Indiana CDBG Handbook

Community Development Block Grants

economic development · jobs ·
community centers · recreation ·
downtown revitalization ·
infrastructure · quality of life ·
comprehensive and **strategic planning**
· emergency services · quality of life

Office of Community and Rural Affairs

INDIANA OFFICE OF
Community & Rural Affairs
Where Rural Matters

Version 12/11

1. Program Overview

1.1 Handbook Purpose and Structure

The Indiana Office of Community and Rural Affairs (OCRA) has developed this handbook as a resource for local government officials and Grant Administrators who are implementing Community Development Block Grant (CDBG) funded projects and for those contemplating applying for CDBG funds.

The handbook is designed to provide information about how to implement a CDBG Grant project. Each section describes the process and documentation needed to accomplish these activities. The supporting materials include samples of forms, documents, letters, and file checklists. This handbook is available on the OCRA web site so that Grant Administrators and recipients may easily search for terms, rules, procedures, and forms. The website also enables Grant Administrators to save and print out all the forms needed to implement their activities.

Additional helpful information is on the OCRA web site under CDBG Resources.

This handbook is organized by major topic. All applicable forms referred to in the handbook are located at the end of the handbook chapters. The major topics include:

1. Program Overview
    a. Handbook Purpose and Structure
    b. CDBG Overview
    c. National Objectives
    d. Fundable Activities
    e. Conflicts of Interest
    f. Budget and Funding Cycles
    g. Project Development
    h. Grant Award Process
    i. Project Implementation
    j. Project Closeout
2. Citizen Participation
3. Procurement of Services
4. Environmental Review
5. Acquisition and Relocation
6. Financial Management
7. Contract Development and Modification
8. Civil Rights
9. Labor Standards and Certified Payroll Review
10. Reporting and Recordkeeping
11. Project Closeout

1.1.1 Updates

This manual contains the latest information provided by OCRA to assist CDBG Grantees in complying with state and federal requirements. Updated material is clearly identified for those wanting to print off only new or updated material to

incorporate into a hard copy manual. Information may change for a variety of reasons, including changes in federal regulations, state requirements, and in the interpretation of a federal regulation or clarification of a requirement.

1.2 CDBG Overview

1.2.1 History

The United States Department of Housing and Urban Development (HUD) administers the CDBG Program, which is governed by Title I of the Housing and Community Development Act of 1974 as amended, (the Act) and Federal regulations at 24 CFR 570, Subpart I. The Omnibus Budget Reconciliation Act of 1981 authorized states to administer the CDBG programs.

The CDBG program was designed using the block grant model, which gives states the authority to determine their funding priorities, and provides broad latitude in using funds for a variety of development activities.

1.2.2 Purpose

Every year, HUD provides federal CDBG funds directly to states, who, in turn, provide the funds to small, rural cities and towns with populations less than 50,000, and to non-urban counties. Funds are awarded on a competitive basis based on predetermined scoring parameters approved by HUD. These small communities are called 'non-entitlement' areas because they must apply for CDBG dollars through the state. In Indiana, the Small Cities and Towns CDBG Program is administered by OCRA. Larger cities, such as Indianapolis, Gary and Fort Wayne, receive CDBG monies directly from HUD, and are called 'entitlement' communities. Indiana has 22 entitlement communities and two urban counties who receive their CDBG funds directly from HUD.

1.2.3 Eligible Applicants

OCRA may award CDBG grants only to Units of Local Government (ULG's) who, in turn, carry out the development activities. The only ULGs permitted to apply for CDBG funds are incorporated towns, non-entitlement cities and non-urban counties. Townships and entities such as sewer districts and fire departments are not eligible to apply for grant funds on their own. Likewise, OCRA does not award CDBG funds directly to citizens or private organizations. Each year OCRA develops funding priorities and criteria for selecting projects. HUD distributes funds to each state based on a statutory formula that takes into account population, poverty, incidence of overcrowded housing, and age of housing. Eligible ULGs who are in the process of applying for or have received OCRA funding are referred to as Grantees.

ULGs have the responsibility to consider local needs, prepare grant applications for submission to the state, and carry out the funded community development activities. Local governments must comply with federal and state requirements.

1.2.4 Subrecipients

The flow of federal CDBG dollars is as follows:

A Subrecipient is defined as a not-for-profit organization or agency that indirectly receives the benefit of CDBG funds but is not eligible to apply for those funds on its own. As a reminder, only incorporated towns, non-entitlement cities and non-urban counties are eligible to apply to OCRA for CDBG funds. Examples of Subrecipient organizations include fire departments, senior citizen organizations, libraries and day care centers. These and similar organizations would not be able to apply for CDBG dollars from OCRA but they certainly could receive the benefit of the funds if their local government is willing to submit the application for funding.

It is extremely important that Grantees understand the contingent liability they have when they apply for CDBG funds on behalf of a Subrecipient. In every case, the Grantee is ultimately responsible should the project not meet the stated National Objective outlined in the grant application and formalized in the Grant Agreement. Should the project not meet the stated goal of the selected National Objective the Grantee may be asked to pay back the federal funds. Furthermore, until such time as funds were reimbursed to OCRA the Grantee would be ineligible to apply for other CDBG grants.

At the application phase of a project a Subrecipient is required to submit documentation from the Internal Revenue Service (IRS), the Indiana Secretary of State's Office and the Indiana Department of Revenue that verifies that the Subrecipient is a bona fide not-for-profit organization in good standing with the State of Indiana.

Also at application, a Draft Subrecipient Agreement must be included. If the grant application is approved, immediately following grant award, the grantee and subrecipient must finalize the Subrecipient Agreement and forward that document to Grant Support for the Director's approval. After the approval and signature, a fully executed copy will be returned to the grantee for their records.

For CDBG funded projects which involve the purchase, construction or renovation of a building, the Lien and Restrictive Covenant must be submitted with the Subrecipient Agreement. That form requires that all signatures be notarized prior to submission to Grant Support.

After approval and the notarized signature of the Grant Support Director, the fully executed Subrecipient Agreement with the Lien and Restrictive Covenant will be returned to the grantee for recording at the County Recorder's Office. Proof that the document was recorded must be provided at Release of Funds. A copy of the first page of the document showing the Recorder's stamp is sufficient for that purpose.

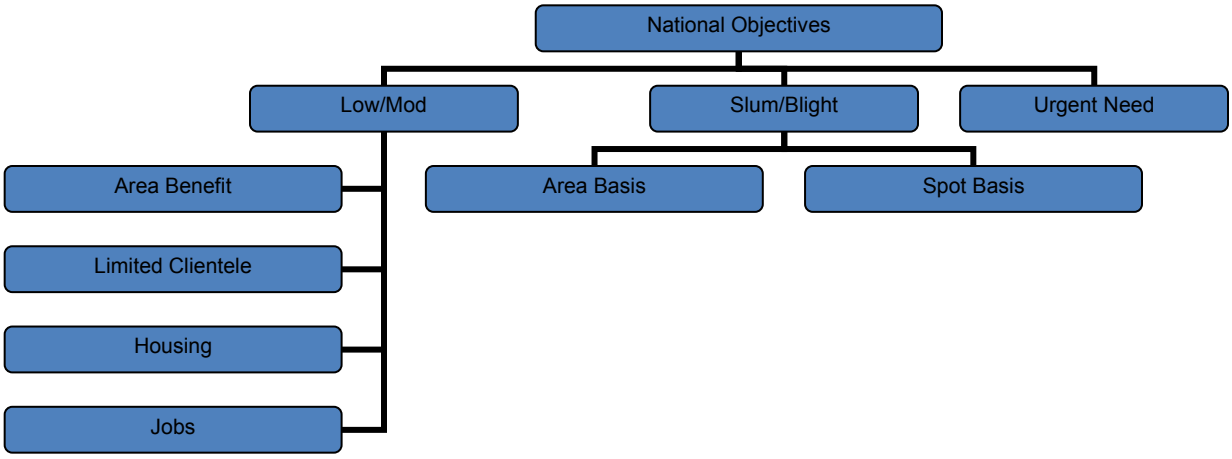
The Lien and Restrictive Covenant is not required for projects which do not involve the purchase, construction or renovation of a building.

When the project is complete and the Grantee has reached Administrative Closeout, the Subrecipient becomes responsible for submitting Subrecipient Semi-Annual Reports, Reporting and Recordkeeping Chapter, for a period of five years after the date of Administrative Closeout. This is to ensure that the facility maintains the National Objective and serves the beneficiaries for which the grant was awarded. See Closeout and Monitoring Chapter for additional information regarding Subrecipient's responsibilities, including Subrecipient Notification of Single Annual Audit, Form 5.

1.3 National Objectives

The primary objective of the CDBG program is to develop viable communities by helping to provide decent housing and suitable living environments, and expanding economic opportunities principally for persons of low to moderate income.
To achieve these goals, the CDBG regulations define eligible activities and the National Objectives that each activity must meet. As the recipient of CDBG funds, OCRA is charged with ensuring that each project it funds meets one of the National Objectives listed below and also that the project is an eligible activity. The three National Objectives are:

1. **Provide benefits to Low and Moderate Income persons,**
2. **Aid in the prevention or elimination of slums or blight, or**
3. **Provide funding for projects that have a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community.**



The diagram above illustrates the three HUD National Objectives and their methods for attainment.

- **Benefit to Low-to-moderate Income (LMI) Persons**
  Public facilities activities, such as water, sewer and storm water projects, generally qualify under the first National Objective; providing area wide benefits to LMI persons. The 'benefit to LMI persons' test is met by

documenting- using census data or by conducting an income survey - that 51% or more of the persons who live in the project area may be defined as being low-to-moderate income. Other possible area wide projects include: library projects, fire stations and community centers.

In some instances the project may qualify under the limited clientele criteria. These are typically projects that serve a specific group of individuals in a community but not necessarily the entire community. HUD has designated eight limited clientele groups that automatically qualify as meeting the benefit of low-to-moderate income persons test. These groups are:

- Abused Children
- Battered Spouses
- Senior Citizens (62+)
- Illiterate Adults
- Severely Disabled Adults
- The Homeless
- Persons with HIV-AIDS
- Migrant Farm Workers

Examples of limited clientele projects include senior citizens centers or projects that benefit the homeless, migrant farm workers, or persons with HIV/Aids.

Although housing projects are listed in the diagram above, OCRA does not fund housing projects. In the State of Indiana, housing activities are funded by the Indiana Housing and Community Development Authority (IHCDA).

Economic development projects are eligible to receive CDBG funds under the job creation and retention criteria.

- **Elimination of Slums and Blighted Conditions**
  Public and/or private facilities requiring improvements that aid in the prevention or elimination of slums or blighted conditions in a designated slum/blight area may qualify for OCRA funding under the National Objective of Elimination of Slum and Blight Area Basis. Such projects would include downtown sidewalk repairs or façade improvements to multiple downtown buildings. Improvements could also be for a single downtown building not located in a blighted area, and in such case, the project would qualify under the Spot Basis. Spot Basis projects are typically historic preservation projects.

- **Urgent Need Projects**
  If the improvement corrects a CDBG-defined urgent situation, the Urgent Need National Objective may be met. OCRA seldom funds Urgent Need projects. In cases where Urgent Need projects have been funded they typically addressed disaster relief or recovery.

The HUD National Objective category must be identified in the grant application prior to the award of funding. However, the National Objective is not met until the Grant Recipient carries out the activity, and the closeout reports documenting how the National Objective was met, have been accepted.

1.3.1 Primary Beneficiaries

By HUD guidelines, 70% of the projects funded through the CDBG program must meet the National Objective of Benefit to LMI Persons. In Indiana, in excess of 90% of all CDBG funds granted fit into this category.

LMI persons are defined as those who have total household income equal to or less than 80 percent of the median family income, for the county in which the project is located. Income parameters are defined by the HUD Section 8 Housing Assistance Program.

A project is considered to be of benefit to LMI persons if at least 51 percent of the population benefiting from the project qualifies as LMI. Defining the area for an Area Wide project is accomplished by answering two questions:

1. Who are the beneficiaries of the project?
2. Where do those persons live?

The defined area could be as small as a single neighborhood within a town or as large as multiple counties depending on the type of project.

