contained in the Grant Agreement.**
 - ii.

iii. ...etc.

- b) To provide employment opportunity as enumerated in Exhibit A of the Grant Agreement and below:
 - i. To create/retain at a minimum _____ (_____) permanent full-time jobs.
 - ii. To assure at least fifty-one percent (51%) of the jobs will be filled by individuals from families of low- to moderate-income (LMI).
 - iii. To accept income limits for identifying LMI beneficiaries and the time period set for meeting job requirements as set out in the Grant Agreement.
- c) To maintain for a period of five years following project closeout all employment records related to the project to include but not be limited to the Employee Survey Forms, Employee Characteristics Record and Employee Characteristics Summarization.
- d) To pay the Commonwealth of Kentucky through the Recipient, an amount equal to the total CDBG grant funds received by the Recipient, except for any planning or administrative funds, should 51% of the jobs created fail to be fulfilled by individuals from LMI families as required by the Grant Agreement, Exhibit C. Failure to create the full job commitment of _____ (_____) jobs shall require repayment by the Participating Party at the rate of \$_____ per job not created.

The Nonprofit (and/or) Participating Party agrees as follows:

- a) To maintain for a period of five years following project closeout all financial records and documents relative to disbursement of any CDBG or other funds identified in and required by the Grant Agreement. Such records include, but are not limited to, ledgers, bank statements, contracts, invoices and reports.
- b) To grant access to inspect, copy, audit and examine at all reasonable times employment and financial records to any duly authorized representative of the Commonwealth, HUD, Inspector General and General Accounting Office of the United States, for a period up to five years following completion of closeout procedures.
- c) To comply with all State and Federal laws and regulations pertinent to the project.

The Nonprofit (and/or) Participating Party further agrees to the following terms and conditions:

- a) That no transfer of grant funds by the Recipient to the Nonprofit (and/or) Participating Party shall be or be deemed an assignment of grant funds, and that the Nonprofit (and/or) Participating Party shall neither succeed to any rights, benefits, or advantages of the Recipient under the terms of the hereinabove described Grant Agreement nor attain any rights, privileges, authorities or interest in or under the said agreement.
- b) That the Nonprofit (and/or) Participating Party acknowledges nothing contained in the said agreement, nor in any contract between the parties hereto, nor any act of the Commonwealth, the Recipient or any other party shall be deemed or construed to create any relationship or third-party beneficiary, principal and agent, limited or general partnership, or joint venture, or of any association or relationship involving the Commonwealth.
- c) That the Recipient shall not be liable to the Nonprofit (and/or) Participating Party or any party except the Commonwealth, for the completion of, or the failure to complete, any activities which are a part of the project herein contemplated, except those specified in Exhibit B, of the said Grant Agreement.
- d) None of the Nonprofit (and/or) Participating Party's designees, agents, members, officers or employees, has or shall have any interest, direct or indirect, in any contract or subcontract or the proceeds thereof, for work to be performed in connection with the project herein contemplated at any time during or after such person's tenure with the Nonprofit (and/or) Participating Party.
- e) The obligations of the parties are totally contingent upon the obtaining of a Release of Funds from the Department of Local Government and no project activities other than environmentally exempt activities may occur until the release is achieved.
- f) Recipient, Nonprofit (and/or) Participating Party agree and accept that all applicable provisions of the Grant Agreement are incorporated into and made a part of this Legally Binding Agreement.
- g) The Legally Binding Agreement Standard Provisions attached to this Agreement as Exhibit I are considered to be an integral part of this Agreement. These provisions are subject to change from time to time as Federal laws and regulations are promulgated. The Nonprofit (and/or) Participating Party will be notified in writing if any changes occur.

City/County
Legally Binding Agreement

This Agreement being formally adopted this _____ day of _____, 2_____:

Recipient:

Examined as to form and legality:

(Mayor/County Judge)

Recipient Attorney

State of Kentucky
County of _____

Subscribed, sworn to and acknowledged before me by _____, _____ (Title) _____ by and through its resolution, on this _____ day of _____, 2_____.

My Commission expires:

Notary Public

Nonprofit:

(President/Chair)

State of Kentucky
County of _____

Subscribed, sworn to and acknowledged before me by _____, _____ (Title) _____ by and through its resolution, on this _____ day of _____, 20_____.

My Commission expires:

Notary Public

City/County
Legally Binding Agreement

Participating Party:

(President/Chairman)

State of Kentucky

County of _____

Subscribed, sworn to and acknowledged before me by
_____, _____ (Title) _____ by and through its resolution,
on this _____ day of _____, 2____.

My Commission expires:

Notary Public

**LEGALLY BINDING AGREEMENT
EXHIBIT I
STANDARD PROVISIONS**

NOTE: The following CDBG Provisions should be used with all Legally Binding Agreements where CDBG funds are being used in whole or in part.

1. **Unexpended Grant Funds:** The Non-Profit (and/or) Participating Party agrees that it will return to the Recipient any unexpended grant funds provided by the Recipient under this Agreement.
2. **Program Income:** Briefly describe how the program income generated from CDBG funded activities will be handled.
3. **Limitation of Liability:** The Non-Profit (and/or) Participating Party will not assert in any legal action by claim or defense, or take the position in any administrative or legal procedures that he is an agent or employee of the Recipient.
4. **Ownership:** Ownership of all real or personal property, acquired in whole or in part with CDBG funds for use on this project, shall be vested in the unit of local government. When the unit of local government determines that the property is no longer required for the purposes of this project, the unit of local government must notify the Department of Local Government (DLG) and obtain approval for disposition of the property in accordance with applicable guidelines.
5. **Agreement/Contract:** If any provision in this agreement/contract shall be held to be invalid or unenforceable, the remaining portions shall remain in effect. In the event such invalid or unenforceable provision is considered an essential element of this agreement/contract, the parties shall promptly negotiate a replacement provision, which addresses the intent of such provision.

The failure of either party to insist upon strict performance of any terms, conditions and covenants herein set forth shall not be deemed a waiver of any rights or remedies that such party may have and shall not be deemed a waiver of any subsequent breach or default in the terms, conditions and covenants herein contained.

Federal, State and local laws, ordinances and codes are subject to change from time to time as they are promulgated. The Non-Profit (and/or) Participating Party shall be notified in writing of any such changes when they occur and they shall be incorporated in writing into this contract/agreement upon concurrence by both parties unless such changes are considered to

have an essential impact upon the intent of this agreement/contract and then they shall be incorporated upon notification to the Non-Profit (and/or) Participating Party.

6. **Terms and Conditions:** DLG reserves the right to add or delete terms and conditions of this Agreement as may be required by revisions and additions or changes in the requirements, regulations, and laws governing the Community Development Block Grant Program.
7. **Reporting Requirements:** The Non-Profit (and/or) Participating Party agrees to complete and submit all reports, in such form and according to such schedule, as may be required by DLG.
8. **Maintenance of Records:** Records for non-expendable property purchased totally or partially with Federal funds must be retained for five years after final close-out. All other pertinent contract records including financial records, supporting documents and statistical records shall be retained for a minimum of five (5) years after the final close-out report.

However, if any litigation, claim, or audit is started before the expiration of the five (5) year period, then records must be retained for five (5) years after the litigation, claim or audit is resolved.

14. **Access to Records:** Records with respect to all matters covered by this agreement shall be made available for audit and inspection by DLG, HUD or their representatives.
7. **Sanctions:** If the Non-Profit (and/or) Participating Party fails or refuses to comply with the provisions set forth herein, then DLG or the Recipient may take any or all of the following sanctions: cancel, terminate or suspend in whole or in part this agreement, or refrain from extending any further funds to the Non-Profit (and/or) Participating Party until such time as the Non-Profit (and/or) Participating Party is in full compliance.
8. **Applicable Law:** In addition to the applicable Federal Laws and Regulations, this agreement is also made under and shall be construed in accordance with the laws of the State of Kentucky. By execution of this agreement, the Non-Profit (and/or) Participating Party agrees to submit to the jurisdiction of the State of Kentucky for all matters arising or to arise hereunder, including but not limited to performance of said agreement and payment of all licenses and taxes of whatever kind or nature applicable hereto.
9. **Uniform Administrative requirements:** The Non-Profit (and/or) Participating Party shall adhere to the following administrative requirements:

Financial: Guidelines for financial and compliance audits of Federally assisted programs which are OMB Circular A-133, and OMB Circular A-87.

Procurement: The following provisions regarding "conflicts of interest" apply to the use and expenditure of CDBG funds by the Recipient and the Non-Profit (and/or) Participating Party.

Except for eligible administrative or personnel costs, the general rule is that no person who is an employee, agent, consultant, officer, or elected or appointed official of the State of Kentucky or a unit of general local government or any designated public agencies or subrecipient which are receiving CDBG funds who exercise or have exercised any function or responsibilities with respect to CDBG activities assisted herein or are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder either for themselves or those with whom they have family or business ties during their tenure or for one year thereafter. Exceptions may be granted by the Department of Local Government on a case-by-case basis as requested upon full disclosure in writing.

Should any governmental entity, recipient, subrecipient, employee or official know or perceive any breach of ethical standards or conflict of interest involving any other CDBG grant, they shall immediately notify the Department of Local Government.

Personnel: All contractors and subcontractors engaged in the project shall be fully qualified and properly licensed under State and local law to perform such services.

The Non-Profit (and/or) Participating Party shall insure that all Prime Contractors/Subcontractors are bonded and insured in accordance with State and Federal requirements.

Other Program Requirements: All activities by the Non-Profit (and/or) Participating Party shall be carried out in compliance with all Federal laws and regulations except for environmental responsibilities and review process under Executive Order 12372, which are the responsibility of the Recipient.

Suspension and Termination: In accordance with 24 CFR 85.43 suspension or termination may occur if the Non-Profit (and/or) Participating Party materially fails to comply with any terms of this

Agreement, and that the Agreement may be terminated for convenience in accordance with 24 CFR 85.44.

Debarment Certification: The Non-Profit (and/or) Participating Party must verify that all contractors and subcontractors are not listed in the "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions", prior to receiving Federal funds. The Non-Profit (and/or) Participating Party must require that any prime contractor or lower tier contractor with a contract valued at more than \$100,000 must also complete a debarment certification and the Non-Profit (and/or) Participating Party will keep it on file for review as outlined in records and reports. The Non-Profit (and/or) Participating Party must also check the eligibility on all contractors and subcontractors who perform work under this Agreement regardless of dollar amount.