The LMI population of an area can be determined in one of two ways: By using the most recent HUD Low-to-Moderate Income Summary Data (LMISD), or by conducting an Income Survey. Documentation of the percentage of LMI beneficiaries must be provided with the grant application. For LMI limits in your area, please review the most recent Income Limits document. On the HUD LMI limits webpage, please scroll down to "Non-Entitled Local Government Summaries" and click on the appropriate year to gain access to the most current data.

1.3.2 Income Surveys

Income Survey's may be used to ascertain whether or not a CDBG funded activity which is designed to benefit a particular area qualifies as primarily benefitting LMI persons. Detailed information on properly conducting Income Surveys can be found in OCRA's 'How to Conduct an Income Survey' manual. A list of persons eligible to conduct an Income Survey is also available.

Income Survey source documentation must be available for review by OCRA staff at the monitoring visit. OCRA will also conduct random audits of Income Surveys to determine their validity.

1.4 Eligible Activities

1.4.1 Eligible Activities

As stated earlier, every project that receives CDBG funds through OCRA must meet two criteria: the project must meet a National Objective and it must also be an Eligible Activity. A listing of typical eligible activities includes:

1. Public facilities improvements
2. Public services
3. Economic development projects
4. Infrastructure improvements
5. Acquisition
6. Relocation
7. Clearance activities
8. Historic preservation
9. Planning activities
10. Grant administration
11. Handicap accessibility projects

(This is not an all-inclusive list)

1.4.2 Ineligible Activities

In general, any activity not specifically authorized under CDBG statute or regulations is ineligible for CDBG funds. In addition, the statute specifically stipulates that the following activities may not be assisted with CDBG funds:

1. Buildings for the general conduct of government, except to create accessibility for disabled population (e.g., city hall),
2. General government expenses,
3. Political activities,
4. Purchase of equipment or furnishings for a property. This excludes, certain types of manufacturing equipment connected with economic development activities and the purchase of fire trucks as firefighting equipment,
5. New housing construction and Income Payments (Income Payments are defined in the regulations as direct payments to subsidize rent and/or utilities),
6. Operating and maintenance expenses for public facilities, improvements and services, and
7. Lobbying activities.

CDBG assisted facilities may not be used as collateral during any part of the grant period.

1.5 Conflicts of Interest

The OCRA policy regarding conflicts of interest mirrors that of federal CDBG regulations. These requirements apply to the procurement of supplies, equipment,

construction services and professional services, and the acquisition and disposition of real property. Federal guidelines stipulate that no person who performs any CDBG function or who has any CDBG responsibility, who is in a decision making position, or who has inside information may obtain a financial interest or benefit from an activity funded in whole or in part with CDBG funds.

In general, the rule states that no employee, officer or agent of the Grantee shall participate in the selection, the award, or the administration of a contract supported by federal funds if a conflict of interest, real or apparent, exists.

This requirement applies to any person who is an employee, agent, consultant, officer, elected or appointed official of the state or of the ULG or of any designated public agency, or Subrecipients who are receiving CDBG funds.

OCRA has determined that a conflict of interest exists when the same individual or firm is hired to provide both Grant Administration and Engineering services on an OCRA funded project. Furthermore, OCRA has determined that a conflict of interest exists for a consulting firm that provides 'technical assistance', such as a planning grant report, to also furnish Grant Administration for that same project.

1.6 Budget and Funding Cycles

Historically, OCRA's annual CDBG allocation from HUD is approximately $30 million..

The CDBG fiscal year is comprised of several programs through which the State awards grants, primarily on a competitive basis, either monthly or semi-annually depending on the program.

From year to year, the allocation of funds and the number of grants awarded varies. The OCRA application instructions contain a detailed description of each fund, the eligible activities and the application and award process. OCRA currently distributes its annual CDBG allocation through the following funds:

1. The Community Focus Fund (CFF)
2. The Community Economic Development Fund
3. The Planning Grant Fund
4. The Flexible Fund
5. The Stellar Communities Fund

OCRA notifies potential Grantees through its website when CDBG application instructions are available for an upcoming application period. It is a good idea to contact your OCRA Community Liaison before starting an application. Also look for information on staff contacts, application instructions and workshops on OCRA's website.

1.7 Project Development

1.7.1 Defining the Project

Project Development is the phase in which an eligible activity, that meets a National Objective, has been defined and is ready to move forward, at either the planning or implementation phase. To determine project eligibility and National Objectives, see the instruction section of the grant application. Prior to the preparation and submission of an OCRA grant application the Grantee is strongly advised to contact their OCRA Community Liaison. In many cases community site visits are a required part of the application process. OCRA Community Liaisons provide technical assistance in the application preparation process, help communities identify their priorities and work with other state and federal agencies to bring additional financial assistance to the project.

1.7.2 FEEPS

The acronym 'FEEPS' identifies the five required sections for 'readiness to proceed'. FEEPS stands for Financial, Environmental Review, Engineering, Permits and Site Control.

At the time of submission of a CDBG application, the Chief Elected Official of the ULG, the ULG's attorney, and the project Engineer or Architect must certify that the project is ready to proceed. This certification states that the ULG has completed the FEEPS requirements outlined below.

1. **Financial:** Once the project has been well defined, the project costs need to be determined. Most CDBG programs require a local match commitment. This match may come from several sources including: cash on hand, cash from a Subrecipient, borrowed funds, grants and/or loans from other state or federal agencies or any combination thereof. As part of the application, the Grantee must identify the sources of the matching funds and provide specific verification that they have been committed or obtained. Please refer to the financial requirements within the Readiness to Proceed document on OCRA's website.

2. **Engineering**: Prior to the submission of the grant application, the preliminary Engineering or Architectural plans must be completed. These plans must provide enough detail to determine the project's final scope and estimated costs. In addition, the preliminary Engineering or Architectural design must be completed to a level that provides the required documentation needed to complete the project's CDBG Environmental Review.

3. **Environmental Review**: Once the preliminary Engineering or Architectural plans are completed, the Grantee will need to complete an Environmental Review on the proposed project. Please see the Environmental Review Chapter for more detail.

4. **Permits**: Based upon the completion of the preliminary Engineering or Architectural plans, the Grantee will need to identify and list all applicable project permits. This list will need to be attached to the grant application.

5. **Site Control**: The preliminary Engineering or Architectural plans should depict any property or easements that will be needed to complete the project. At a minimum, the Grantee should have a signed option on all required property or signed easement agreements for all property prior to the submission of the grant application. Please see the Acquisition and Relocation Chapter for more detail.

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

1.7.3 Selecting a Grant Administrator

All Grantees who receive a CDBG grant from OCRA must utilize a Grant Administrator certified by OCRA. The Grant Administrator is the person in charge of CDBG compliance on the project. The Grant Administrator must have been procured in accordance with federal and state guidelines if their service fees are to be paid from grant funds. If local funds will be used to pay for Grant Administration services, the Grantee may hire any certified Grant Administrator. See OCRA's website for a current list of certified Grant Administrators. Many Grantees procure Grant Administration services prior to submitting an application, so the Grant Administrator can assist with the application process. See Procurement Chapter for instructions.

1.8 Grant Award Process

1.8.1 Notice of Approval or Denial

Typically, OCRA takes up to 60 days to review and score all project applications. Following each competitive application round, OCRA posts a list of applications approved for funding on its website. A follow up Letter of Grant Award is also sent out to each successful Grantee. Those applicants not funded will be invited to meet with OCRA staff and work towards improving their application for submission in a future funding round.

Once the Letter of Grant Award is received by the Grantee the following steps will be taken to move the project forward.

1.8.2 FEEPS Meeting for Implementation Projects

Within two weeks of receiving the Letter of Grant Award the Grantee will be called to the OCRA offices for a FEEPS meeting. The purpose of this meeting is to substantiate that the Grantee does have all the necessary documentation certified to in the application. In particular OCRA must be provided with copies of the Environmental Review clearance letters and documentation of property or easement acquisition, if applicable.

1.8.3 Grant Agreement

The binding legal document between the State of Indiana and the Grantee is the Grant Agreement. OCRA's standard practice is to mail the Grant Agreement to the Grantee within a month after the grant award. The Grant Agreement contains a project description, timeline of activities, sources and uses of funds, conditions governing the use of CDBG funds and the special conditions for release of funds. The Grant Agreement must be signed by the Grantee's Chief Elected Official and returned to OCRA within one month. The Grant Agreement specifies four important dates in the progression of completing the CDBG project:

1. The Environmental Release Date
2. The Bidding Deadline Date
3. The Release of Funds Date
4. The Project Completion Date

Grantees are encouraged to review these dates and the terms and conditions of the Grant Agreement before signing. When OCRA receives the signed Grant Agreement, it will be forwarded to all appropriate state offices for approval and signatures. The signatory process may take up to a month because the Agreement must be approved by four state agencies. As soon as the applicable state offices have signed and approved the Grant Agreement, a fully executed copy will be returned to the Grantee.

1.8.4 Professional Services

While the Grant Agreement is undergoing the signatory and approval process by the state, the Grantee may procure and enter into professional service agreements. These agreements can only be entered into after the date of the award letter. (The procurement step may also be completed under the Project Development phase.) In the event local funds are paying for the professional services, federal procurement procedures are not required. Nonetheless, all necessary professional services will require the development of an approved contract. Contracts for services paid with grant funds must be signed after the date of the Letter of Grant Award. See the Procurement Chapter.

1.8.5 Finances

The Letter of Grant Award notifies the Grantee of the amount and type of funds awarded and the activities that the Grantee will undertake with the funds. However, the Grantee must not obligate or incur project costs prior to satisfying contract conditions and receiving a Notice of Release of Funds from OCRA. See the Financial Management Chapter for a thorough explanation of the Financial Management requirements of a CDBG project.

1.8.6 Civil Rights

Once the Grantee has received the state approved Grant Agreement, the Notice of Civil Rights Officer must be forwarded to OCRA. A Fair Housing Ordinance and a Drug Free

Workplace Ordinance must also be on file with OCRA or may be submitted with the grant application. For additional Civil Rights requirements see the Civil Rights Chapter.

1.8.7 Environmental Release

Grantees have 60 days from the date of grant award to obtain their Environmental Release. The Grantee will publish a legal advertisement entitled Finding of No Significant Impact/Request for Release of Funds (FONSI/RROF) to notify the public of its intent to move forward with the project. Please see the Environmental Review Chapter for details on how to conduct the Environmental Review for a CDBG project.

1.8.8 Acquisition and Relocation

At the FEEPS meeting the Grantee will need to submit all applicable acquisition/relocation documentation to the OCRA Acquisition Specialist. Prior to the Release of Funds all applicable acquisition documents must be recorded at the County Recorder's Office in the county where the project is taking place. See the Acquisition and Relocation Chapter for more acquisition details.

1.8.9 Labor Standards

The Labor Standards requirements of a CDBG project are extensive. They include the bidding and contracting requirements, compliance with labor standards requirements, pre-construction conferences, and construction oversight requirements. Please see the Labor Standards Chapter for a more complete explanation.

1.9 Project Implementation

1.9.1 General Tasks

Once the tasks identified under the Grant Award phase have been completed, the Grantee enters into the Project Implementation phase.

The Project Implementation phase has two primary milestones; Release of Funds, and Project Completion. The Release of Funds milestone must be met within eight months following the Letter of Grant Award. The Grantee must reach the Project Completion milestone and draw down all CDBG funds by the ending date prescribed in the CBDG Grant Agreement. This date is typically 18 months from the Letter of Grant Award.

The Project Implementation phase includes the following tasks:

1. **Procurement**: The procurement process is the first step in implementation of a CDBG Grant. All professional services, including Grant Administration and A/E, that are to be paid by CDBG funds must be procured in accordance with CDBG regulations. Projects that include construction activities must follow stringent Procurement and Labor Standards regulations. [See the Procurement Chapter and the Labor Standards Chapter.]
2. **Civil Rights**: The State CDBG program requires the Grantee to solicit at least two state certified Minority and/or Women's Business Enterprises (MBE/WBE)

and invite them to submit a bid or statement of qualifications on the project. [See the Civil Rights Chapter].

3. **Release of Funds**: Once all required documents have been obtained and approved by OCRA Release of Funds Notification will be issued. This is the most significant step in the granting process. It requires the review of all grant documentation to date. See the Reporting and Recordkeeping Chapter for a Release of Funds check list.

4. **Contract Development**: After the Grantee has received the official Release of Funds Notification, contracts may be awarded. [See the Contract Development and Modification Chapter].

5. **Labor Standards**: If the project includes construction, the grantee will be required to conduct a Pre-Construction Meeting. At this meeting all applicable federal regulations are discussed and various labor standards documents should be collected from the contractor(s). Ongoing Labor Standards requirements continue throughout the construction process. [See the Labor Standards Chapter].

   Financial Management: Throughout project implementation, an accounting of all financial activities is required. Accurate records pertaining to the receipt and disbursement of all funds for the project must be maintained. All federal funds must be accounted for, and it must be clearly documented that no more than $5,000 in federal funds is held in the Grantee's account for a period longer than five business days. In addition to all the required financial documentation, Semi-Annual Grantee Performance Reports must be submitted to OCRA on a timely basis. See the Reporting and Recordkeeping Chapter.

6. **Miscellaneous Items**: There are other issues that may arise during the project's implementation that may require documentation from the Grantee. For example, if there is a change to the construction contract due to unforeseen circumstances, this will require a change order. A change in the project's scope or a need for a time extension requires a project modification. [See the Contract Development and Modification Chapter]

7. **Project Completion**: By the ending date specified in the approved Grant Agreement, all activities must be completed and all federal grant funds must be expended. The Grantee should now be ready to financially close the project. See the Grant Closeout Chapter.

1.9.2 Record Keeping

Grantees must establish a system for record keeping that assists OCRA's review of files for compliance. In other words, records should be kept in a manner that clearly tells the whole story of a CDBG project from beginning to end. Financial records, supporting

documents, statistical records and all other records pertinent to a grant must be retained for a period of three years after closeout of the grant year from which the grant funds were awarded. Grantees should be advised that the record retention period could exceed ten years. OCRA notifies Grantees as to when the record retention period begins and expires. See the Reporting and Recordkeeping Chapter.

1.9.3 Reporting

OCRA requires Grantees to report on grant progress through the life of the project and in some cases following the closeout of the project. It is very important to note that should any of the reports listed below not be submitted to OCRA by the stated due dates, the reports will be considered past due and all future grant requests by the Grantee will be denied until the reports are submitted and approved. These reports include:

1. **Semi Annual Reports** – All Grantees must submit this report every six months (due by January 31 and July 31) until the project is closed out.
2. **Semi Annual Subrecipient Reports –** When an OCRA funded project involves a Subrecipient the Grantee is required to submit a Semi Annual Subrecipient Report for the project. These reports become due after the administrative closeout of the project and continue for a period of five years. These reports are required by HUD to validate that the project's beneficiaries are still being served by the funded facility. Using as an example a senior citizens center, HUD/OCRA require information that shows that the senior center is providing services to the designated elderly population for a period of five years following the administrative close out of the project. OCRA can monitor projects with Subrecipients annually, for five years after grant closeout.
3. **Job Creation/Retention Reports** – Grantees funded under the economic development category that have job creation and/or retention as the National Objective must submit a Semi Annual Report every six months until the job creation/retention goal is met and the project is closed out. OCRA will monitor the economic development projects annually, for one year after grant closeout. See the Closeout and Monitoring Chapter.
4. **Program Income Reports** – Grantees must report quarterly on the program income earned from CDBG projects. See the Financial Management Chapter.

1.9.4 Grant Modifications

Occasionally an OCRA funded project will require a modification of the terms of the Grant Agreement. This is accomplished by requesting a Grant Modification. There are three levels of grant modifications and the required forms and documents may be found in the Contract Development and Modification Chapter of this manual.

1.10 Project Closeout

Once the project has been completed the Grantee submits the Grantee Performance Report to OCRA to begin the grant closeout procedure. The submission of this form will trigger a grant monitoring by OCRA. Please see the Closeout and Monitoring Chapter for all applicable forms and guidelines.

2. Citizen Participation

2.1. Overview

Citizen participation is a critical and required component of all Community Development Block Grant (CDBG) funded projects. It is important that citizens are able to participate in the funding and decision-making processes of local CDBG projects. The primary goal of citizen participation is to provide local residents – especially Low to Moderate Income (LMI) citizens of the community where CDBG funded activities will take place – an opportunity to participate in an advisory role in the planning, implementation and assessment of the programs and projects. Citizen participation also reduces the potential for complaints and legal challenges against the Grantee. CDBG funded projects are required to have a minimum of two Public Hearings, held at two different phases of the project.

Grantees must provide reasonable opportunities for citizen participation through Public Hearings and access to information about local community development projects. Grantees are expected to take appropriate action to encourage the participation of all citizens, including minorities and non-English speaking residents, as well as persons with disabilities.

2.2. Citizen Participation Plan

The Housing and Community Development Act emphasizes efforts to involve citizens, especially LMI citizens, in all aspects of the CDBG Program. As required by the Housing and Community Development Act, the State of Indiana has adopted a written Citizen Participation Plan, available on the Indiana Office of Community and Rural Affairs (OCRA) website.

In the application, Grantees certify that they will comply with the requirements to provide for and encourage citizen participation in the planning, implementation and assessment of their CDBG project.

2.3. Required Public Hearings

Grantees are required to conduct at least two Public-Hearings at two distinct phases of their project to elicit citizen input on housing and community development needs and on the specific project under development. The requirements on when to conduct the public hearings vary by Program. Please refer to the application packets for program specifics. For grants already awarded, an additional Public Hearing may be required if formal modifications to the project are made. See the Contract Development and Modifications Chapter for details.

In the Public Hearing, the Grantee must inform the public about the CDBG activities being proposed. The Grantee must ensure the Public Hearing is held in a handicapped-accessible location and/or provide accommodation for persons with disabilities so that they can participate. The time and date of the Public Hearing must be convenient for potential beneficiaries.

Multi-jurisdictional projects have additional citizen participation requirements. Public hearings must be advertised in all newspapers of general circulation within the project beneficiary areas. In addition, public hearings are to be held in each jurisdiction. This may be accomplished by holding a hearing in a central location of each county if it is a multi-county project area. Notice of all hearings can be placed in one advertisement, noting different locations and times for each hearing. Grantees should request guidance from Grant Support on multi-jurisdictional projects to ensure citizen participation requirements are met and all necessary notices are posted and hearings are conducted accordingly.

The citizen participation requirements mandate that the Grantee must identify how the needs of non-English speaking residents will be met in the case of Public Hearings where a significant number of non-English speaking residents can be reasonably expected to participate. Please refer to the Civil Rights chapter for requirements regarding Limited English Proficiency (LEP) requirements.

Applicants should be aware of local newspaper deadlines for submitting advertisements. Some smaller newspapers are published weekly, and will require that the advertisement is placed well in advance of the public hearing.

Other methods of advertising the public hearing are also encouraged. All public hearings must be accessible to handicapped persons. Public hearings should also be made convenient to the low- and moderate-income residents who will benefit from the project.

Legal Notice: The Grantee must publish a legal notice at least 10 days prior to each Public Hearing that contains the following elements:

1. Description of the project,
2. Description of available CDBG funding, program income funding, and parameters for assistance,
3. Amount of CDBG funding being requested, and its intended use,
4. Amount of CDBG funding that will benefit low to moderate income persons,
5. Amount and source of local funds to be expended on the project,
6. Summary of other important program requirements and available technical assistance,
7. Notification of any displacement that will result from the proposed activity or Notification of No Displacement,
8. Information for persons with disabilities on how to request an accommodation, and
9. Identification and contact information of person who can provide more information about the project.

When counting the 10 day period, you may NOT count the day the advertisement runs. You may count the date of the hearing, provided that the hearing is held after 5pm local time. If a hearing is held before 5pm that day cannot be counted as one of the ten days.

Example: Public Notice Advertisement runs on 02/01/11
2, 3, 4, 5, 6, 7, 8, 9, 10, 11 (10 days)
Public Hearing on 2/11/11 after 5pm = 10 days
Public Hearing on 2/12/11 before 5pm = 10 days

Public Hearing Content: The Public Hearing is an opportunity to educate and inform local residents about the project, and to provide a forum for citizen input. The following information should be made available at public hearings:

1. Goals and objectives of the CDBG program,
2. Total amount of CDBG funds available,
3. Community development and housing needs of the applicant,
4. Proposed activities for the project and the amount to be requested,
5. Proposed amount of funds to be used to benefit low and moderate income people,
6. Amount and source of local funds to be expended on the project, and
7. Notification of any displacement resulting from the proposed activities or Notification of No Displacement.

Public Hearing Documentation: As part of any CDBG application, the Grantee must submit the following documentation for each Public Hearing:

1. Original Affidavit of Publication for each legal advertisement,
2. Original sign in sheets, and
3. Minutes signed by the community official presiding over the meeting, or their designee. The Chief Elected Official (CEO) may authorize the Grant Administrator to conduct and take minutes of Public Hearings. See Citizen Participation Form 1 for a sample letter providing authorization.

The Grantee must also respond to any written comments that are received during the Public Hearing process. At a minimum, the Grantee must indicate that comments will be considered, and provide an explanation of how comments will be resolved.

2.4. Complaints and Grievances

Occasionally Grantees receive complaints regarding their projects and activities. Therefore, it is a requirement that Grantees develop a procedure for responding to complaints and grievances.

Grantees must provide citizens with the name, address and phone number of a contact person who can receive and respond to complaints. Complaints related to the scope and work of the project should be addressed by the Grantee.

Where practical, the Grantee should respond to any complaints within 15 working days of its receipt. Each complaint and the resolution of the complaint should be well documented in the Grantee's files.

Because complaints and grievances are best handled at the local level, OCRA will forward any complaints it receives about a project to the Grantee. OCRA will notify the person filing the complaint that it has been forwarded to the Grantee, and will direct the complainant to follow up directly with the Grantee.

2.5. Applicable Regulation Summary

Section 104(a)(2) of the Housing and Community Development Act

24 CFR 570.486(a)(6)

3. Procurement

3.1. Overview

The primary goal of the rules and regulations governing procurement is to ensure open and free competition for government funded projects. The various procurement methods outlined in this chapter all attempt to promote open and free competition for contracts. Part of this broad goal is to ensure that women and minority owned firms have an equal opportunity to participate in government funded projects. Requirements related to Minority and Women Business Enterprise (MBE/WBE) participation are in place to ensure this opportunity.

The procurement needs and the timing of procurement vary by project. Some Grantees procure Grant Administrators, Engineers and/or Architects prior to application. Others conduct most of their procurement after grant award. Whatever the timing, there are four allowable methods of procurement:

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

One of the above four methods of procurement must be utilized any time the Grantee plans to use federal or state dollars to pay for a product or service to be obtained.

Project Development

The need to procure professional services often arises in both the Project Development and the Project Implementation phases. Grantees often elect to procure Grant Administration and Engineering/Architectural Services during the Project Development phase. The use of a Grant Administrator for coordinating and putting together an application, and of an Engineer or Architect for preliminary engineering or preliminary design purposes greatly enhances the ability of a Grantee to put together a successful application.

When federal funds are paying for professional services the procurement process used is the **Competitive Negotiation Method.** If the Grantee plans to utilize both local and Community Development Block Grant (CDBG) funds to pay for professional services and or products, federal CDBG statutes and Office of Community and Rural Affairs (OCRA) regulations must apply. If the Grantee will be using solely 'local' dollars to pay for professional services, the grantee should follow State and local procurement guidelines.

Project Implementation

When the Grantee has received the Letter of Grant Award and final design and bidding documents and specifications have been developed the project is ready to go to bid.