Use of Real Property and Reversion of Assets: Upon expiration or termination of this Agreement the Non-Profit (and/or) Participating Party shall transfer on behalf of the Recipient, to the Department of Local Government, or the Department of Local Government's Assignee, any CDBG funds on hand at that time and any accounts receivable attributable to the use of CDBG funds.

Any real property acquired or improved in whole or in part with CDBG funds must continue to be used for the purpose for which it was acquired or improved. Any changes in its use must be approved by the Department of Local Government in writing.

Amendments: Any changes in the scope of the project, as outlined in this Agreement, including cost increases, must be submitted in writing by the Non-Profit (and/or) Participating Party to the Recipient as a request for an award adjustment. Any adjustment granted by the Recipient shall be appended to this Agreement as an amendment.

10. **Copyright:** Except as otherwise provided in the terms and conditions of this contract, the Non-Profit (and/or) Participating Party paid through this contract is free to copyright any books, publications or other copyrightable materials developed in the course of and under this contract. However, the U. S. Department of Housing and Urban Development and DLG reserve a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, for Federal Government and State Funded Agencies (SFA) purposes:

- A. the copyright in any work developed under this contract; and
- B. any rights of copyright to which a Non-Profit (and/or) Participating Party purchases ownership with grant support.

The Federal Government's rights and the DLG's rights identified above must be conveyed to the publisher and the language of the publisher's release form must insure the preservation of these rights.

7. **Compliance with Air and Water Acts:** Applicable to construction contracts and related subcontracts exceeding \$100,000: This contract is subject to the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect to 40 CFR Part 15, as amended from time to time.
- A. A stipulation by the Contractor that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the List of Violating Facilities, issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.
 - B. Agreement by the Contractor to comply with all the requirements of section 114 of the Clean Air Act, as amended (42 USC 1857c-8-0 and section 308 of the Federal Water Pollution Control Act, as amended (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said section 114 and 308, and all regulations and guidelines issued thereunder.
 - C. A stipulation that as a condition of award of contract prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the contract under consideration is to be listed on the EPA list of Violating Facilities.
 - D. Agreement by the Non-Profit (and/or) Participating Party that he will include or cause to be included the criteria and requirements in paragraph (A) through (D) of this agreement, in every nonexempt subcontract and requiring that the Contractor will take such action as the State may direct as a means of enforcing such provisions.

In no event shall any amount of assistance provided under this agreement be utilized with respect to a facility which has given rise to a conviction under section 113(c)(1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.

7. **Subcontracting with Small and Minority Firms, Women's Business Enterprise and Labor Surplus Areas:** It is national policy to award a fair share of contracts to small and minority and women's owned businesses. Accordingly, affirmative steps must be taken to assure that small, minority and women owned businesses are utilized when possible as sources of

supplies, equipment, construction and services. Affirmative steps shall include the following:

- A. Including qualified small and minority businesses on solicitation lists;
- B. Assuring that small, minority and women owned businesses are solicited whenever they are potential sources;
- C. Whenever economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small, minority and women owned businesses' participation;
- D. Where the requirement permits, establishing delivery schedules which will encourage participation by small and minority businesses; and
- E. Using the services and assistance of the Small Business Administration, the Kentucky Cabinet for Economic Development, the U. S. Department of Commerce and the Community Services Administration as required.

14. **Confidential Information:** Any reports, information, data, etc., given to, prepared by, or assembled by the Non-Profit (and/or) Participating Party under this agreement, which DLG requests to be kept confidential, shall not be made available to any individual or organization by the Non-Profit (and/or) Participating Party without prior written approval of DLG.
15. **Prime Non-Profit (and/or) Participating Party Responsibilities:** The Non-Profit (and/or) Participating Party is required to assume sole responsibility for the complete effort and enforcement of laws and regulations under this agreement. The Recipient will consider the Non-Profit (and/or) Participating Party to be the sole point of contact with regard to contractual matters.
16. **Subcontracting:** If any part of the work covered by this agreement is to be subcontracted, the Non-Profit (and/or) Participating Party shall identify the subcontracting entity and the contractual arrangements made therewith to the Recipient. All subcontracts must be approved by the Recipient to insure they are not debarred or suspended by the Federal or State Government and to insure the Recipient understands the arrangements.
18. **Legal Services:** No attorney-at-law shall be engaged through the use of any funds provided under this contract in suits against the State, Local Public Body or any political subdivision.
19. **Political Activity:** None of the funds, materials, property or services provided directly or indirectly under this contract shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office or otherwise in violation of the provisions of the "Hatch" Act.

20. **Reporting of Fraudulent Activity:** If at any time during the term of this agreement anyone has reason to believe by whatever means that, under this or any other program administered by DLG, a recipient of funds has improperly or fraudulently applied for or received benefits, monies or services pursuant to this or any other contract, such information shall be immediately reported to the appropriate authorities.
21. **Age Discrimination:** In accordance with 45 CFR, parts 90 and 91, the Non-Profit (and/or) Participating Party agrees there shall be no bias or age discrimination as to benefits and participation under this agreement.
22. **Section 109 of the Housing and Community Development Act of 1974:** No person in the United States shall on the grounds of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part pursuant to agreement.
23. **Section 3, Compliance and Provision of Training, Employment and Business Opportunities:** 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 USC 1701u. The purpose of Section 3 is to ensure that 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, particularly persons who are recipients of HUD assistance for housing.

The parties to this said contract agree to comply with HUD's regulations in 24 CFR Part 135, 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 135 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, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and 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 subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. 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 135.

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 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.

The contractor agrees to submit such reports as required to document compliance with Part 135. Noncompliance with the regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

24. **Section 504 of the Rehabilitation Act of 1973:** The Non-Profit (and/or) Participating Party agrees that no otherwise qualified individual with disabilities shall, solely by reason of his disability, be denied the benefits, or be subjected to discrimination including discrimination in employment, in any program or activity that receives the benefits from the Federal financial assistance.
25. **Lead-Based Paint:** The construction or rehabilitation of residential structures with assistance provided under this Agreement is subject to the HUD Lead-Based Paint regulations, 24 CFR Part 35. Any grants or loans made by the Non-Profit (and/or) Participating Party for the rehabilitation of residential structures with assistance provided under this Agreement shall be made subject to the provisions for the elimination of lead-base paint hazards under subpart B of said regulations, and the Non-Profit (and/or) Participating Party shall be responsible for the inspections and certifications required under section 35.14(f) thereof.
26. **Debarment Certification:** The Non-Profit (and/or) Participating Party must comply with Federal Debarment and Suspension regulations prior to entering into a financial agreement for any transaction as outlined below.
 - A. Any procurement contract for goods and services, regardless of type, expected to equal or exceed the Federal procurement small purchase threshold (which is \$25,000 and is cumulative amount from all Federal funding sources).

B. Any procurement contract for goods and services, regardless of amount, under which the Non-Profit (and/or) Participating Party will have a critical influence on or substantive control over the transaction.

27. **Equal Employment Opportunity**: In carrying out the program, the Non-Profit (and/or) Participating Party shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Non-Profit (and/or) Participating Party must take affirmative action to insure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Non-Profit (and/or) Participating Party shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Government setting forth the provisions of this non-discrimination clause. The Non-Profit (and/or) Participating Party shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin. The Non-Profit (and/or) Participating Party shall incorporate the foregoing requirements of this paragraph in all of its subcontracts for project or program.

The Non-Profit (and/or) Participating Party will, in all solicitations or advertisements for employees by or on behalf of the Non-Profit (and/or) Participating Party, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

The Non-Profit (and/or) Participating Party will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the State advising the said labor union or workers' representatives of the Non-Profit (and/or) Participating Party's commitment under this Section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The Non-Profit (and/or) Participating Party will comply with all provisions of Executive Order 11246, as amended, of September 24, 1965, and of the rules, regulations, and relevant orders of the State.

The Non-Profit (and/or) Participating Party will furnish all information and reports required by Executive Order 11246, as amended, of September 24,

1965, and by the rules, regulations, and orders of the State, or pursuant thereto, and will permit access to its books, records, and accounts by HUD and the State for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

In the event of the Non-Profit (and/or) Participating Party's noncompliance with the non-discrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the Non-Profit (and/or) Participating Party may be declared ineligible for further Government contracts or Federally assisted construction contract procedures authorized in Executive Order 11246, as amended, of September 24, 1965, or by rules, regulations, or order of the State, or as otherwise provided by law.

The Non-Profit (and/or) Participating Party will include the above provisions in every subcontract or purchase order unless exempted by rules, regulations, or orders of the State issued pursuant to section 204 of Executive Order 11246, as amended, of September 25, 1965, so that such provisions will be binding upon each Non-Profit (and/or) Participating Party or vendor. The Non-Profit (and/or) Participating Party will take such action with respect to any subcontract or purchase order as DLG may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Non-Profit (and/or) Participating Party becomes involved in, or is threatened with, litigation with an entity as a result of such direction by DLG, the Non-Profit (and/or) Participating Party may request DLG to enter into such litigation to protect the interest of the State.

The Non-Profit (and/or) Participating Party further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in Federally assisted construction work.

28. **Federal Labor Standards Provisions:** The project or program to which the work covered by this agreement pertains is being assisted by the United States of America and the Federal Labor Standards Provisions are applicable to any construction contracts in excess of \$2,000 or residential rehabilitation contracts involving more than eight units entered into by the Non-Profit (and/or) Participating Party. The Non-Profit (and/or) Participating Party shall include the required Federal language covering Davis-Bacon, Copeland Anti Kickback, and Contract work and Safety Standard Acts in any such contract.

RESOLUTION OF AUTHORITY
(Sample)

CERTIFIED RESOLUTION OF THE BOARD OF DIRECTORS

OF

(Company Name)

I, _____ (Name) _____, do hereby certify that I am the duly elected and qualified Secretary of _____ (Name of Organization) _____, a corporation authorized under the laws of _____ and that the following is a true and correct copy of the resolution duly adopted by the Board of Directors in accordance with law and the by-laws of said corporation on _____ (Date) _____, and that such resolution is now in full force and effect.

It is resolved that:

_____ (Name of Organization) _____ be and is hereby authorized to enter into a Participating Agreement, a copy of which is attached hereto, with _____ (Name of Organization) _____ for the purpose of entering into a grant agreement with the Commonwealth of Kentucky, Department of Local Government.