The process used for soliciting bids for all OCRA funded construction projects is the **Competitive Sealed Bid Method**.

Excluded Parties
Grantees must not award any contract to any organization that is debarred or suspended or is otherwise excluded from or ineligible for participation in federally assisted programs. This applies to any CDBG-assisted contract at any tier in the process. Verification of contractor eligibility will be required for Release of Funds and is covered in the Labor Standards section of this handbook.

Conflict of Interest
The OCRA policy regarding conflict of interest mirrors that of the federal CDBG regulations. These requirements apply in the procurement of supplies, equipment, construction services and professional services, and the acquisition and disposition of real property. Federal guidelines stipulate that no person who performs any CDBG function or who has any CDBG responsibility, or who is in a decision making position, or who has inside information may obtain a financial interest or benefit from an activity funded in whole or in part with CDBG funds.

In general, the rule states that no employee, officer or agent of the Grantee shall participate in the selection, the award, or the administration of a contract supported by federal funds if a conflict of interest, real or apparent, exists.

This requirement applies to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the state, or of the Unit of Local Government (ULG), or of any designated public agencies, or Subrecipients who are receiving CDBG funds.

OCRA has determined that a conflict of interest exists when the same individual or firm is hired to provide both Grant Administration and Engineering services on an OCRA funded project. Furthermore, OCRA has determined that a conflict of interest exists for a consulting firm that is providing 'technical assistance', such as a planning grant report, to also furnish Grant Administration for that same project.

Should the Grantee suspect a possible conflict-of-interest situation, Grant Support must be contacted for a formal opinion.

3.2. Competitive Negotiation Method

There is a distinct difference in the type of Competitive Negotiation Method used for Architectural or Engineering services procurement and the procurement of other professional services such as Grant Administration, Rate Consultants, etc.

When procuring the services of a licensed Architect or Engineer, and these services are to be paid for using federal funds, the Grantee should develop and distribute to a number of companies, a Request for Qualifications (RFQ) that eliminates the use of price as a scoring criterion. The Grantee must use the Architectural or Engineering

Industries' Qualification Based Selection (QBS) procedures. When using the QBS process, evaluation is based solely upon a firm's qualifications, and a fair and reasonable price is later negotiated.

For the procurement of other professional service providers such as Grant Administrators that are to be paid for with federal funds, the Grantee should develop a Request for Proposals (RFP) that includes price as part of the evaluation criteria.

The Competitive Negotiation Method is to be used for the procurement of professional services and the Grantee must determine which type of procurement applies, based upon the explanation above.

Request for Proposals (RFP)

This process is to be used to procure the services of Grant Administrators, Rate Consultants, etc. when the contract will be paid with CDBG funds.

Step 1: Prepare RFP
The Grantee must prepare an (RFP). An example of an RFP is provided as Procurement Form 1.

Step 2: Solicit Responses
Send the RFP to at least five vendors via certified mail, return receipt requested. At least two of the vendors solicited by certified mail must be state certified MBE/WBE firms that provide the specific type of service being procured and are located within the general project proximity. See the Civil Rights Chapter for details on finding state certified MBE/WBE Grant Administrators.

Step 3: Publish RFP
The Grantee must advertise the RFP at least once in a newspaper of general circulation. A formal legal advertisement is required. An example of the advertisement is provided as Procurement Form 2. Proposals are due no sooner than 15 days following the date of publication of the legal advertisement.

Step 4: Establish Evaluation Committee
Appoint an evaluation team of knowledgeable members (town council, board of public works members, etc.) and develop an evaluation plan to rank respondents and provide guidance during the selection process. Typically three to five people make up the Evaluation Committee. At least one of the committee members must be the Chief Elected Official (CEO) or designee. An example of a scoring criteria evaluation document is Procurement Form 3.

Step 5: Open RFP Responses
Proposals must be received at the address stated in the legal advertisement, logged in and stamped with the date and time received prior to being opened at a public meeting of the Grantee and submitted to the Evaluation Committee for

review. Any Proposal not received by the date and time stated in the legal advertisement must be returned, unopened to the submitter.

Step 6: Short List Vendors
The purpose of the evaluation process is to select the responders whose proposals meet all of the criteria required in the solicitation. The committee must select two or more of the responders for interviews.

Step 7: Conduct Interviews
The Grantee is required to contact the firms selected, in writing with the time, date and location of the interview. A sample letter is provided as Procurement Form 4. The Grantee must also notify those who will not be interviewed. A sample letter is provided as Procurement Form 5.

On occasion, a Grantee may receive only one proposal. That respondent must be interviewed before the scoring committee. The interview may be conducted via conference call. OCRA will accept a letter of justification for not interviewing the respondent if the community has a history with the firm and feels comfortable accepting the proposal without resoliciting the services.

Step 8: Make Vendor Selection
Each member of the Evaluation Committee must complete an Interview Evaluation and Score Sheet for each vendor short listed. See Procurement Form 6. Each scorer must use the same scoring and weighting criteria making their best effort to score each proposal fairly and without bias. The score sheets must be signed by each member of the Evaluation Committee and maintained in the project file. These signed documents will be required at Release of Funds.

Following the Evaluation Committee's review, the vendor whose proposal is determined to be the most advantageous to the project, based upon qualifications, price and other factors may be selected.

Step 9: Notify Successful and Unsuccessful Proposer(s)
The Grantee must notify all successful and unsuccessful bidders, in writing. See Procurement Form 7 and Procurement Form 8 for samples.

Request for Qualifications (RFQ)

The process used to procure Engineering or Architectural services is the QBS process. This process allows the Grantee to select the firm that is best qualified for the project. The RFQ is used in this selection process.

Step 1: Prepare RFQ
The Grantee must prepare a RFQ. A sample request is provided as Procurement Form 9.

Step 2: Solicit Responses
The RFQ must be sent to at least five vendors via 'certified mail, return receipt requested.' At least two of the vendors solicited must be state certified MBE/WBE Engineering or Architectural firms that are located within the general project proximity. See the Civil Rights Chapter for details on locating MBE/WBE Architects or Engineers.

Step 3: Publish RFQ
The Grantee must publish the RFQ at least once in a newspaper of general circulation a minimum of 30 days prior to the RFQ submission due date. A formal legal advertisement is required. An example of the advertisement is provided as Procurement Form 10.

Step 4: Establish Evaluation Team
The Grantee must appoint an evaluation team of knowledgeable members (town council, board of public works members, etc.) and develop an evaluation plan for use in ranking respondents and providing guidance during the selection process. Typically three to five people make up the Evaluation Committee. At least one of the committee members must be the CEO or their designee. An example of a scoring criteria evaluation document is provided as Procurement Form 11.

Step 5: Open RFQ Responses
Statements of Qualifications must be received at the address stated in the legal advertisement, logged in and stamped with the date and time received, prior to being submitted to the Evaluation Committee for review. Any Statements of Qualifications not received by the date and time stated in the legal advertisement must be returned, unopened to the submitter.

Step 6: Short List Vendors
The purpose of the evaluation process is to select the responders whose qualifications best meet all of the criteria required in the solicitation. The committee must select two or more vendors to interview and contact them in writing with the date, time and location of the interview. A sample letter is provided on Procurement Form 12. The Grantee must also notify those who will not be interviewed. A sample letter is provided as Procurement Form 13.

Step 7: Make Vendor Selection
Each member of the Evaluation Committee must complete an Interview Evaluation and Score Sheet for each vendor short listed. See Procurement Form 14. Each committee member must use the same scoring criteria and weights/ measurements and make their best effort to interview and score each Statement of Qualifications fairly and without bias. All Evaluation/Score sheets must be individually signed and presented to Grant Support for review at Release of Funds. The vendor with the highest number of aggregate points should be selected for price negotiations. If unable to reach an agreement on the fees to be charged for the services required, the Statement of Qualifications may be

rejected and the vendor with the second highest number of aggregate points may be approached for price negotiations. This process may continue until an agreement is reached, so long as the vendor selected is capable of providing the requested services based upon quality and other relevant factors.

On occasion, the Grantee may receive only one Statement of Qualifications. That respondent must be interviewed before the scoring committee. The interview may be conducted via conference call. OCRA will accept a letter of justification for not interviewing the respondent if the community has a history with the firm and feels comfortable accepting the proposal without re-soliciting the services.

Step 8: Notify Successful and Unsuccessful Vendor(s)
The Grantee must notify all successful and unsuccessful vendors, in writing. See Procurement Form 15 and Procurement Form 16 for sample letters.

3.3. Competitive Sealed Bid Method

The Competitive Sealed Bid Method is also referred to as an Invitation for Bid (IFB). This method of procurement is much more formal than the others and does not allow for negotiation. It is the required procurement method for all CDBG construction work.

Step 1: Prepare Invitation for Bid (IFB)
The grantee must develop an IFB that clearly identifies the services required including: all technical specifications required, any other requirements that apply to the contract, and instructions for preparing and submitting a bid. Bid specifications may not identify a specific name brand or provider except if required to identify a piece of equipment necessary for completion of the project. In this instance, the name brand or provider must be followed with the terminology, 'or approved equals'. Bid specifications are prepared by the professional services provider, either an Architect or Engineer. It is the responsibility of the Grantee to provide the bid specifications preparer with a copy of the Federal Construction Contract Provisions, including HUD Form 4010, and the Davis Bacon and Related Acts (Davis-Bacon) Wage Decision applicable to the project. The bid specifications must include a statement that the Wage Decision is subject to change and the one that is in effect on the date of the bid opening will be applicable to the total project if the contract is awarded within 90 days of bid opening. If not, the applicable Wage Decision becomes the one that is in effect on the date that contracts are signed.

Step 2: Publish Invitation for Bid (IFB)
The IFB must be published at least twice in a newspaper of general circulation, at least seven days apart. The last advertisement must be published at least seven days prior to the bid opening date. This 14-day minimum bidding period is accepted by OCRA but it is advised that communities give bidders more time. The IFB must state the date, time and location for submission of bids. The legal advertisement must provide information pertaining to where the project plans and specifications may be obtained or reviewed. In order to obtain the highest level of

free and open competition, publishing the IFB in well-known trade journals and/or sending a copy of the IFB to the area's local contractors may increase the number of responses received. An example of an IFB advertisement is provided as Procurement Form 17.

Step 3: Solicit MBE/WBE Responses
In order to achieve the State's 10% MBE goal, a copy of the IFB advertisement must be sent via certified mail to at least two state certified MBE/WBE contractors or vendors.

Step 4: Receive Bids
As bid packets arrive, the time and date the bid was received from the vendor is written on the outside of the bid packet. Any bid received after the date and time due must be rejected and returned to submitter unopened.

Step 5: Open Bids
Bids must be opened and read aloud at a public meeting, at the date, time and location stated in the legal advertisement. The bidder's name and amount of bid must be read and recorded in the minutes of the bid opening meeting. No action should be taken at the bid opening meeting except by order of the CEO to take the bids under advisement. Bid opening meeting minutes and a sign in sheet of all attendees must be maintained for the project records and will be required at Release of Funds.

If all bids exceed the amount budgeted for construction costs, the Grantee has only two options. The local funds budget may be increased to cover the additional costs or all bids may be rejected and the CEO may instruct the Architect or Engineer to revise bid specifications and rebid the project in an attempt to bring construction costs to within the project budget. The project may not be altered or changed to eliminate any part of the original project scope.

Step 6: Make Vendor Selection
The Competitive Sealed Bid Method of procurement requires that the construction contract be awarded to the lowest bidder, provided that the lowest bidder is found to be a responsive and responsible bidder.

If the bids received are within the project budget, the Architect or Engineer will review all bid packages to determine if each one is responsive and responsible and the Grantee's legal counsel will verify that the bonding and certification requirements outlined in the bid specifications have been included. Upon completion of these reviews, the Architect or Engineer will prepare a bid tabulation sheet, Procurement Form 18 and a written statement to the Grantee making a recommendation of the lowest responsive and responsible bidder. The bid tabulation must be certified (stamped) by the project Architect or Engineer.

If the low bidder is found to be unresponsive or irresponsible and is not recommended by the project Architect or Engineer, the Grantee's legal counsel must be consulted prior to making the determination to reject the lowest bid and consider the second lowest bidder. A written legal opinion must accompany all procurement documents where the low bidder was not selected in case of a formal bid protest or possible litigation. The legal opinion letter will be required by OCRA at the Release of Funds meeting.

Step 7: Obtain Release of Funds and Award Construction Contract
When the Grantee has received the Architect or Engineer's recommendation for award and a certified bid tabulation, the Release of Funds must be obtained from Grant Support. Grantees may never award a construction contract prior to the Release of Funds. See Financial Management Chapter.

When a written Release of Funds authorization is received, the Grantee may award a firm, fixed price contract to the recommended bidder.

3.4. Noncompetitive and Sole Source Purchasing Method

This method of procurement is used to solicit products or services from a single source and may only be used when the other three methods of procurement are not applicable and then only with the prior written approval of Grant Support. The stipulations that would exclude the other methods of procurement include the following:

1. The item or service can only be obtained from one source.
2. A condition of public emergency or urgency exists and time does not permit the use of a competitive procurement method.
3. Following solicitation of a number of service providers, competition was deemed to be inadequate.

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

Step 1: Justification for Use of Method
The Grantee must prepare a written justification as to why this method of procurement is being utilized and allow Grant Support to review this justification prior to proceeding to Step 2.

Step 2: Specification of Products/Services
Prepare a specific list of products or services to be acquired along with a cost price analysis that evaluates specific elements of cost and proposed profit. The document utilized for the cost price analysis is provided as Procurement Form 19.

Step 3: Verify Data
A licensed Architect or Engineer must verify the Grantees data to certify the specifications and reasonableness of the estimated costs.

Step 4: Specification of Products/Services
The vendor should be provided with a specific listing of products or services required.

Step 5: Evaluate Bid
The bid is evaluated based upon responsiveness and price reasonability. The Grantee should negotiate with the vendor to assure the most advantageous offer is acquired.

3.5. Small Purchase Method

This method of procurement may be used for the procurement of services, supplies, and/or other property that has an estimated dollar value less than the threshold limits and restrictions determined by OCRA. The Small Purchases Method of procurement may not be used for professional services such as Architectural, Engineering, Grant Administration, etc., unless specifically allowed by OCRA and may never be utilized without the consent of Grant Support.

Step 1: Determine Threshold
The Grantee must determine whether or not the estimated dollar amount of the product or service being procured is equal to or less than the applicable bidding limit. If the estimated amount is equal to or less than the amount prescribed, go to Step 2. If the estimated amount will exceed the prescribed limit, use another method of procurement.

Step 2: Prepare Solicitation for Products/Services
By email, letter or fax, at least three vendors must be contacted for competitive quotes. There is no requirement to contact MBE/WBE providers. At least seven days must be allowed for responses. The Grantee should be specific in describing the product or service being requested. An example of a solicitation contact letter is provided as Procurement Form 20.

Step 3: Document Responses
All responses should be documented and records maintained. Verbal quotes are not valid.

Step 4: Make Vendor Selection
If the vendor with the lowest quote is not selected, the Grantee must document the justification as to why another vendor was selected. Issues such as poor past performance or bad references are typical reasons for selection denial. The Grantee's legal counsel should be consulted on all procurements awarded to vendors not having the lowest quote.

If the Grantee only receives one quote, the consulting Engineer or Architect must validate that the price is reasonable. For record keeping purposes, a cost analysis must be performed. The cost analysis document is Procurement Form 21. Making several separate small purchases from the same vendor or different vendors in order to stay under the formal bidding threshold is prohibited by Indiana Code.

3.6. Applicable Regulation Summary

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

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

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

The Indiana laws that apply to procurement include IC- 5-3-1-2, IC-5-16-5, IC-5-16-11, IC-5-22-8, IC-5-22-17, and IC-36-1-12. The foregoing state statutes may be amended from time to time by acts of the Indiana General Assembly. Additionally, each unit of local government must establish local procurement-related ordinances/procedures which may be more restrictive than those provided under IC-36-1-12. Always consult with the Grantee's legal counsel prior to initiating procurement activities for each project.

31 CFR 223.1 –Surety Companies Doing Business with the United States

OMB Circular A-87

Executive Order 12549, Debarment and Suspension

4. Environmental Review

4.1. Overview

The purpose of the Environmental Review is to analyze the effect the proposed project will have on the people and the natural environment within the project area. This process examines a project relative to the National Environmental Policy Act of 1969 (NEPA). NEPA was established to ensure environmental protection for federally funded projects. All Community Development Block Grant (CDBG) funds are also subject to the provisions of the Housing and Urban Development (HUD) regulations implementing NEPA.

This section will cover the environmental regulations that must be followed on all CDBG funded projects. All Environmental Review procedures must be completed prior to the submission of grant applications to the Office of Community and Rural Affairs (OCRA). The type of project a Grantee is completing will determine the level of Environmental Review and the necessary documentation that will be required.

For every Environmental Review, three basic steps must be followed in order to correctly complete the review. These steps are:

- **Project Aggregation** – The Grantee should evaluate the entire scope of the project and include all funding sources that may be used in conjunction with the project. The project scope should include any related activities necessary to accomplish the project.

- **Determine the Level of Review** – The Grantee must determine which level of Environmental Review is appropriate for each identified activity within the project scope.

- **Documentation** – The Grantee must complete all documents necessary for the appropriate level of Environmental Review.

As the flow chart demonstrates, the Environmental Review process is comprehensive and detailed. The amount of information needed to complete the review depends on the type of project the Grantee is proposing.

4.2. Project Aggregation

Each Grantee must designate an Environmental Officer who is responsible for completing the Environmental Review process. Typically, the Grant Administrator is designated as the Environmental Officer.

The Environmental Officer should evaluate the entire scope of the project and include all funding sources that may be used in conjunction with the project. Defining the project should include determining all integrally related activities designed to accomplish a specific objective.

It is necessary for the Grantee to describe the project fully and include all details, including, but not limited to, any infrastructure being developed in conjunction with the project, regardless of whether or not that additional portion of the project is being funded with CDBG funds.

Most projects funded under the CDBG program entail more than one activity. For example, a new wastewater treatment plant would have both administrative and construction related activities. The administrative activities would be considered exempt, whereas the construction related activities would require environmental assessment (EA).

4.3. Determine the Level of Review

The Grantee must determine which level of Environmental Review is appropriate for the project in order to correctly complete the necessary documentation. Determining the activity classification is the responsibility of the Grantee's Environmental Officer. To do this, the Environmental Officer must list all of the activities associated with the project, review the information contained in the chapter, and match each activity to the most appropriate classification.

Each level of Environmental Review is defined by HUD. The four main environmental classifications are:

- **Exempt Activities**
- **Categorically Excluded Not Subject To, (CENST) Activities**
- **Categorically Excluded Subject To, (CEST) Activities**
- **EA Activities**

In addition to the four main classifications, another environmental classification is the Environmental Impact Statement (EIS). The EIS comprehensive review is for those projects that are larger in scope and will have a significant environmental impact.

Regardless of the number of activities associated with the project, it is only necessary to complete one Environmental Review; this is due to project tiering. However, if the activities have separate classifications, the Grantee must follow the review steps listed under the most stringent classification.

4.4. Exempt Activities

An activity has an Exempt classification when there is no effect whatsoever on the physical environment. Project activities that fall under this classification include the following:

1. Environmental and other studies, resource identification and the development of plans and strategies,
2. Information and financial services,

3. Administrative and management activities,
4. Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs,
5. Inspections and testing of properties for hazards or defects,
6. Purchase of insurance,
7. Purchase of tools,
8. Grant Administration,
9. Engineering or design costs,
10. Technical assistance and training,
11. Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration, and
12. Payment of principal and interest on loans made or obligations guaranteed by HUD.

If the proposed project only entails exempt activities, the Environmental Review process is simple. The Grantee does not have to publish a Notice of Intent/Request for Release of Funds (NOI/RROF) or submit a Request for Release of Funds and Certification (RROF/Certification) Form. The Grantee is only required to undertake the following step:

Exempt Activity Notification: The grantee will submit the Certification of Exemption Form (Environmental Form 1) to the OCRA Environmental Specialist identifying the proposed project activities and certifying that they are all exempt activities. This letter is also to be included in the application for all planning grants and the purchase of fire trucks.

4.5. Categorically Excluded 'Not Subject To' (CENST) Activities

A project that has been classified as a CENST requires a limited Environmental Review. Activities that qualify under this classification include the following:

1. Tenant-based rental assistance,
2. Supportive services including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, state, and federal government benefits and services,
3. Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs,
4. 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,

5. Activities to assist homebuyers with the purchase of existing dwelling units or dwelling units under construction, including closing costs and down payment assistance, interest buydowns, and similar activities that result in the transfer of title,
6. Affordable housing pre-development costs including 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, and
7. Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under this part. If the approval is made by the same responsible entity that conducted the Environmental Review on the original project, re-evaluation of the environmental findings is not required.

If the proposed project is determined to be CENST, the Environmental Review process is simple. The Grantee does not have to publish a NOI/RROF or submit a Request for Release of Funds and Certification (RROF/Certification) Form. The Grantee is only required to undertake the following step:

CENST Activity Notification: The Grantee should submit the Certificate of Categorical Exclusion (not subject to) Form (Environmental Form 2) to the OCRA Environmental Specialist identifying the proposed project activities and certifying that they are CENST activities.

4.6. Categorical Excluded 'Subject To' (CEST) Activities

A project that is considered CEST requires a limited Environmental Review. Activities that qualify under this classification include the following:

1. Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities, and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets),
2. Special projects directed to the removal of material and architectural barriers that restrict the mobility of, and accessibility to elderly and handicapped persons,
3. Rehabilitation of buildings and improvements when the following conditions are met:
    a. In the case of a building for residential use (with one to four units), the density is not increased beyond four units, the land use is not changed, and the footprint of the building is not increased in a floodplain or in a wetland,
    b. In the case of multifamily residential buildings when:
        i. Unit density is not changed more than 20 percent,

ii. The project does not involve changes in land use from residential to non-residential, and
iii. The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation,

c. In the case of non-residential structures, including commercial, industrial, and public buildings when:
   i. The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent, and
   ii. The activity does not involve a change in land use, such as from nonresidential to residential, commercial to industrial, or from one industrial use to another,

4. Rehabilitation of buildings and improvements does not apply when the following conditions are met:
   a. An individual action on up to four 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, or
   b. 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,
5. Acquisition (including leasing) or disposition of, or equity loans on an existing structure or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use, and
6. Combinations of the above activities.

If the proposed project entails any Categorically Excluded activities, the Grantee is required to complete the following steps:

1. **CEST Activity Notification:** Complete and Submit the Certificate of Categorical Exclusion (subject to) (Environmental Form 3) and the Statutory Worksheet (Environmental Form 4) (Statutory Worksheet Instructions) to the OCRA Environmental Specialist with notification of the proposed project activities.

   Upon receipt of the forms, the OCRA Environmental Specialist will contact the Grantee and inform the Grantee on one of two issues.

   The first issue may be that the OCRA Environmental Specialist feels that the project will require a cursory review by certain environmental agencies. If this is the case, the OCRA Environmental Specialist will specify which agencies need to be contacted prior to the submission of the application. You must submit a copy of the OCRA response letter with the application.

   The other issue may be that the OCRA Environmental Specialist deems that further Environmental Review is necessary. If this is the case, the

OCRA Environmental Specialist will inform the Grantee that a full environmental assessment is necessary.

Whether directed to contact certain environmental agencies for a cursory review, or requested to complete a full Environmental Assessment, the Grantee should be sure to complete this step early in the process to ensure the receipt of responses and signoff(s) from required agencies, prior to submitting an application.

2. **Floodplain Notification:** If any part of the project is within the floodplain, the Grantee must conduct the HUD 8 Step Decision Making Process. See Section 4.9 of this chapter for more information.