_____ (Name) _____, President of _____ (Name of Organization) _____ is hereby appointed to enter into said Agreement and to execute all documents necessary to effectuate the closing of the Agreement.

In Witness hereof I hereunto affix my signature on this _____ day of _____, 20____.

(Name)
Secretary

CERTIFICATION OF LEGALLY BINDING AGREEMENTS
(Sample)

Pursuant to Article _____ of the KCDBG Contract, I hereby submit the following legal opinion to the evidentiary materials required to be furnished by _____ (Name of company of individual) _____.

1. I am the attorney for the city/county of _____, recipient of the KCDBG Contract referenced above.

2. I am basing the foregoing legal opinion on the written Affidavit of _____ (Name, title, and function) _____, copies of the enclosed documents, and upon my information and belief. I do not have personal knowledge of any of the facts alleged herein.

3. **Evidence of Contracts.** Enclosed is a copy of the Agreement entered into by _____ (Name and title of city/county official) _____, the city/county of _____, as attested to by _____ (List all persons attesting to contract and titles -- both city/county officials and representatives of private parties) _____.

Also enclosed is a copy of the Ordinance authorizing the _____ (Title of city/county official) _____ to enter into a Contract with _____ (Name of company or individual) _____.

It is my opinion that _____ (Name of city/county official) _____ was authorized to enter into the Contract with _____ (Name of company or individual) _____. My opinion is based on resolution number _____, which was duly passed by the legislative body of the city/county of _____ authorizing the _____ (Title of city/county official) _____ to enter into the Contract.

It is my opinion that _____ (Name) _____ is the _____ (Title) _____ of _____ (Name of company) _____ and that s/he was authorized to enter into the KCDBG Agreement with the city/county of _____. My opinion is based upon the attached Affidavit(s) of _____ (Name(s) and title(s) of person(s) submitting Affidavit(s) _____.

It is my opinion that the above mentioned contracts are legally enforceable under the laws of this Commonwealth and conform to the provision of the Grant Agreement unless otherwise specified herein.

Optional: to be used where acquisition, lease and/or loan transactions occur

4. **Evidence of Loan/Lease Agreements.** Attached are copies of loan/lease documents _____ (to be) _____ entered into by _____ (Name and title of city/county official) _____, the _____ (city/county) _____, as listed below:

- a) Lease agreement signed and recorded between the lessor and the lessee; and/or,
- b) Draft loan agreement between _____ the lender and _____ the debtor;
- c) Draft mortgage document(s), promissory note(s), subordination agreement(s), security agreement(s), etc. as deemed appropriate by the _____ (city/county) _____ attorney.

Also attached is a copy of the resolution/ordinance authorizing the _____ (Title of city/county official) _____ to enter into the referenced documents with _____ (Name of company or individual) _____.

It is my opinion that _____ (Name of city/county official) _____ was authorized to enter into the above documents with _____ (Name of company or individual) _____. My opinion is based on resolution/ordinance number _____, which was duly passed by the legislative body of the city/county of _____ authorizing the _____ (Title of city/county official) _____ to enter into the documents.

It is my opinion that _____ (Name) _____ is the _____ (Title) _____ of _____ (Name of company) _____ and that he was authorized to enter into the documents with the city/county of _____. My opinion is based upon the attached Affidavit(s) of _____ (Name(s) and title(s) of person(s) submitting Affidavit(s)).

5. **Opinion on Title.** I have conducted/reviewed a title search of the referenced property expressed by _____ (Name, title of preparer) _____. It is my opinion that the conclusion(s) expressed is commensurate with the intent of the CDBG Grant Agreement.

ATTACHMENT 11-6

SAMPLE LEASE-PURCHASE AGREEMENT

THIS LEASE PURCHASE AGREEMENT made and entered into this the _____ day of _____, 20____, by and between the _____ Local Development Authority, of _____, Kentucky 4XXXX hereinafter referred to as "Lessor", and _____ Company, Inc., of _____, Kentucky 4XXXX, hereinafter referred to as "Lessee."

WITNESSETH, THAT WHEREAS the City of _____, has obtained a Community Development Block Grant (CDBG) from the State of Kentucky to assist in the development of industry in _____, Kentucky; and

WHEREAS, the proceeds from said CDBG have been turned over to the Lessor herein for the purchase of the hereinafter described industrial equipment; and

WHEREAS, the Lessor and Lessee are desirous of entering into a lease-purchase agreement for the lease, use and ultimate sale of the hereinafter described industrial equipment which is being purchased by CDBG funds, and the repayment of the CDBG funds to the Lessor herein.

NOW, THEREFORE, for and in consideration of the foregoing and the following mutual covenants and conditions herein, the parties hereto agree as follows:

1. LEASED PROPERTY

Lessor hereby lets and leases unto Lessee the following described industrial equipment which is hereafter referred to as "leased property" to wit:

See Exhibit A

2. **TERM**

The term of this lease shall be from the ___ day of _____, 20____, to the ___ day of _____, 20____, or the date of which the entire remaining balance of the total rental, plus accrued interest, as set out below in paragraph No. 3 has been paid, whichever date first occurs.

3. **RENTAL**

Lessee hereby covenants and agrees to pay Lessor, as rent for the above-described industrial equipment for the total amount of \$_____ for the entire term. The unpaid balance of the entire amount shall bear interest at the rate of ____% per annum, with any balance or interest payable monthly in an amount equal to the monthly amortization of such balance over a period of ___ years. The initial amount of monthly rental herein shall be the sum of \$_____ per month. Lessee may prepay the rent herein at any time and in any amount, at which time the amount of monthly rental due shall be re-computed on the remaining principal balance due bearing interest at the rate of ____% per annum over the remainder of the _____ year term. Said monthly payments shall begin on the ___ day of _____, 20____, and continue on the ___ day of each month thereafter during the term hereof. The rent herein is due and payable for the entire term set out above in paragraph No. 2 whether or not Lessee possesses and uses said leased property.

Upon complete payment of the balance of the rent set out above, plus accrued interest, at any time, the Lessor shall convey the above described leased property to the Lessee by bill of sale or other instrument(s) necessary to transfer title, and this lease shall be terminated, null, void and of no effect whatsoever.

4. **DAMAGE BY LESSEE**

Lessee shall not commit or suffer any waste or damage to any item of leased property identified hereinafter, normal wear and tear excepted.

5. **ALTERATIONS AND MODIFICATIONS**

Lessee shall make no substantial changes, alterations, modifications or improvements to said leased property, without the prior written consent of Lessor.

6. **TAXES AND ASSESSMENTS**

Lessee shall, during the term of this lease, pay all state, county, school and personal property taxes and assessments of every kind and nature levied and assessed against said leased property.

7. **RIGHT OF INSPECTION**

Lessee agrees that the Lessor, or their representatives shall have the right at all reasonable times to enter upon Lessee's premises or other places necessary to inspect said leased property, and ascertain that Lessee is complying with the terms, conditions and provisions hereof.

8. **ASSIGNMENT AND SUB-LEASING**

Lessee shall neither assign, transfer, sub-let or under-rent the leased property, nor any part thereof, without the previous written consent of Lessor, and subject to such terms as the Lessor might impose.

9. **LIABILITY OF LESSOR**

Lessee shall indemnify the Lessor and save it harmless from any and all liability, damages, court costs and attorney's fees it might incur as a result of Lessee's use of the leased property.

10. **LIENS AGAINST PROPERTY**

Lessee shall keep the leased property free from any mechanic's, storage or similar lien or other such encumbrances in connection with any alterations, repairs or use of said leased property and

shall indemnify and hold Lessor harmless from and against any claims, liabilities, judgments, cost (including attorney fees) arising out of the same or in connection therewith.

11. REPAIRS AND MAINTENANCE

Lessee shall keep the leased property in good condition and working order and repair, and perform all maintenance necessary thereto, both routine and otherwise.

In the event Lessee fails to make any and all property repairs or maintenance to said leased property which it is obligated to make within a reasonable time after the Lessor shall have notified the Lessee in writing of such default, Lessor may make or cause the repairs to be made. The Lessee agrees to pay the cost thereof promptly upon receipt of a statement for such expenses.

12. DAMAGES TO PROPERTY

If the above described leased property or any part thereof, shall be damaged by fire or other casualty, whether man made, natural or otherwise, Lessee shall at its own expense commence to restore said property and thereafter diligently complete such restoration. Such repairs shall substantially restore the condition of the property prior to the casualty. No abatement of rent shall be allowed during the time and to the extent the property is unfit for use as a result of such damages.

13. INSURANCE

Lessee shall maintain during the term of this lease comprehensive public liability insurance, for personal injury, bodily injury, sickness, disease, or death and for damage or injury to or destruction of property (including the loss of use thereof) for any on occurrence. The Lessee shall also maintain during the term primary, noncontributory "all-risk" casualty insurance on its personal property, fixtures, and improvements and other insurable personal property and risks in amounts not less than the full insurable replacement value of such property and full insurable value of such other interests of the Lessee.

Lessee shall also maintain during the term primary, noncontributory insurance on the leased property against fire and extended coverage or "all-risk" insurance, in an amount equal to the full insurable value of the property, or such other amount necessary to prevent the Lessor from being a coinsured, and such other coverage as the Lessor shall deem appropriate or that may be required by any mortgagee of the property.

Prior to taking possession of the leased property, the Lessee shall provide the Lessor with certificates evidencing such coverage (and, with respect to public liability coverage, showing the Lessor as an additional named insured). These certificates shall state that such insurance coverage may not be changed or cancelled without at least 30 days prior written notice to the Lessor, and shall provide renewal certificates to the Lessor at least 30 days prior to expiration of such policies.

In the event of a loss, which is paid by such insurance coverage, the Lessee shall be entitled to the proceeds from such insurance coverage to the extent of the proceeds from such insurance coverage to the extent of the repairs and/or replacements actually performed by Lessee. In the event there are any excess funds above and beyond actual repairs and replacements, then such excess funds shall be applied to the total rent due herein, unless waived by Lessor.

14. RETURN OF POSSESSION

At the termination of this lease prior to the end of the term herein or upon termination of the Lessee's right of possession, whichever shall first occur, the Lessee shall surrender possession of leased property and any keys therefore to the Lessor. In such event, Lessee shall return said property and all additions, changes, alterations, improvements, and fixtures in as good an order and condition when received except for ordinary wear and tear. All additions, changes, alterations, improvements, and fixtures related to leased property, whether installed by the Lessee or Lessor, shall be the Lessor's property and shall remain with same, all without compensation, allowance or credit to the Lessee.