3. **Publication of Notice of Intent:** Prepare a 'Notice of Intent to Request Release of Funds' (NOI/RROF) that details the activities associated with the project and publish this notice in a newspaper of general circulation. **The NOI/RROF should NOT be published prior to the grant being awarded.** Please use Environmental Form 5 for a reference.

4. **Request Release of Funds:** As soon as the Grantee receives the newspaper publisher's affidavit for the NOI/RROF, the Grantee must forward it, along with the (RROF/Certification) Form to the OCRA Environmental Specialist. If the Grantee receives any local comments within the seven-day period mandated in the NOI/RROF, the Grantee must forward those comments to the OCRA Environmental Specialist. After the receipt of the publisher's affidavit, any local comments and the RROF/Certification Form, the OCRA Environmental Specialist will hold the request for fifteen days to allow additional public comment. After the fifteen days have elapsed, assuming no negative comments were received, the OCRA Environmental Specialist will grant the environmental release. Please use Environmental Form 6 for the RROF/Certification Form.

Example: Notice of Intent/Request for Release of Funds (NOI/RROF) Publication Timeframe	
May 1	Publish (NOI/RROF) (Form 5)
Upon receipt of Proof of Publication	Submit Publisher's Affidavit and RROF/ Certification (Form 6) to the OCRA Environmental Specialist
May 8	Local Public Comment Period Expires (Submit all comments received to the OCRA Environmental Specialist)
May 9	RROF from the State
May 10	State Comment Period Begins
May 24	State Comment Period Expires
May 25	Environmental Release Granted

4.7. Environmental Assessment Activities

A project that cannot be classified as Exempt, CENST, or CEST, but is classified under 24 CFR 58.36 requires the completion of an (EA). These activities are usually those that have a direct impact on the physical environment. **Any new construction would fall under this classification.**

If the proposed project entails any EA activities, the Grantee must prepare and maintain a written record of the Environmental Review undertaken for the project. This written record is called the Format II Equivalency Environmental Review Record (ERR).

To complete the ERR, the Grantee must undertake the following steps.

1. **Environmental Packet Preparation:** The Grantee's Environmental Officer must first put together a packet of information that fully explains the activities associated with the proposed project. This packet should include a project narrative and maps depicting the project site. It is recommended that the Grantee obtain the following maps with the project location clearly shown:
    - a United States Geological Survey (USGS) topographical map,
    - a floodplain map,
    - an aerial photograph,
    - a wetland map (if applicable),
    - a soils map (if applicable).

    See Environmental Form 7 for suggested documentation to be submitted per agency.

2. **Contact the Environmental Agencies:** Send the environmental packet to the appropriate local, state and federal agencies requesting an environmental response. It is suggested that these mailings be sent 'certified mail, return receipt' to the applicable agencies listed on Environmental Form 7.

    The Grantee should be aware that the Section 106 Historic Review process must be followed when contacting the Indiana Department of Natural Resources (DNR) – State Historic Preservation Officer (SHPO). This process is also necessary for all Categorically Excluded and Assessed Projects.

3. **Floodplain Notification:** If any part of the project is within the floodplain, you must conduct the HUD 8 Step Decision Making Process. See Section 4.9 of this Chapter for more information.

4. **Environmental Response Collection:** If any environmental response raises project concerns or requires further documentation or study, it is the Grantee's responsibility to clarify the concerns and/or obtain further documentation. **For example:** Often the DNR Historic Preservation and Archeology Division will require an archeological survey to be performed where construction is proposed in an 'undisturbed' area. In this event, the Grantee must have the study

completed and have received the final Indiana DNR SHPO letter prior to completing the Format II ERR.

5. **Complete Format II ERR:** Once all environmental responses have been received and all concerns addressed and/or studies completed, the Grantee may use the information contained in the responses to complete the Format II ERR. Please use Environmental Form 8.

6. **FONSI/FSI Determination:** Based upon the completion of the Format II ERR, the project activities will either be determined to have no negative impact on the environment thus being a Finding of No Significant Impact (FONSI); or have a possible negative impact on the environment and be determined as a Finding of Significant Impact (FSI). If the project activities are found to have a FSI, the Grantee should contact the OCRA Environmental Specialist for further direction.

7. **Publication of Finding of No Significant Impact (FONSI) and Combined Notice**: If the project activities are determined to have no significant impact on the environment, the Grantee can prepare and publish a FONSI public notice prior to grant award **OR** publish a FONSI/RROF notice, also called the Combined Notice, following the announcement of grant award. The chosen notice should be published in a newspaper of general circulation. Please use Environmental Form 9 for the FONSI advertisement. Please use Environmental Form 10 to publish the Combined Notice. **Do NOT publish the Combined Notice PRIOR to grant award.**

8. **Request Release of Funds:** As soon as the Grantee receives the publisher's affidavit for the Combined Notice, the Grantee must forward it, along with the RROF/Certification Form to the OCRA Environmental Specialist. Please use Environmental Form 6 for the RROF/Certification.

   If the Grantee receives any comments within the fifteen day local comment time period mandated in the Combined Notice, the Grantee must forward those comments to the OCRA Environmental Specialist. After the receipt of the publisher's affidavit, any local comments and the RROF/Certification form, the OCRA Environmental Specialist will hold the request for fifteen additional days to allow for the mandated state public comment period. After the fifteen day state comment period has elapsed, assuming no negative comments are received, the OCRA Environmental Specialist will grant the environmental release.

Example: Combined Notice Publication Timeframe	
May 1	Publish the FONSI/RROF (Combined Notice) (Form 10)
Upon receipt of Proof of Publication	Submit Publisher's Affidavit and the RROF/Certification (Form 6) to the OCRA Environmental Specialist
May 16	Local Public Comment Period Expires (Submit all comments received to the OCRA Environmental Specialist)

May 17	RROF from the State
May 18	State Comment Period Begins
June 1	State Comment Period Expires
June 2	Environmental Release Granted

4.8. Environmental Impact Statement

If the proposed project is determined to have a potentially significant impact on the physical and/or human environment, an Environmental Impact Statement (EIS) is required. This determination is based upon the environmental responses collected from the applicable agencies.

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

4.9. Procedures for Making Determinations on Floodplain and Wetland Management – 8 Step Decision Making Process

Projects located within a floodplain or within a designated wetland are subject to Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands) respectively. HUD regulations describe measures for protecting floodplains and wetlands. The required 8-Step Process is explained below:

Step 1: Determine whether the proposed action is located in a 100-year floodplain and/or wetland. This can be determined by looking at Wetlands Maps and Federal Emergency Management Agency (FEMA) Floodplain Maps. If no maps are available, use the best available information. If the proposed action would not be conducted in one of those locations, then no further compliance with this part is required. Categorically Excluded projects are NOT excluded from this process.

Step 2: Notify the public at the earliest possible time of a proposal to consider an action in a floodplain and/or wetland, and involve the affected and interested public in the decision making process. This is accomplished by publishing the Early Public Review Notice.

a. The public notices required in this section may be combined with other project notices wherever appropriate. All notices must be published in an appropriate local printed news medium. See Environmental Form 11 for a sample notice.
b. A minimum of 15 calendar days shall be allowed for comment on the public notice. **A Finding of No Significant Impact (FONSI) cannot be made before the end of the 15 day comment period**.
c. A notice under this paragraph shall state: the name, proposed location and description of the activity, the total number of acres of floodplain

and/or wetlands involved, and the name of the Chief Elected Official (CEO), and phone number to contact for information. The notice shall indicate the hours and the Unit of Local Government's (ULG's) main office at which a full description of the proposed action may be reviewed.

Step 3: Identify and evaluate practical alternatives to locating the proposed action within the floodplain and/or wetland.

a. The consideration of practical alternatives to the proposed site or method may include:
    i. Locations outside the floodplain and/or wetlands;
    ii. Alternative methods to serve the identical project objective; and
    iii. A determination not to approve any action.
b. In reviewing practical alternatives, OCRA or the Grantee shall consider feasible technological alternatives, hazard reduction methods and related mitigation costs, and environmental impacts.

Step 4: Identify the potential direct and indirect impacts associated with the occupancy or modification of the floodplain and/or wetland.

Step 5: Where practical, design or modify the proposed action to minimize the potential adverse impacts within the floodplain and/or wetland and to restore and preserve its natural and beneficial values.

Step 6: Re-evaluate the proposed action to determine:

a. Whether it is still practical in light of its exposure to flood hazards in the floodplain, the extent to which it will aggravate the current hazards to other floodplains and/or wetlands, and its potential to disrupt floodplain and/or wetland values; and
b. Whether alternatives preliminarily rejected at Step 3 of this section are practical in light of the information gathered in Steps 4 and 5 of this section.

Step 7: Publish the final Notice of Explanation.

a. If the reevaluation results in a determination that there is no practical alternative to locating the proposed project in the floodplain and/or wetland, the Grantee shall publish the Final Notice of Explanation that includes:
    i. The reasons why the project must be located in the floodplain and/or wetland;
    ii. A list of the alternatives considered; and
    iii. All mitigation measures to be taken to minimize adverse impacts and to restore and preserve natural and beneficial values.
b. In addition, a minimum of 7 calendar days shall be provided for public comment before the approval of the proposed action. See Environmental Form 12 for a sample. This notice may be run concurrent with either the (FONSI/RROF) or the NOI/RROF.

Step 8: Upon completion of the decision making process in Steps 1 through 7, implementation of the proposed action to proceed. There is a continuing responsibility to ensure that the mitigating measures identified in Step 7 are implemented.

4.10. 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 re-evaluation is to determine whether or not 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 Grantee must update their ERR by including this re-evaluation and its determination based on the changed circumstances.

If it is determined that the original findings are no longer valid, and a reevaluation indicates potentially significant impacts, the Grantee must prepare an EA or EIS that Includes:

- A written statement that explains how this re-evaluation was conducted and includes documentation the results.
- References the previous Environmental Review record.
- Describes both the old and new project activities, and provides maps delineating both old and new project areas.
- Determines if FONSI is still valid
- Is signed and dated by the CEO.

The written statement is placed in the ERR and a copy sent to the OCRA Environmental Specialist.

4.11. Environmental Reviews Prepared by or for Other Agencies

OCRA will accept Environmental Reviews prepared by or for other state and federal funding agencies provided that the ERR and associated public notifications meet or exceed the requirements for OCRA's Environmental Reviews. Environmental Reviews prepared by or for other agencies may not contact all the agencies required in OCRA's Environmental Review process. It is the responsibility of the Grantee to ensure that all appropriate agencies have been contacted, and that the Environmental Review is complete. Republication of the Combined Notice, FONSI and/or the NOI/RROF may be necessary. Please contact the Environmental Review Specialist for clarification in this situation.

4.12. Agency Letters

OCRA will only accept agency letters for 3 years from the date on the letter.

4.13. Applicable Regulations Summary

24 CFR Part 58 - HUD regulations for the Environmental Review process.

24 CFR 58.34 - Regulations governing **Exempt** activities.

24 CFR 58.35(a) - Defines **Categorically Excluded Subject To (CEST)**

24 CFR 58.35(b) - Defines **Categorically Excluded Not Subject To (CENST)**

24 CFR 58.38 - Defines requirements for **Format II Environmental Review Record (ERR)**

36 CFR 800, 801- Regulations governing Historic Properties

44 CFR 59-79 – Regulations governing Floodplains

42 USC 6901-6987 – Regulations governing Water Supply and Solid Waste Disposal

16 USC 1531-1543 – Regulations governing Endangered Species

7 CRF 658, 7 USC 4201c2 – Regulations governing Agricultural Lands

42 USC 7401-7642 – Regulations governing Air Quality

33 USC 1251-1376, 42 USC 300f-300j-10 – Regulations governing Water Quality

24 CFR 51 – Regulations governing Noise

24 CFR 5c,d – Regulations governing Hazards

5. Acquisition and Relocation

5.1. Overview

This chapter focuses on the procedures involved in obtaining property and/or permanent easements. All of the applicable procedures are set forth by the Federal Uniform Relocation and Real Property Acquisition Policies Act (URA). This Chapter will discuss four areas of property acquisition:

- **Real Property Acquisition/Easement/Compensation**
- **Willing Buyer/Seller Transaction**
- **Property Donation**
- **Relocation**

The objectives of the URA are:

1. to ensure that owners of real property to be acquired for Community Development Block Grant (CDBG)-assisted projects are treated fairly and consistently,
2. to encourage and expedite acquisition by agreements with property owners,
3. to minimize litigation, and
4. to ensure that persons displaced from their homes or places of business as a result of CDBG-assisted activities are treated consistently and equitably and do not suffer disproportionate injury as the result of a project designed for the benefit of the public as a whole.