If Lessee fails to perform any repairs or restoration, or fails to perform any requirement as set forth in this lease agreement, Lessor may do so, and the Lessee shall pay Lessor the cost thereof upon demand. Any property removed by the Lessor pursuant to any provision of this lease or any law, may be handled and stored by the Lessor at the cost and expense of the Lessee; the Lessor shall, in event, be responsible for the value, preservation, or safekeeping thereof. The Lessee shall pay the Lessor for all expenses incurred by the Lessor in such handling and storage, including Lessor's reasonable storage charges for so long as the same shall be in the Lessor's possession or under the Lessor's control. All property not removed from the premises or retaken from storage by the Lessee within 30 days after the end of the term, or termination of the Lessee's right to possession, whichever shall first occur, shall, at the Lessor's option, be conclusively deemed to have been conveyed by the Lessee to the Lessor as by bill of sale without further payment or credit by the Lessor to the Lessee. To the extent permitted by applicable law, the Lessor shall have a lien against such property for the costs incurred in removing and storing the same.

15. WAIVER

No provision of this lease will be deemed waived by either party unless expressly waived in a writing signed by the waiving party. No waiver shall be implied by delay or any other act or omission of either party. No waiver by either party of any provision of this lease shall be deemed a waiver of such provision with respect to any subsequent matter relating to such provision; the Lessor's consent or approval respecting any action by the Lessee shall not constitute a waiver of the requirement for obtaining the Lessor's consent or approval respecting any subsequent such action. Subsequent acceptance of rent or any other amounts by the Lessor or its employees or duly authorized agents shall not reinstate or extend the term or the Lessee's right to possession after termination of either of the same and shall not constitute a waiver of any breach by the Lessee of any term or condition of this lease, regardless of the Lessor's knowledge of such breach

at the time such rent is accepted. The acceptance of rent, or of the performance of any other term or condition by any person other than the Lessee, including any transfer, shall not constitute a waiver of the Lessor's right to approve any transfer.

16. SUBORDINATION

Pursuant to Exhibit B-1 of CDBG No. _____, no subordination of this lease will be allowed.

17. DEFAULT

The occurrence of any one or more of the following events shall constitute a "default" by the Lessee, which, if not cured within any applicable time permitted for cure below, shall give rise to the Lessor's remedies set forth in paragraph No. 18:

- A. Failure of the Lessee to make, when due, any payment of rent, unless such failure is cured within 10 days after written notice thereof by the Lessor to Lessee;
- B. Failure by the Lessee to observe or perform any of the terms or conditions of this lease to be observed or performed by the Lessee other than the payment of rent, or as provided below, unless such failure is cured within 10 days after written notice thereof by the Lessor to Lessee sufficiently describing such failure to enable the Lessee to determine an appropriate cure;
- C. Abandonment of the property;
- D. Making by the Lessee of any general assignment for the benefit of creditors;
- E. Filing by or against the Lessee of a petition to have the Lessee adjudged bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of petition filed against the Lessee, the same is dismissed within 60 days);

- F. Appointment of a trustee or receiver to take possession of substantially all of the Lessee's assets located on the premises or of the Lessee's interest in this lease, where possession is not restored to the Lessee within 30 days;
- G. Attachment, execution, or other judicial seizure of substantially all of the Lessee's assets, or the Lessee's interest in this lease;
- H. The Lessee's convening of a meeting of its creditors or any class thereof for the purpose of effecting a moratorium upon or composition of its debts;
- I. The Lessee's insolvency or admission of an inability to pay its debts as they mature;
- J. Lessee's failure to comply with CDBG No. _____; Legally Binding Agreement between City of _____, _____ Local Development Corporation, and _____ Company, Inc.; or any other document prepared in connection with the issuance of the CDBG.

Upon default, any amount recovered by the Lessor from the Lessee, or from others on behalf of the Lessee such as by sale through judicial process, shall be considered and is hereby a credit against the purchase price set out herein.

18. REMEDIES OF LESSOR

If a default occurs and is not cured within any applicable time permitted under paragraph No. 17 above, the Lessor shall have all of the rights and remedies allowed by law, including the right, without notice, to terminate this lease, to enter the Lessee's premises or other real property and dispossess Lessee and their legal representatives or other persons in possession of the leased property by summary proceedings or otherwise and remove their effects and possess the property as if this lease had not been made; the Lessee hereby waives the service of notice of intention to enter or repossess or to institute legal proceedings to that end. The Lessee further agrees that in case of any termination, the Lessee will indemnify the Lessor against all loss of rents and other

damage which the Lessor may incur by reason of such termination, including, but not limited to, cost of restoring and repairing the property and putting same into rentable condition, cost of renting the property to another Lessee, loss or diminution of rents and other damage which the Lessor may incur by reason of such termination, and, to the extent permitted under the then applicable law, all reasonable attorney's fees and expenses incurred in enforcing any of the terms of this lease or any other rights or remedies of the Lessor. Neither acceptance of rent by the Lessor, with or without knowledge of breach, nor failure of the Lessor to take action on account of any breach hereof or to enforce its rights hereunder shall be deemed a waiver of any breach. Absent written notice or consent, said breach shall be a continuing one. The words "re-enter" and "re-entry" as used in this lease is not restricted to their technical legal meaning. The Lessee hereby expressly waives any and all rights to recover or regain possession of the premises or to reinstate or to redeem this lease as permitted or provided by or under any statute, law, or decision now or hereafter in force and effect.

19. DEPRECIATION

Because of the lease-purchase nature of this agreement, the Lessee may claim to the exclusion of the Lessor any and all depreciation of any equipment or property leased herein.

20. LESSOR'S DEFAULT

If the Lessor shall fail to perform any term or condition under this lease required to be performed by the Lessor, the Lessor shall not be deemed to be in default hereunder nor subject to any claims for damages of any kind, unless such failure shall have continued for a period of 30 days after written notice thereof by the Lessor sufficiently describing such failure to enable the Lessor to determine an appropriate cure.

21. CAPTIONS

The captions of the articles and paragraphs of this lease are for convenience and easy reference only and shall not be considered or referred to in resolving questions of construction.

22. SEVERABILITY

If any provision of this lease shall be found invalid, void, illegal, or unenforceable with respect to any particular person by a court of competent jurisdiction, it shall in no way affect, impair, or invalidate any other provisions hereof, or its enforceability with respect to any other person, the parties hereto agreeing that they would have entered into the remaining portion of this lease notwithstanding the omission of the portion or portions adjudged invalid, void, illegal, or unenforceable with respect to such person.

23. DEFINITIONS

The following terms when used herein shall have the meanings set forth below:

- A. "Lessor" and "Lessee" shall be applicable to one or more persons as the case may be. The singular shall include the plural, and the neuter shall include the masculine and feminine; if there be more than one, the obligations thereof shall be joint and several, and the word "Lessee" shall include Lessee's assignees, subtenants, concessionaires, licensees, and other transferees as the context may require;
- B. "Person" shall mean individuals, trusts, partnerships, joint ventures, associations, corporation, and any other entities;
- C. "Law" shall mean all federal, state, county, and local governmental and municipal laws, statutes, ordinances, rules, regulations, codes, decrees, orders and such other requirements, applicable equitable remedies and decisions by courts in cases where such

decisions are considered binding precedents in the Commonwealth of Kentucky, and decisions of federal courts applying the laws of Kentucky;

- D. "Mortgage" shall mean all mortgages, deeds of trust, ground leases, and other such encumbrances now, heretofore, or hereinafter placed upon the property or building, or any part thereof, and all renewals, modifications, consolidations, replacements or extensions thereof, and all indebtedness now or hereafter secured thereby and all interest thereon;
- E. "Holder" shall mean the holder of any mortgage at the time in question, and where such mortgage is a ground lease, such term shall refer to the ground lease.

24. CONVEYANCE BY LESSOR

In case the Lessor or any successor owner of the industrial equipment or personal property shall convey or otherwise dispose of any item or any portion thereof to another person, such other person shall, thereupon, be and become Lessor hereunder and shall be deemed to have fully assumed and be liable for all obligations of this lease to be performed by the Lessor which first arise after the date of conveyance. The Lessee shall attorn to such other person and the Lessor or such successor owner shall, from and after the date of conveyance, be free of all liabilities and obligations hereunder not then incurred. No provision herein shall be construed as to restrict or prevent Lessor from conveying any of its rights, title interest in or to any of the hereinabove referred to leased property, or its right granted under this lease agreement.

25. PARTIES AFFECTED

Each of the covenants and obligations of this lease shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, executors, administrators, guardians, custodians, successors, and assigns.

26. QUIET ENJOYMENT

The Lessor covenants that upon the Lessee's timely payment of the rent and performance of the terms, covenants, and conditions to be performed by it hereunder, the Lessee shall peaceably and quietly have, hold, and enjoy and use the above-described property during the term of this lease subject to the terms herein.

27. FIXTURES

The above-described leased property shall at no time be deemed as a permanent fixture or improvement to the Lessee's real property, regardless of how it may be affixed thereon until Lessee has satisfied all of its payment obligations under this Lease-Purchase Agreement. In the event of default as set out in Paragraph No. 17 above, Lessee hereby waives its rights to claim any of the leased property as a permanent fixture or improvement to Lessee's real property.

28. ENTIRE AGREEMENT

This lease contains all the terms and conditions between the Lessor and the Lessee relating to the matters set forth herein and no prior or contemporaneous agreement or understanding pertaining to the same shall be of any force or effect, unless any such contemporaneous agreement specifically referring to and modifying this lease is signed by both parties. This lease may not be modified except in writing signed by both parties.

29. EFFECTIVE DATE OF AGREEMENT

This Lease-Purchase Agreement may be executed prior to completing the title transfer transaction whereby the Lessor acquiring the industrial equipment and personal property described herein above, and prior to the completion and execution of other related documents by the Lessor, the Lessee and other related parties. Therefore, this lease shall not take full force and effect until the completion and execution of all related documents, at which time any missing dates shall be

inserted into this document. If all other such related documents are not completed within 60 days of the execution of this Lease-Purchase Agreement, then this agreement shall be null, void and of no effect whatsoever.

IN TESTIMONY WHEREOF, witness the signatures of the parties hereto on the day and year first above written.