The URA applies to all federally assisted activities that involve the acquisition of real property or the displacement of persons, including displacement caused by rehabilitation and demolition activities. If CDBG assistance is used in any part of a project, the URA governs the acquisition of real property and any resulting displacement, even if local funds were used to pay the acquisition costs. Private persons, corporations or businesses that acquire property or displace persons for a CDBG-assisted project are subject to the URA.

Under the URA, all persons displaced as a direct result of acquisition, rehabilitation, or demolition, for a CDBG-assisted project, are entitled to relocation payments and other assistance under the URA. All acquisitions made in order to support a CDBG activity are subject to the URA. Acquisition that takes place on or after the date of submission of a CDBG application to fund an activity on that property is subject to URA, unless the Grantee shows that the acquisition was unrelated to the proposed CDBG activity. Acquisition that takes place before the date of submission of the application will be subjected to the URA if the Indiana Office of Community and Rural Affairs (OCRA) determines that the intent of the acquisition was to support a subsequent CDBG activity.

The URA provisions apply to all types of long term acquisition of property, including when acquiring full fee title, fee title subject to retention of a life estate or a life use,

long-term leases (including leases with options for extensions) of 50 years or more, and to permanent easements necessary for the project. However, the Grantee may apply these regulations to any less-than-full acquisition.

The relocation assistance provisions are applicable to homeowners and tenants that must move as a result of an acquisition. Such homeowners and tenants are considered displaced persons. If the project involves displacement of the homeowner or tenant, please contact the OCRA Acquisition Specialist immediately before proceeding with the acquisition process.

Acquiring property and/or easements is typically very time consuming and requires participation and coordination of several individuals. It is the policy of OCRA that prior to submission of a grant application the Grantee must have completed all Steps listed in this chapter for all easements, land or buildings required for a given project. Prior to moving forward please check with OCRA's Grant Support for special instructions if the property is to be paid for with grant funds or counted as a portion of the local match.

5.2. Real Property Acquisition/Easement/Compensation

Step 1: Determine what Properties will be Acquired
The Grantee, with its Engineer or Attorney, should review every proposed activity to determine property acquisition needs and identify the particular properties to be obtained. Activities such as street widening, water and sewer improvements, or sidewalk construction do not have an obvious property acquisition requirement, but there is often a need to acquire easements or rights-of-way.

Step 2: Determine Ownership of Properties to be Acquired
The Grantee must provide proof of ownership for the easement, land or building by conducting a title search of properties to be acquired for the project. This can be accomplished through a 50 year title search. If the owner has acquired the property through a means other than a warranty deed, then the Grantee must obtain either an attorney title opinion letter, or purchase title insurance through a title surety company. Permanent easement ownership may be determined by a search of records and accompanying attorney opinion letter stating the owner of record. In the case of public improvement activities, be sure to verify that the property to be improved is in the public domain. Sometimes rights-of-way are privately owned.

Step 3: Establish a File for Each Property or Easement to be Acquired
The Grantee must establish and maintain a file for each property or easement to be acquired and include copies of all acquisition documents. Files must be retained for a period of three years after closeout of the grant year from which the grant funds were awarded. Grantees should be advised that the record retention period could exceed ten years. OCRA notifies Grantees as to when the three-year record retention period begins and expires. The Acquisition File Checklist (Acquisition Form 1) identifies the required file elements. At this time the Property Acquisition/Relocation Questionnaire (Acquisition Form 2) should be

initiated by the Grantee. It is advisable to complete the applicable sections of this form as the steps in the acquisition process are completed.

Step 4: Notify Owner of Interest in Acquiring the Real Property or Easement

As soon as feasible, the Grantee shall notify the owner in writing of the Grantee's interest in acquiring the real property or easement and the basic protections provided to the owner by law. The Initial Notice to Property Owner (Acquisition Form 3), the URA Brochure (Acquisition Form 4) and any applicable Housing and Urban Development (HUD) relocation notice should be delivered to the property owner or sent by certified or registered first-class mail with return receipt requested. If the forms are hand delivered, a receipt (Acquisition Form 4a) signed and dated by the property owner must be obtained. If the recipient does not read or understand English, the Grantee must provide translations and assistance. Copies of certified mail return receipts or hand-delivered receipts must be placed in the Grantees property owner file.

Step 5: Determine Value and Obtain Appraisal(s) and/or Market Estimates for Each Property or Easement

Before the initiation of negotiations, the value of the real property or easement should be determined by the Grantee.

If the estimate of property value is below $10,000 a Market Estimate needs to be obtained. The Market Estimate must be in writing and provided by a licensed real estate broker or appraiser. For properties under $10,000 in value, the Market Estimate is the basis of the offer.

If the estimate of property value is above $10,000 the Grantee must have an Appraisal and a Review Appraisal completed by individuals properly licensed by the Indiana Professional Licensing Agency. A copy of both appraisers' pocket identification cards must be obtained by the Grantee and kept in the property owner file. The appraiser should have no interest in the property or be related to or in business with anyone having an interest in the property to be acquired.

The Review Appraisal should focus on determining the adequacy of the appraiser's supporting data, and the soundness of the appraiser's opinion of fair market value. The reviewer must set forth in writing a recommendation as to the fair market value of the property. For properties over $10,000 in value, the Review Appraisal is the basis of the offer.

If an owner requests an Appraisal on property that the Grantee has determined to be less than $10,000 in value, an Appraisal and Review Appraisal must be obtained. Regardless of the value the property, the owner or the owner's designated representative, shall be given the opportunity to accompany the appraiser during the appraiser's inspection of the property. Before the Appraisal is undertaken, the Grantee or the appraiser must formally invite the property

owner to accompany the appraiser during the inspection of the property. The Property Appraisal Invitation (Acquisition Form 5) should be delivered or sent by certified or registered first-class mail with return receipt requested. If service is by hand delivery a receipt (Acquisition Form 5a), signed and dated by the property owner must be obtained. Copies of certified mail return receipts or hand-delivered receipts must be placed in the Grantee's property owner file.

Step 6: Establish and Offer Just Compensation

Upon completion of Step 5, the Grantee shall make a written offer to the owner to acquire the property for the full amount believed to be just compensation. Use Letter of Purchase Offer – Acquisition Form 6. A copy of the Market Estimate (for projects under $10,000) or a copy of the Review Appraisal (for projects over $10,000) should accompany the Offer. The Offer or Appraisal should identify the following:

a. A statement of the amount offered as just compensation,
b. A description and location identification of the real property and the interest in the real property to be acquired (e.g., fee simple, easement, etc., and
c. An identification of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) which are included as part of the offer of just compensation. Where appropriate, the statement shall identify any other separately held ownership interest in the property, e.g., a tenant-owned improvement, and indicate that such an interest is not covered by this offer.

In very special instances acquisition may cover only a portion of a property and would leave the owner with an uneconomic remnant, the Grantee shall offer to acquire the uneconomic remnant along with the portion of the property needed for the project. In this instance, please contact Grant Support prior to making the Offer.

Step 7: Complete Acquisition or Decide not to Acquire

The Grantee or the Grantee's attorney shall make all reasonable efforts to contact the owner or the owner's representative to discuss the offer to purchase the property, including the basis for the offer of just compensation, and explain the acquisition policies and procedures, including the payment of incidental expenses. The owner shall be given a reasonable opportunity to consider the offer and present material that the owner believes is relevant to determining the value of the property and/or to suggest modifications in the proposed terms and conditions of the purchase. The time given can vary significantly depending on the circumstances, but property owners must be given a reasonable amount of time to consider the offer.

Once the property owner has accepted the written offer, a purchase option or easement agreement must be signed. No purchase agreements may be signed.

Step 8: Special Procedures for Donations
If the owner states that they are willing to accept less than the offered price or are willing to donate the property, a waiver of partial donation or donation with Appraisal must be signed and attached to the agreement.

a. Use Acquisition Form 7 for a Full Donation of Property after Appraisal
b. Use Acquisition Form 8 for a Partial Donation of Property after Appraisal
c. Use Acquisition Form 9 for a Full Donation of Property with no Appraisal

5.3. Willing Buyer/Seller Transaction

On occasion a Grantee will be fortunate enough to find a suitable piece of property in which the property owner is interested in selling. This situation is known as a 'willing buyer/seller transaction.' An example of this situation would be a property that is already listed by the property owner for sale through a broker or self-sale. For this situation to be applicable the property owner must seriously want to sell the property and the Grantee must have alternative locations in mind in case negotiations fail.

Step 1: Determine Ownership of Property/Easement to be Acquired
The Grantee must always provide proof of ownership for the acquisition of easements, land or buildings, even when using the Willing Buyer/Seller acquisition process. This is accomplished by conducting a 50 year title search to determine ownership of properties to be acquired. If the owner has acquired the property through a means other than a warranty deed, then the Grantee must obtain either an attorney title opinion letter, or purchase title insurance through a title surety company.

Step 2: Establish a File for the Property
The Grantee must establish and maintain a file for each property/easement to be acquired and include copies of all acquisition documents. Records must be retained for a period of three years after closeout of the grant year from which the grant funds were awarded. Grantees should be advised that the record retention period could exceed ten years. OCRA notifies Grantees as to when the three-year record retention period begins and expires. The Acquisition File Checklist (Acquisition Form 1) identifies the required file elements. At this time the Property Acquisition/Relocation Questionnaire (Acquisition Form 2) should be initiated by the Grantee. It is advisable to complete the applicable sections of this form as the steps in the acquisition process are completed.

Step 3: Obtain Appraisal(s) for the Property
All willing buyer/seller transactions require an Appraisal.

Step 4: Issue Willing Buyer/Willing Seller Transaction Offer Letter
The Grantee must inform the owner in writing of their interest in the property and state that it will not use its power of eminent domain to acquire the property if negotiations fail. The Grantee must also inform the owner of the value of the property based upon the Appraisal. This offer must be made by certified mail using Acquisition Form 10, and should include a copy of the Appraisal. The offer

to purchase may also be hand-delivered and the Grantee must obtain a signed receipt from the property owner.

Step 5: Complete Acquisition
If the owner finds the offer to be acceptable, a purchase option must be signed. No purchase agreements may be signed.

5.4. Relocation

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

If relocation procedures are required, the Grantee should contact the OCRA Acquisition Specialist for step by step relocation instructions.

5.5. Applicable Regulation Summary

49 CFR Part 24 The applicable regulations for the Uniform Relocation Act (URA). All of the URA rules and procedures are documented in the HUD 1378 Handbook.

42 USC 4601 et seq Uniform Relocation and Real Property Acquisition Policies Act (URA) of 1970, as amended.

Complete URA Federal Register site.

6. Financial Management

6.1. Overview

Accurate financial record-keeping, including the timely deposit, disbursement and accounting of Community Development Block Grant (CDBG) funds is crucial to the successful management of a CDBG funded project. Grantees must take the following steps to prepare a financial management system to receive and utilize CDBG grant funds:

1. Appoint a person to be responsible for Financial Management,
2. Establish accounting records,
3. Set up bank accounts or separate ledger accounts, and establish receipting procedures, and
4. Establish procedures for approving invoices, submitting claims, and issuing payment to vendors.

Financial record-keeping is the primary responsibility of the Grantee's Chief Financial Officer, i.e. the Clerk-Treasurer or Auditor. It is the responsibility of the Grant Administrator to advise, assist and counsel the Chief Financial Officer on administrative requirements in regard to the receipt, disbursement and accounting of federal funds and the records to be maintained. Failure to comply with financial management standards may result in monitoring and audit findings. Depending on the infraction, the Grantee may be required to payback federal dollars.