LESSOR: _____ Local Development Authority

BY: _____

TITLE: President

LESSEE: _____ COMPANY, INC.
BY: _____
TITLE: President

SAMPLE

Job Classifications for Performance Measurement

1. **Officials and Managers** - Occupant requiring administrative personnel who set broad policies, exercise overall responsibility of execution of these policies, and individual departments or special phases of a firm's operations. Included Officials, Executives, middle Management, plant managers and superintendents, salaried supervisors who are members of management, purchasing agents and buyers, and kindred workers.
2. **Professional** - Occupants requiring either college graduation or experience of such kind and amount as to provide a comparable background includes: accountants and auditors, airplane pilots and navigators, architects, artist chemist, designers, dietitians, editors, engineers, lawyers, librarians, mathematicians, natural scientist, registered professional nurses, professional and labor relations workers, physical scientist, physicians, social scientist, teachers, and kindred workers.
3. **Technicians** - Occupants requiring a combination of basic scientific knowledge and manual skill which can be obtained through about 2 years of post high school education such as is offered in many technical institutes and junior colleges, or through equivalent on the job training. Include computer programmers and operators, drafters, engineering aides, junior engineers, mathematic sides, licensed practical or vocational nurses, photographers and radio operators scientific assistance, surveyors, technical illustrators, technicians (medical, dental, electronic, physical science) and kindred workers.
4. **Sales** - Occupants engaging wholly or primarily in direct selling Includes: advertising agenda and sales workers, insurance agents and brokers, real estate agents and brokers, salesworkers, demonstrators retail salesworkers, and sales clerks, grocery clerks and cashiers, and kindred workers.
5. **Office and Clerical** - Includes all clerical-type work regardless of level of difficulty, where the activities and predominately nonmanual though some manual work not directly involved with altering or transporting the products is included. Includes: bookkeepers, cashiers, collectors (bills and accounts), messengers and office helpers, office machine operators, shipping and receiving clerks, stenographers, typist, and secretaries, telegraph and telephone operators and kindred workers.
6. **Craft Worker (skilled)** - Manual workers of relatively high level having a thorough and comprehensive knowledge of the processes involved in their work. Exercise considerable independent judgment and usually receive an extensive period of training. Includes: the building trades, hourly paid supervisor and lead operators (who are not members of management). Mechanic and repairers, skilled machining occupations, compositors and typesetters, electricians, engravers, job setters(metal), motion picture projectionist, pattern and model makers, stationary engineers tailors, and kindred workers.
7. **Operatives (semi-skilled)** - Workers who operate machines or other equipment of perform other factory-type duties or intermediate skill level which can be mastered in a few weeks and require only limited training. Includes: apprentices (auto mechanics, plumbers, electricians, machinist, mechanics, building trades, metal working trades, printing trades, etc.). operatives, attendants (auto service and parking), blasters, chauffeurs, delivery workers, dress makers and sewers (except factory), dryer's furnaces workers, heaters (metal), laundry and dry cleaning, operatives, milliners, mine operative and laborer, motor operators, oilers and greasers

(except auto), painters (except construction and maintenance), photographic process workers, boiler tenders, truck and tractor drivers, weavers (textile), welders, and flammemetal, and kindred workers.

8. **Laborers (unskilled)** - Workers in manual occupations which generally require no special training perform elementary duties that may be learned in a few days and require the application of little or no independent judgment. Includes: garage laborers, car washers and greasers, Gardeners (except farm) and ground keepers, stevedores, wood choppers, laborer performing lifting, digging mixing loading and pulling operations, and kindred workers.
9. **Service Workers** - Workers in both protective and non protective service occupation includes attendance (hospital and other institutions, professional and personal service, including nurses aides and orderlies), barbers, chairworkers and cleaners, cook (except house hold), counter and fountain worker, elevator operations firefighters and fire protection guards, door keepers, stewards, janitors, police officers and detectives, porters, waiters, and waitresses, and kindred workers.

Chapter 12: Amendments and Monitoring

Introduction

This chapter provides information to KCDBG grantees on amendments to project activities and/or budgets. It will define what is considered an amendment and the process for amending a project. This chapter also discusses the technical assistance and monitoring aspects of the program both in terms of what DLG does as well as grantee responsibilities.

Section 12-A. Project/Budget Amendments

When an Amendment Is Required

A project/budget amendment is defined as a:

24 CFR 570.486(a)(6)

- ✓ Change in the approved budget for a project; and/or
- ✓ Change in the purpose, scope, location or beneficiaries of an activity from what was in the grant application and approved by the state.

Grantees are advised to contact their DLG representative if problems emerge which might lead to project modifications, or if any change is contemplated. Early notification of potential problems will permit DLG to work with the grantee to try to resolve them and to determine which additional CDBG requirements may be triggered should a project amendment be necessary.

Procedures for Project/Budget Amendments

Any change to the scope or budget for an approved activity is considered an amendment and requires DLG approval prior to taking effect. A Request for Project/Budget Amendment Form must be completed, signed by the mayor/county judge/executive and submitted to DLG. Additional CDBG and related requirements may also apply depending upon the magnitude of the amendment. (Please refer to the *Project/Budget Amendment Checklist* table later in this section for more information.) Note that DLG will allow for changes necessary for project completion but does not expect the changes to alter the project completion date.

Attachment 12-1:
Request for Project/Budget
Amendment Form

Because grants were selected for funding based on a proposed project, the amendment will be reviewed carefully by DLG, and the grantee will be notified of approval or disapproval. A grantee should never proceed with requested change(s) until it receives written approval from DLG.

Substantial Amendments and Compliance with Additional Requirements

Upon receipt of the Project/Budget Amendment Form, DLG will determine if the proposed change is considered substantial under the CDBG regulations. The determination as to whether an amendment is considered substantial is critical, as it will dictate whether additional CDBG requirements are triggered by the amendment. Substantial amendments are

42 U.S.C. 5304(a)(2)(E)
and 24 CFR 570.486(a)(6)

changes to a project of such a size or magnitude that warrant notification to the public and a review of compliance with other requirements such as environmental review. Examples include a public facility project that was intended to be located in one area of the community but is now proposed to be located on a different site in the community, or a project that was intended to provide jobs that is now proposed to benefit a limited clientele.

DLG will notify the grantee once a determination has been made. If the change is considered substantial, several additional actions must be taken prior to the grantee proceeding with the new activity.

Title 1 of the Housing and Community Development Act requires that significant modifications of the proposed activities meet certain citizen participation requirements. Specifically, citizens must be provided reasonable advance notice of and the opportunity to comment on substantial changes to a CDBG-funded project. This means that grantees must hold a public hearing to inform the public of the proposed change. The hearing must be advertised in a newspaper at least seven days prior to the hearing. Evidence of the advertisement (tear sheet) and attendees to the hearing must be provided to DLG along with the Request for Project/Budget Amendment Form.

One of the first action items if making substantial project changes is to hold a public hearing

Additional requirements may also apply to substantial amendments pertaining to the items listed below. Refer to the *Project/Budget Amendment Checklist* table for more information.

- ✓ Environmental review;
- ✓ Clearinghouse endorsement; and
- ✓ National objective documentation.

Tip: Contact DLG as early as possible if you think a substantial amendment may be required. DLG can help grantees identify all the additional required actions so they can be completed in a timely manner and not delay the project.

Project/Budget Amendment Checklist

Item	Action/Requirement
Change in Scope	Activity Amendment.
Beneficiary Update	Complete Benefit Profile form.
Clearinghouse Assurance	If the amendment is considered substantial, changes will have to be submitted to the Clearinghouse for an updated endorsement.
Public Hearing	If the amendment is considered substantial, a public hearing is required. Grantee must advertise the hearing at least 7 days in advance.
National Objectives	All changes must be eligible activities and qualify under a National Objective.
Environmental Review	If the amendment is considered substantial, environmental clearance needs to be updated.
Budget Amendment	Approved before submitting draw request.
Change in Scope	Activity Amendment.

When Projects Cost Less than Planned

As a project nears completion and it becomes apparent that the final project costs will be less than anticipated and budgeted, the grantee must contact DLG regarding the next steps. Grantees should not proceed with additional activities without DLG review and approval.

Section 12-B. Technical Assistance and Monitoring

Overview

It is the goal of DLG to assist and support recipients in complying with applicable state and federal requirements and in implementing their project activities in a timely manner. There are two corollary ways that DLG accomplishes this. First, DLG provides ongoing technical assistance (TA) and training. This occurs in a variety of methods:

- ✓ DLG staff fielding and answering questions;
- ✓ Meetings and site visits with local staff and officials to discuss potential projects and program requirements;
- ✓ Application documents and workshops;
- ✓ Posting of this handbook and other resources on the DLG website; and
- ✓ Regular training sessions for both new and experienced grant administrators.

Monitoring is the other primary mechanism to ensure compliance occurs. As such, it is important that grantees have a clear and common understanding of the monitoring process and procedures. This section provides information on the scope and frequency of monitoring, and roles of the monitoring staff, and the key steps involved in the monitoring process. Grantees may also request assistance from DLG at any time.

Title I outlines the review responsibilities of the state. DLG is required by Title I of the Housing and Community Development Act of 1974, as amended, and 24 CFR Part 570.492 of the State CDBG Regulations to monitor its KCDBG grantees. The review responsibility requires that the state ensure three key areas are in compliance:

42 U.S.C. 5304(e)(2)
and 24 CFR 570.492

- ✓ Approved activities are carried out in a timely manner;
- ✓ Activities and certifications are conducted in accordance with the requirements and the primary objectives of Title I and with other applicable laws; and
- ✓ Grantees show a continuing capacity to carry out approved activities in a timely manner.

The Monitoring Process

The monitoring review may be a comprehensive evaluation of all aspects of the program or project for all aspects of compliance or it may be oriented toward assessing compliance in a specific area or areas. The reviews may be conducted at DLG's offices or on-site. The depth and location of the monitoring will depend upon which compliance areas need to be reviewed. Note, however, that a full scope monitoring of all compliance areas should be conducted at least once for each funded activity. Exhibit 1, on page 12-6, illustrates the process in a flow chart.

Monitoring also provides an opportunity for grantees and/or grants administrators to seek technical assistance in areas of concern or confusion.

Scheduling the Visit

A visit is scheduled in advance. The Chief Executive Officer (CEO) of the grantee, as well as the grant administrator, is notified of the date, time, location and purpose of the review visit in writing.

Entrance Meeting/Interview

Once on-site, the first thing that typically occurs is an entrance meeting/interview. DLG staff will conduct an entrance meeting/interview to state the purpose of the review and outline which files and documentation will be needed during the review. Grantees should be prepared to provide an overview of the project as well as its status and any issues prior to the beginning of the reviews. The DLG staff will also ask about particular concerns or needs regarding the project so that technical assistance can be scheduled, if appropriate.

Monitoring of Files and Other Documentation

Utilizing appropriate checklists, the DLG staff will review the files to determine if all requirements have been met. The primary areas being examined are consistency with the specific terms of the grant agreement and compliance with state and federal requirements.

Record keeping is the most important component of monitoring.

- ✓ Grantee files pertaining to the CDBG project must be orderly and complete.
- ✓ In addition, if files are maintained by or located in another office such as an engineer or clerk, these files should be obtained and available for review.

If there are areas that are discovered during the review that indicate noncompliance with the laws, regulations or other requirements, this may result in a finding. A finding of non-compliance must be remedied. A finding can result in a sanction if corrective action is not taken in a specified manner and/or timeframe. For each finding, DLG must indicate a corrective action, either to correct a past problem or to avoid a future problem, which must be taken by the grantee. A deficiency in program performance not based on a statutory, regulatory, or other program requirement is a concern. Corrective actions are not required for concerns, but DLG may recommend actions to address concerns.

Findings with corrective actions must be outlined in the Monitoring Review Letter. Concerns may also be included. Monitoring letters are discussed further below.

Tip: Most of the previous chapters include a brief section on monitoring and record keeping as it relates to each topic. Refer to those sections for details on what to expect from monitoring and which files to have on hand for the review.

Exit Meeting/Interview

At the conclusion of the review, DLG staff may conduct an exit interview with the grantee, if requested or appropriate. The meeting typically includes local officials and the grants administrator and provides a tentative summary of the results of the review. If problems are apparent, including any findings or concerns, the grantee has an opportunity to provide more information or clarification.

The DLG reviewer will also indicate the timeframe in which a monitoring letter will be sent, the process for requiring the grantee to address any findings, and the consequences for not addressing compliance issues in a timely manner.

Finally, the DLG reviewer will discuss any further technical assistance that is requested or needed. It may be needed to make arrangements for such technical assistance to be provided at a later date.

Review Letter and Follow-Up Actions

The grantee will receive a formal review letter giving the results of the review. This letter will generally be within 30 days of the conclusion of the monitoring review; however, a longer time frame may be appropriate based on workload and the complexity of the issues at hand. The letter will:

- ✓ Summarize the area(s) reviewed and performance expectations,
- ✓ Provide a summary and an analysis of what was discovered during the review, and
- ✓ List all findings and recommended corrective actions to resolve the findings and the timeframe in which the corrective actions must be carried out.

The review letter may also include one or more recommendations. These are matters that, if not properly addressed, can become a finding and can ultimately result in sanctions. Recommendations are often used to point out operational or management problems, or patterns of performance that could lead to larger problems later, even if they are not evident at the time of the review. Recommendations may require some form of response on the part of the grantee.

The grantee must respond in writing within 30 days to any findings and recommendations listed in the compliance review letter.

- ✓ The grantee will describe all corrective actions taken or provide new information not reviewed during the visit. The corrective actions must be consistent with the recommendations made by DLG in the monitoring letter.
- ✓ The grantee's Chief Executive Officer must certify that all regulations will be observed in future transactions and provide written assurance that no adverse effects occurred to the project for failure to observe said regulations.

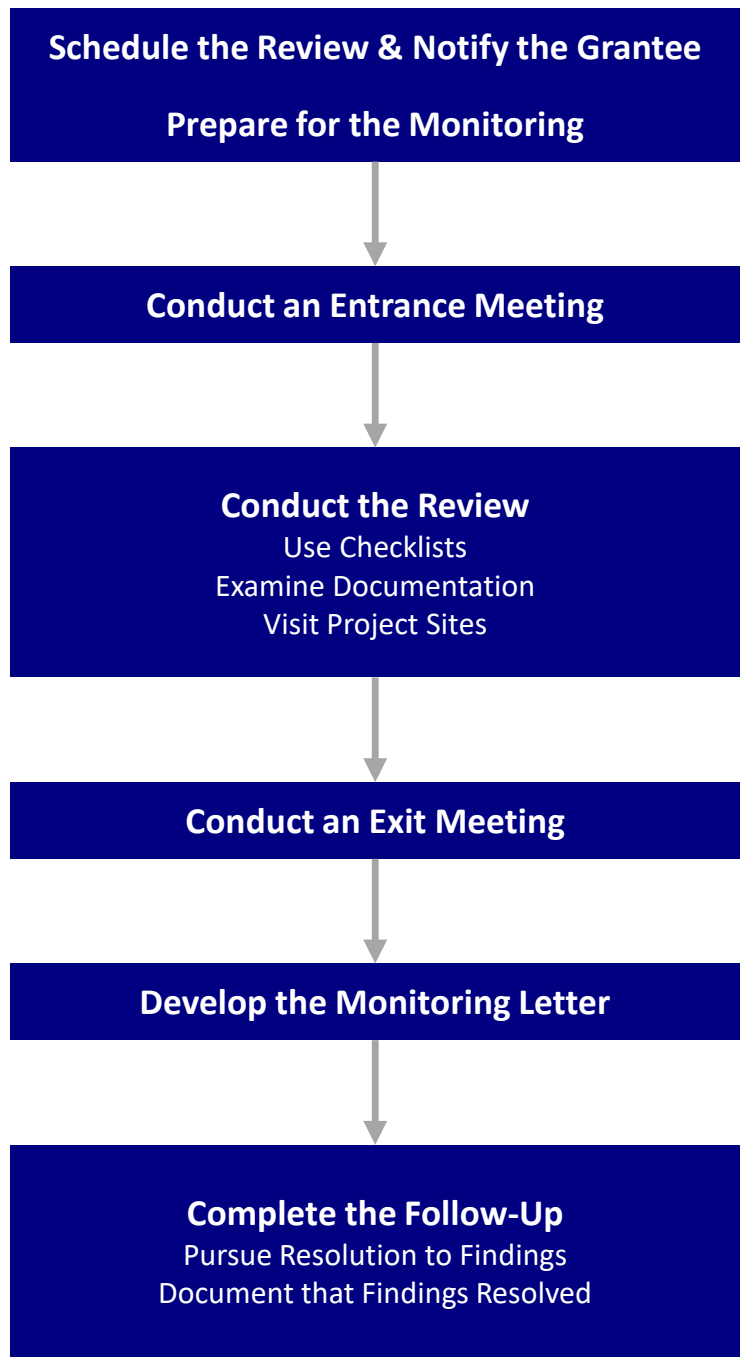
If issues are not resolved, DLG may, as outlined in the CDBG regulations, impose a progressive level of sanctions that include:

- ✓ Additional reporting,
- ✓ Suspension of funding,
- ✓ Additional special conditions,
- ✓ Return of disallowed expenditures,
- ✓ Termination of the grant, and/or
- ✓ Legal action.

DLG will inform the grantee if the response is sufficient to clear the findings. DLG will provide any assistance necessary during the review or after any findings or concerns are made to ensure that the

project is completed according to the grant agreement and all state and federal rules and regulations. No project will be closed if there are outstanding findings, including audit issues. (Refer to Chapter 13: Project Closeout for more information.)

Exhibit 1: KY CDBG Monitoring Process Flow Chart



Grantee Monitoring of Subrecipients

Grantees are responsible and liable for full compliance with all applicable laws, regulations and requirements that come with KCDBG funds. Therefore, when grantees pass on/through KCDBG funds to another entity to carry out a program, the grantee must ensure the subrecipient is carrying out that program in full compliance. The Office of Management and Budget (OMB) guidance issued December 26, 2013 regarding 2 CFR Part 200 (Omni Circular) emphasized the responsibility to manage and monitor subrecipients and to take action when performance and compliance issues arise. The information provided previously in this chapter regarding DLG monitoring and oversight of grantees can also be applied by a grantee at the subrecipient level. Additional guidance is available as indicated in the text box to the right. Grantees should inform DLG of any issues that arise and work collectively towards timely and appropriate resolution.

Chapter 3: Financial Management
& HUD Office of Inspector General
Integrity Bulletin “Subrecipient
Oversight and Monitoring – A
Roadmap for Improved Results”
(Summer 2016) @
[https://www.hudexchange.info/
resource/5065/hud-integrity-
bulletins/](https://www.hudexchange.info/resource/5065/hud-integrity-bulletins/)

**Kentucky Community Development Block Grant
Request for Budget Amendment**

Grantee: _____
Grant Number: _____

Amendment Number _____
Date _____

Project Number	Project Category	Original/Current Budget			Budget Amendment			Other Funds (Source)
		CDBG	Other Funds	Total	CDBG	Other Funds	Total	
TOTAL								

GRANTEE

Signature: _____
Title: _____
Date: _____

Approval (State use only)

Signature: _____
Title: _____
Date: _____

Chapter 13: Project Closeout

Introduction

As KCDBG grant funds are fully spent and the project is completed, the grantee must begin the process of closing out a project. This chapter provides information to recipients on the project closeout process and requirements. The chapter details the steps to complete each task involved in closeout and provides the forms necessary to do so.

Section 13-A. Overview of the Closeout Process

Upon completion of KCDBG-funded activities, in accordance with program guidelines, the grantee enters project closeout, the final phase in the grant management process. In this phase, the grantee holds a public hearing and submits a final report to verify that KCDBG funds have been properly spent and that the grantee has complied with all applicable rules and requirements during the implementation of its program.

The CDBG closeout process consists of several key steps, including:

- ✓ Conducting a public hearing to inform citizens that the KCDBG grant is complete and will be closed out;
- ✓ Completing and obtaining approval of the Project Completion Report (PCR) and backup documentation; and
- ✓ If applicable, submittal of an audit and resolution of any audit findings.

It is important to note, however, that the closeout process cannot be fully completed until certain other conditions have also been met. These conditions include:

- ✓ A CDBG national objective must have been met;
- ✓ There must be no outstanding compliance review findings on the project;
- ✓ Any real property acquired has been disposed of according to the CDBG requirements and 2 CFR Chapter I and II, Parts 200, 215, 220, 225 and 230; and
- ✓ All required audits have been approved (refer to Chapter 3: Financial Management and Program Income).

2 CFR 200.311 (c) and 200.307(d)

Chapter 3: Financial Management
and Program Income

Economic development projects must also have met the necessary job creation/retention and investment requirements. Refer to Chapter 11: Economic Development for more information on job creation/retention and investment requirements.

Chapter 11: Economic
Development

Section 13-B. Public Hearing

The grantee must hold a second public hearing prior to project closeout, in accordance with the CDBG citizen participation requirements. (The first public hearing is held before submission of the grant application.)

The purpose of the hearing is to advise citizens of the progress made during the grant and pending closeout of the project. The hearing must be advertised in accordance with state law, which requires notification seven to 21 days prior to the date of the hearing in the newspaper of largest circulation in the jurisdiction. The advertisement must notify the citizens that the grant is nearing closeout and invite them to submit comments. A sample closeout public hearing advertisement is provided as Attachment 13-1 to this chapter.

Attachment 13-1:
Sample Closeout Public Hearing
Advertisement

In addition, steps must be taken to:

- ✓ Ensure participation from low- and moderate-income (LMI) persons,
- ✓ Provide handicapped accessibility, and
- ✓ Accommodate non-English speaking people.

The grantee must indicate that all comments from citizens were considered or, if applicable, cite reasons for rejection of comments. The grantee must also file comments and responses in the citizen participation and closeout files (see Chapter 1).

Chapter 1:
Project Administration

Section 13-C. Project Completion Report

All grantees are required to submit a Project Completion Report (PCR) (see Attachment 13-2). This submission signifies that all grant activities are complete, beneficiaries have been served, other funds have been invested and, if applicable, jobs have been created or retained. It also includes information on the applicability and status of audits.

Attachment 13-2:
Project Completion Report

Completing the PCR

Grantees should use the format and instructions provided in this chapter and attachments in completing the PCR. The form is available under Administrative Forms at https://kydlgweb.ky.gov/FederalGrants/CDBG_cities.cfm.

The PCR includes nine parts:

- ✓ **Certification:** This section serves as a cover sheet with space for the grantee to certify compliance with the grant agreement, and for DLG to certify approval of the PCR.
- ✓ **Financial Summary:** Information on each activity, accomplishments, budget, expenditures, unpaid obligations and national objectives must be included in this part of the form. This form also requires information about other funds invested in the project.
 - The investment of other funds must be documented in project files in order to demonstrate that all financial elements of the project have been accomplished.
 - Documentation may take the form of loan agreements, construction contracts, invoices, payrolls, cancelled checks, etc.
 - For economic development projects, a certification from the company's treasurer and president may suffice for the documentation.

- The grantee’s accounting system should clearly show the infusion of these funds into the project.
- ✓ **Project Benefit Profile by Person:** This section of the PCR requires information on the beneficiaries of projects by specific demographic and income categories.
- ✓ **Project Benefit Profile by Household:** This part of the PCR is for housing projects only and requires information on beneficiaries of housing projects by specific demographic and income categories. Note that beneficiaries in this case are reported at the household level rather than at the individual level.
- ✓ **Job Creation/Retention:** This matrix requires grantees to report the projection versus actual number of jobs created both overall and for LMI persons specifically. There is also space for the grantee to describe any factors that impacted the actual number of jobs created or retained.
- ✓ **Audit Information:** The audit portion of the PCR requires the grantee to supply information on the amount of CDBG expenditures by fiscal year as well as the total amount of federal awards in each fiscal year and whether an audit is required and has been submitted to the appropriate parties. Chapter 3: Financial Management
Refer to Chapter 3: Financial Management for more information on audits.
- ✓ **Unpaid Costs and Unsettled Third Party Claims:** This part of the PCR requires the grantee to list and explain any unpaid obligations and unsettled third-party claims resulting from the CDBG project.
- ✓ **Housing Unit Address Information:** This portion of the PCR requires that grantees that received KCDBG funds for housing activities provide the addresses of all housing units assisted.
- ✓ **Public Facilities Activities:** This portion of the PCR requires that grantees that received KCDBG funds for public facilities activities to provide a detailed project description including linear feet, pump stations, along with various documents including:
- ✓ **Section 3 Compliance -** This portion of the PCR requires that grantees provide the Section 3 compliance information for projects triggering the Section 3 requirements. Reporting will include the total labor hours for the project, Section 3 labor hours, and Targeted Section 3 labor hours. The grantee will be required to certify that they have followed the prioritization of outreach effort and report qualitative efforts made to comply with the Section 3 requirements.

In addition to the PCR form itself, there are several additional documents that must be submitted with the PCR as part of the closeout process:

- ✓ Evidence of the public hearing including a tear sheet of the notice, copy of the minutes and a copy of the sign-in sheet/list of attendees;
- ✓ Copy of written comments received on the performance of the grantee as well as the grantee’s assessment of the comment and a description of any action taken or to be taken in response to the comment;
- ✓ For all projects that have generated or will generate program income, a current Program Income/Miscellaneous Revenue Report. (Refer to Chapter 3 for more information on program income and this report.) Chapter 3: Financial Management

-
- ✓ For housing projects that have eliminated LMI housing stock, an updated One-For-One Replacement Summary Grantee Performance Report form (also known as the HUD 4949.4). (Refer also to Chapter 8: Relocation, Displacement and One-for-One Replacement.)

Chapter 8: Relocation,
Displacement,
and One-for-One Replacement

- ✓ For public facilities additional documents are required in order to closeout public facilities project such as Initiation of Operations, Engineer’s Certification of Completion, Contractor’s Release of Liens, and Owner’s letter of Acceptance.

Chapter 3: Financial Management

Section 13-D. Notice of Completion and Closeout Letter

After reviewing and approving the Project Completion Report, DLG will send the grantee a letter stating that the PCR has been approved. If all other requirements have been fulfilled and the project is ready to be closed, DLG will also issue a Notice of Completion or Closeout Letter to the grantee. Note that a project cannot be closed out if there are any required audits outstanding or unresolved audit findings pertaining to the use of CDBG funds (refer to Chapter 3).

Section 13-E. Record Retention

Once the project has received final closeout, the grantee is required to retain all records pertaining to the project for a minimum of five years from the closeout of the project. Refer to Chapter 1: Project Administration as well as the other chapters of this handbook and the applicable regulations for more information on the records that must be maintained.

Chapter 1: Project Administration

Section 13-F. Change of Use Restrictions

The CDBG regulations contain provisions regarding changing the use of real property within the grantee’s control that was acquired or improved, in whole or in part, with \$150,000 or more of KCDBG funds. These provisions require that the property be maintained for the original eligible use and continue to meet a national objective for at least five years after grant closeout.

24 CFR 570.489(j)

If the project involved acquisition or improvement of real property using \$150,000 or more in KCDBG funds:

- ✓ A grantee may not change the use or planned use of any such property from that for which the acquisition or improvement was made, unless DLG and grantee provide affected citizens with reasonable notice of and opportunity to comment on any proposed change; and
- ✓ The new use of the property must qualify as meeting one of the national objectives and is not a building for the general conduct of government. However, if DLG and the grantee determine, after consultation with affected citizens, that is appropriate to change the use of the property to a use that

does not qualify as meeting a national objective, it may retain or dispose of the property for the changed use if DLG is reimbursed in the amount of the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, and improvements to, the property. Following the reimbursement of the CDBG program, the property no longer is subject to any CDBG requirements.

Kentucky Community Development Block Grant

Project Completion Report

Instructions

Documents and Certification

Attach the documents listed (if applicable) to this report. After the report is completed, have the community's chief executive officer read the "Certification of Recipient" and sign the certification.

Financial Summary

On the top half of the form, list ALL activities on which Community Development Block Grant (CDBG) funds were expended. On the bottom half, list all activities undertaken and funded by non-CDBG funds. Provide the following information on each activity:

1. Activity Number This number should correspond to the activity number on the most current and approved (i.e. grant agreement or amendment) cost summary.
2. Activity Name This name should correspond to the activity name on the current cost summary.
3. Activity Accomplishments Describe the actual accomplishments of the activity by measures that resulted from expenditure of funds. Such as number of houses rehabilitated, linear feet of sewer line, households served and connected, type of equipment purchased, site improvements made, etc.
4. Funding Source Enter the source of funds for this activity.
5. Current Budget Enter the current approved grant budget amount for each activity. Increases in other funding sources do not require a grant budget amendment. Any amounts below those designated in the Grant Agreement must be approved by the Department for Local Government (DLG).
6. Expenditures to Date Enter the amount of funds actually expended as of the date of this report. Funds are considered expended when actual cash disbursements have been made.
7. Unpaid Obligations Enter the amount of funds obligated but unpaid as of the date of this report. Examples of this type of cost are unpaid retainage, unpaid escrow accounts, unpaid invoices, etc.
8. National Objective For activities using CDBG funds, list the national objective under which these funds were expended.

The "Unutilized CDBG Grant" amount is the amount of the CDBG Grant Agreement minus Expenditures to Date minus Unpaid Obligations. This is the amount of CDBG Grant funds that will not be used and the grantee is releasing back to DLG.

Kentucky Community Development Block Grant

Project Completion Report

Instructions

Project Benefit Profile

You must identify persons benefiting from each activity undertaken.

1. List all proposed **activity** numbers and letters, if applicable, (exclude engineering, planning, administration and contingency activities).
2. List **total** number of beneficiaries for each activity.
3. List number of **White** persons benefiting. (A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.)
4. List number of **Black/African-American** persons benefiting. (A person having origins in any of the black racial groups of Africa.)
5. List number of **Asian** persons benefiting. (A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.)
6. List number **Native Hawaiian/Other Pacific Islander** persons benefiting. (A person having origins in any of the original people of Hawaii, Guam, Samoa, or other Pacific Islands.)
7. List number of **American Indian** and **Alaskan Native** persons benefiting. (A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.)
8. List number of persons benefiting that are members of any of the five new multi-race categories (American Indian/Alaskan Native & White, Asian & White, Black/African American & White, American Indian/Alaskan Native & Black/African American, and Other Multi-racial).
9. List number of persons identifying as **Hispanic or Latino** ethnicity. (A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.)
10. List number of **disabled** persons benefiting. (A person who has physical or mental impairment that substantially limits one or more major life activities as defined under Section 504 or ADA.)
11. List number of **elderly** persons (62 and over) benefiting.
12. List the number of **female head of households** benefiting.
13. List number and percent of **low-moderate** income (51 – 80% of median) persons benefiting.
14. List number and percent of **very low** income (31 – 50% of median) persons benefiting.
15. List number and percent of **extremely low** income (0 – 30% of median) persons benefiting.
16. List the **total** number and percent of LMI persons benefiting. This is the total of #13, #14, and #15 above.
17. List the number and percent of **non-LMI** (81% of median and above).

Kentucky Community Development Block Grant

Project Completion Report

Instructions

Project Household Benefit Profile

Same as Project Benefit Profile except it shows the households and not the number of persons.

Job Creation/Retention Requirements

If this is an Economic Development project in which job creation and/or retention is a requirement of the grant agreement, please show the date by which this must be achieved and the required and actual number of jobs and the number of LMI persons receiving those jobs.

Audit Information

List each of the fiscal years in which CDBG funds were expended on this project. Then breakdown the CDBG funds expended on this project by fiscal year. Include any unpaid obligations in the amount for the current fiscal year. For each fiscal year, answer the following questions:

1. Write the fiscal year.
2. Enter the total amount of CDBG funds expended in that fiscal year.
3. If less than \$500,000 in Federal funds from any Federal awards were expended in fiscal years prior to 2016 (or \$750,000 for fiscal year 2016 forward), please mark "Yes." A Single Audit in compliance with 2 CFR Chapters I and II, Parts 200, 215, 220, 225 and 230 is not required for that fiscal year. NOTE that the Federal awards could be from any Federal agency or source and are not limited to CDBG funds (refer to the regulations for more details). If "Yes" is checked, it is not necessary to complete steps 4, 5, or 6 for that fiscal year.

If Federal funds expended were greater than \$500,000 (prior to FY 2016) or \$750,000 (FY 2016 forward), mark "No" and complete steps 4, 5, and 6.

4. If the answer in column #3 is "No," then has a Single Audit been completed for the fiscal year? Mark your answer in column 4.
5. Was a copy of the audit for the fiscal year submitted to DLG, Office of Federal Grants? Answer "Yes" or "No" in column 5. Answer "No" if the audit is not yet complete or an audit was not done.
6. If you have not already submitted a copy of the audit and are attaching a copy of the audit, answer "Yes" in column 5. If this is not the case, answer "No".

Unpaid Obligations

List the amount of any unpaid costs and third party claims, to whom the money is due, and an explanation of why there are any unpaid costs or unsettled third party claims.

S A M P L E

CLOSEOUT PUBLIC HEARING ADVERTISEMENT

* * * * *

PUBLIC NOTICE

This notice is intended to inform the residents of _____, Kentucky that (jurisdiction) _____, is in the process of closing out the _____ (name of project) _____ Project. The project was funded in part by the Kentucky Community Development Block Grant Program. A public hearing will be held at _____ (place) _____, on _____ (date) _____ at _____ (time) _____. The purpose of this hearing is to review past use of funds and program performance. If there are any questions or comments about the project, please direct them to the following:

(CEO name, address, phone and TDD number)

Discrimination Clause

The _____ *city/county* _____ does not discriminate on the basis of race, color, national origin, sex, sexual orientation, gender identity, age, religion or disability, and provides, upon request, reasonable accommodation, including auxiliary aids and services, to afford an individual with a disability an equal opportunity to participate in all services, programs and activities. Any persons requiring special needs assistance should contact _____ *Name* _____ at _____ *how to contact* _____ at least five days prior to the meeting. The TDD number for the hearing impaired is 1/800-648-6057 (or local number if available).

Comment Due Date

Written comments will be received until the date of the hearing (at least 7 days from publication).

Kentucky Community Development Block Grant Project Completion Report Documents and Certification

Grantee _____ Project Name _____ Grant Number _____

Public Hearing

Please provide evidence of project performance public hearing

- a) tearsheet of public hearing notice
- b) a copy of the public hearing minutes
- c) a list of attendees

Citizens Written Comments

Submit with this report a copy of the following documents

- a) a copy of each written comment on the grantee's community development performance under this grant which was received during the period since the grant was approved
- b) the grantee's assessment of the comment
- c) a description of any action taken or to be taken in response to the comment

Program Income Report

For all projects that have generated or will generate program income, attach a current Program Income/Miscellaneous Revenue Report

Housing One for One Replacement

For all housing projects that require a one-for-one replacement of bedroom units, complete and attach an updated HUD form # 4949.4 (see CDBG Handbook)

Public Facilities Detail Description

Provide detailed description for all public facilities activities.

Certification of Recipient

It is hereby certified that all activities undertaken by the Recipient with funds provided under the Grant Agreement identified herein, have been carried out in accordance with the Grant Agreement; that proper provision has been made by the Grantee for the payment of all unpaid costs and unsettled third party claims identified herein; that the State of Kentucky is under no obligation to make any further payment to the Recipient under the Grant Agreement in excess of the amount identified on page 2 hereof; and that every statement and amount set forth in the instrument is true and correct as of this date.

Signature _____
Chief Executive Officer

Title _____

Date _____

Department for Local Government Approval

This Certification of Completion is hereby approved. Therefore, I authorize cancellation of the unutilized CDBG grant and related funds reservation and obligation.

Signature _____

Title _____

Date _____

Kentucky Community Development Block Grant Project Completion Report Financial Summary

Grantee _____

Grant Number _____

1	2	3	4	5	6	7	8
Activity Number	Activity Name	Activity Accomplishments	Funding Source	Current Budget	Expenditures to Date	Unpaid Obligations	National Objective
			CDBG				
			CDBG				
			CDBG				
			CDBG				
			CDBG				
			CDBG				
			CDBG				
			CDBG				
			CDBG				
			CDBG				
			CDBG				
			CDBG				
			CDBG				
			CDBG				
			Total CDBG				
Other Funding Sources							
			Total Other				
			TOTAL				
					Unutilized CDBG Grant		

Kentucky Community Development Block Grant

Project Benefit Profile by Person

Total Beneficiaries _____

Project # _____

Grantee _____										
Racial Category	Activity		Activity		Activity		Activity		Activity	
	Total	Hispanic	Total	Hispanic	Total	Hispanic	Total	Hispanic	Total	Hispanic
White										
Black/African American										
Asian										
American Indian/Alaskan Native										
Native Hawaiian/Other Pacific Islander										
American Indian/Alaskan Native & White										
Asian & White										
Black/African American & White										
American Indian/Alaskan Native & Black/African American										
Other Multi-Racial										
Total Beneficiaries										
Female Head of Household										
Low to Moderate Income Breakdown	Number	%	Number	%	Number	%	Number	%	Number	%
Extremely Low Income (0 - 30%)										
Very Low Income (31 - 50 %)										
Low Income (51 - 80%)										
Total LMI										
Not LMI (81% and above)										
Total Beneficiaries										
Source of Funds										
CDBG										
HOME										
ESG										
HOPWA										
Appalachian Regional Commission (ARC)										
Other Federal Funds										
State/Local Funds										
Private										
Other										
Total Cost of Activity	\$	-	\$	-	\$	-	\$	-	\$	-

Kentucky Community Development Block Grant

Project Benefit Profile by Household

Total Households _____

Project # _____

Grantee _____										
Racial Category	Activity		Activity		Activity		Activity		Activity	
	Total	Hispanic	Total	Hispanic	Total	Hispanic	Total	Hispanic	Total	Hispanic
White										
Black/African American										
Asian										
American Indian/Alaskan Native										
Native Hawaiian/Other Pacific Islander										
American Indian/Alaskan Native & White										
Asian & White										
Black/African American & White										
American Indian/Alaskan Native & Black/African American										
Other Multi-Racial										
Total Beneficiaries										
Female Head of Household										
Number of Disabled Persons										
	<input type="checkbox"/> Owner	<input type="checkbox"/> Renter	<input type="checkbox"/> Owner	<input type="checkbox"/> Renter	<input type="checkbox"/> Owner	<input type="checkbox"/> Renter	<input type="checkbox"/> Owner	<input type="checkbox"/> Renter	<input type="checkbox"/> Owner	<input type="checkbox"/> Renter
Low to Moderate Income Breakdown	Number	%	Number	%	Number	%	Number	%	Number	%
Extremely Low Income (0 - 30%)										
Very Low Income (31 - 50 %)										
Low Income (51 - 80%)										
Total LMI										
Not LMI (81% and above)										
Total Beneficiaries										
Source of Funds										
CDBG										
HOME										
ESG										
HOPWA										
Appalachian Regional Commission (ARC)										
Other Federal Funds										
State/Local Funds										
Private										
Other										
Total Cost of Activity	\$	-	\$	-	\$	-	\$	-	\$	-

Kentucky Community Development Block Grant Project Completion Report Jobs Created and Retained

Grantee _____

Grant Number _____

Job Creation/Retention Requirements

Date that jobs are required to be created/retained by _____

TOTAL		LMI	
Created	Retained	Created	Retained

Jobs Projection per Grant Agreement

Actual Jobs to Date

Please attach a list of any factors affecting the creation of the required number of jobs.

Type of Employment	Presently On-Site		First Year Cumulative		Second Year Cumulative		Pay Scale Range
	Full Time	Part Time (seasonal)	Full Time	Part Time (seasonal)	Full Time	Part Time (seasonal)	
Officials & Managers							
Professional							
Technicians							
Sales							
Office & Clerical							
Craft Workers (skilled)							
Operatives (semi-skilled)							
Laborers (unskilled)							
Service Workers							
TOTAL							

**Kentucky Community Development Block Grant
Project Completion Report
Audit Information**

Grantee _____

Grant Number _____

CEO Signature: _____

Breakdown of CDBG project expenditures by fiscal year for Grantee

Note: The audit threshold for FY 2015 and prior is \$500,000. FY 2016 and beyond is \$750,000.

1	2	3	4	5	6
Fiscal Year	CDBG Amount	Expended more than threshold of Federal funds from all sources in FY	2 CFR Part 200 Single Audit Done	Audit Submitted to DLG	Audit Attached
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Kentucky Community Development Block Grant Project Completion Report Unpaid Obligations

Grantee _____

Grant Number _____

Unpaid Costs and Unsettled Third Party Claims

List any unpaid costs and unsettled third party claims. Describe the circumstances and amounts involved.

Amount	Due To	Explanation

Grantee _____

Public facilities activities

Provide complete detailed project description listing linear feet, pump stations, etc. for all activities.