This chapter will focus on the records that must be maintained in order to receive and utilize CDBG funds. Specific topics include the following:

1. Line of Credit Establishment
2. Required Financial Records
3. Release of Funds
4. Draw downs and Disbursements
5. Grant Administration Costs
6. Semi-Annual Reporting

6.2. Line of Credit Establishment

In order for the Grantee to receive CDBG funds, a line of credit must be established with Grant Support. To establish the line of credit, the Grantee must complete the following steps:

1. **Execution of Grant Agreement:** A Grant Agreement will be forwarded to the Grantee soon after the Grantee has received notification of grant award. This agreement defines the responsibilities of the Grantee, and Subrecipient if applicable, in regards to federal and state regulations. The Grant Agreement also includes other very important information pertaining to time-lines, grant completion and expiration dates and financial obligations of all participants.

The Grantee should check the following information in the Grant Agreement for accuracy before signing:

a. The Environmental Release Date
b. The Required Bid Opening Date
c. The Release of Funds Date
d. The Budget Page

The Grant Agreement must be signed by the Unit of Local Government's (ULG's) Chief Elected Official (CEO). The Grantee then returns the signed document to the Lt. Governor's Business Office for signatures of applicable State officials. A copy of the fully executed Grant Agreement will be returned to the Grantee when all signatures have been affixed. This is a binding, legal document which must be maintained in the Grantee's permanent records for the federally assisted project.

2. **Authorized Signatures for Payment Request:** The Grantee must sign and return the Authorization Page that accompanies the Grant Agreement, prior to submission of any claim vouchers. The Authorization Page is required to document the signature of those individuals duly authorized by the Grantee's governing body to approve claims for payment on behalf of the Grantee against the Grantee's line of credit. The signatories on the signature page must be certified by the Grantee's legal counsel or a notary. The Grantee should authorize two individuals to sign the claim vouchers in case one would be unavailable. It is recommended that the Chief Financial Officer be the primary signatory and the CEO the second signor. This recommendation is made based upon which signor would be most readily available to sign the Claim Vouchers to be submitted.

   In the event the authorized signatories change during the duration of the project, a revised signature page must be provided to the CDBG Accountant immediately. The Authorized Signatures for Payment Request form is available on OCRA's website.

3. **Vendor Information Form:** The Grantee must sign and return the Vendor Information Form prior to submission of any claim vouchers. This form will be provided to the Grantee together with the Grant Agreement.

6.3. Required Financial Records

CDBG funds must be maintained in a separate account or in a separate fund within an existing account. Detailed records of receipts and expenditures of grant funds must be maintained at all times. Records must be supported by source documents including but not limited to deposit receipts, invoices and payments, and contracts awarded.

The following forms are required by the federal funding agency and must be maintained by the Grantee and available for inspection throughout the project:

1. **Federal Cash Control Register:** This form is used to track the receipt and expenditure of federal funds. (Expenditures of local funds are not reported on this document.) It is the State's policy under the guidance of the Code of Federal Regulations, that grant funds of $5,000 or more must be disbursed within five business days from the date they are deposited in the Grantee's designated account. The Federal Cash Control Register also maintains a cumulative amount deposited and disbursed throughout the grant project for accurate record-keeping purposes. This form is available as Financial Management Form 1.

2. **Contract Obligation Control Ledger:** This form provides a listing of all contractual obligations committed for the federally assisted project. All contracts must be listed including but not limited to those for professional services, legal fees, and acquisition and construction. Required information includes the contractor's name, contract date, and total contract amount. The amounts to be paid from CDBG funds are to be listed separately from amounts to be paid from local funds. This form is available as Financial Management Form 2.

3. **Contractor Expenditure Ledger:** This financial document is a supplement to the Contract Obligation Control Ledger and tracks the total contract amount, payments, change orders and remaining balance for each contract listed on the Contract Obligation Control Ledger. A separate expenditure ledger should be maintained for each contract awarded for the grant project. This ledger is useful to the Financial Officer in monitoring the progress of payments on each contract, which should be compared to the work actually performed to assure that work on the contract is completed according to schedule and budget. This ledger is also maintained to assure that the Grantee is not being invoiced for amounts more than the total of the contract including any change orders. This form is available as Financial Management Form 3.

4. **Property Inventory Ledger:** The Grantee is required to report any purchases made with CDBG funds including but not limited to tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit, and any equipment or vehicles which have a serial number. The Financial Officer must maintain an inventory of property purchased with CDBG funds throughout the life of the grant. While the Office of Community and Rural Affairs (OCRA) does not allow the use of CDBG funds to pay for personal property, this form is a mandatory piece of documentation. The form is available as Financial Management Form 4.

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

Contractor File Documentation
An additional aspect of proper Financial Management of a CDBG project is the maintenance of a separate file for each contractor and subcontractor on the project. Each file should contain:

1. The contractor's contract including federal language requirements
2. The contractor's Payment Bond and Performance Bond
3. The contractor's Certificate of Insurance
4. Copies of all change orders
5. The Contractor Expenditure Ledger
6. Copies of all checks written to the contractor from both federal and local dollars.

Additional Information
The forms listed in this Financial Management section do not replace any State Board of Accounts standardized forms to be used by counties, cities, and towns. The financial forms listed herein are required by the federal funding source and are in addition to any forms required by other state agencies.

While not required by the federal funding agency, Grant Support must review disbursements from local funds at monitoring. For that purpose, a 'Local Match Ledger' is included as Financial Management Form 5.

6.4. Release of Funds

No claims for grant funds will be considered by OCRA until the Grantee has obtained an official 'Release of Funds' from Grant Support. This is a several month process during which the Grantee follows federal guidelines to prepare for implementation of the project. Exhibit C of the Grant Agreement specifies the date deadline for fulfilling the requirements to obtain Release of Funds.

Certain costs may be incurred by the Grantee prior to Release of Funds but as specifically stated in the Grant award letter, such costs may ***only*** include professional fees such as engineering, architectural, environmental, administration or preliminary acquisition expenses and are incurred entirely at the Grantee's own risk.

Under NO circumstances may the Grantee encumber any other grant funds prior to Release of Funds. Therefore, the Grantee should NEVER enter into any construction related contracts prior to obtaining the official Release of Funds letter. Requirements which must be fulfilled in order to obtain Release of Funds for the federally assisted project are listed on the Release of Funds Checklist. This form is available as Financial Management Form 6.

CDBG funds and local match dollars must be spent proportionally to pay for the project. This means that if the project comes in under budget, a portion of the local dollars are not spent, and a portion of CDBG funds are not spent. For example, a community applies for a $500,000 grant, and contributes a $125,000 local match. In this instance,

80 percent of the funds are from OCRA and 20 percent of the funds are local. If the project ends up costing $500,000, then the Grantee would use $400,000 of CDBG grant funds and $100,000 of local match funds. It is not unusual for projects to come in under budget and not need the full amount of the CDBG grant.

The Grant Administrator can either schedule an appointment to deliver all the Release of Funds documents to OCRA, or the Grant Administrator can mail the complete set of documents to OCRA. In an effort to make the Release of Funds process run more smoothly, OCRA requires that all Release of Funds documents be submitted as an entire package. If the Release of Funds package submitted is incomplete it will be returned to the Grant Administrator without review. The only exception to this rule is for State Revolving Fund (SRF) or United State Department of Agriculture-Rural Development (USDA-RD) closings which need to be submitted at the last minute.

When all required documentation has been reviewed and approved by Grant Support, the Grantee will receive a 'Notification of Release of Funds' letter. Upon receipt of this correspondence, the Grantee may enter into the construction-related contracts beginning with the date of the Release of Funds letter or any subsequent date. As a reminder, Grantees cannot draw down funds until the OCRA Labor Standards Officer has received the Notice of Contract Award (Labor Standards Form 7), the Pre-Construction Conference Acknowledgement (Labor Standards Form 8), Wage/Fringe Benefit Certification (Labor Standards Form 9), and the Notice of Start of Construction (Labor Standards Form 12).

6.5. Draw-downs and Disbursements

Grantees should seek to provide timely payments of CDBG funds to all contractors. However, Grantees should not approve claims for payment until the project Engineer or Architect has approved the pay application and submitted it to the Grant Administrator. The Grant Administrator must also determine that the contractor is current with submissions of federal documents and certified payroll reports before preparing the claim voucher for CDBG funds. The claim voucher must be submitted to the Lt. Governor's Business Office. This form is available on the State Auditor's Website, under 'Forms' titled 'SF # 11294 (R7 / 9-09)' and is Financial Management Form 7.

Step by step instructions for completing the Claim Voucher are included with Financial Management Form 7a. If not completed properly, the claim voucher may not be processed and will be returned to the Grantee for correction. Please use the Claim Voucher Sample as a guide throughout the completion process.

Generally, the period of time for processing the Claim Voucher is 15 to 30 days. It is important to note that the time period will be extended during the last two weeks of June as the State Auditor's Office must suspend payments in order to close out the fiscal year and prepare the state's year-end reports. Because of these possible delays, Grantees should be attentive to forecasting cash-flow needs and coordinate closely with contractors regarding the timing of their requests for payments.

After approval of the Claim Voucher by the Lt. Governor's business office, the claim is forwarded to the Auditor's Office for payment. Funds are electronically transferred to the Grantee's bank account of record. If the Grantee makes changes to their bank account of record, they must notify the Auditor's office of the updated account information. Grantees must be alert to the receipt of federal funds and be prepared to issue payments to their contractors within five business days of the deposit.

Under no circumstances should a Grantee retain more than $5,000 of federal money in their bank account for more than five business days. If for any reason the federal funds cannot be disbursed during the five day period, the Grantee will be required to return all interest earned on the federal funds to OCRA by check made payable to the U.S. Treasury. Grantees are advised to keep federal funds in non-interesting bearing accounts.

6.6. Grant Administration Services

OCRA requires the use of a certified Grant Administrator who is responsible for ensuring compliance with all applicable state and federal rules and regulations governing the grant and the project.

As part of its funding to the Grantee, OCRA designates a percentage of each grant that can be used to pay for Grant Administration services.

If the Grantee opts to pay more than the OCRA designated percentage, the additional funds must come from local match dollars. If the Grantee pays less than the OCRA designated percentage, the remaining dollars may be used for some other aspect of the project.

6.7. Program Income

Program Income Defined

Program income is defined as gross income received by the Grantee or a Subrecipient that was directly generated from the use of CDBG funds and exceeds $25,000 in receipts for a single calendar year.

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

1. Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds (the time period of applicability is governed by CDBG regulations and is dependent upon the date of the final grant closeout),
2. Proceeds from the sale of equipment purchased with CDBG funds as allowed in advance by Grant Support,
3. Gross income from the use or rental of real or personal property acquired by the Grantee or a Subrecipient with CDBG funds,

4. Gross income from the use or rental of real property owned by the Grantee or a Subrecipient that was constructed or improved with CDBG funds,
5. Payments of principal and interest on loans made using CDBG funds,
6. Proceeds from the sale or assignment of loans made with CDBG funds,
7. Interest earned on funds held in a revolving fund account,
8. Interest earned on program income, and/or
9. Funds collected through special assessments made against properties owned and occupied by households not of low and moderate income, where such assessments are used to recover all or part of the CDBG portion of a public improvement.

Program Income Usage

Program income funds may be used to fund an eligible CDBG activity that meets all state and federal requirements of the CDBG program. Prior to disbursement of any program income an application requesting approval for the use of Program Income must be submitted to Grant Support. Below is a listing of typical program income uses:

1. Program income proceeds may be used to support another CDBG activity as prescribed under Title 1 of the Housing and Community Development Act of 1974, as amended. Each activity must be carried out in compliance with all applicable CDBG laws and regulations.
2. Program income may be used to provide local matching funds or cost sharing for other CDBG grant programs administered by Grant Support or the Indiana Housing and Community Development Authority (IHCDA).

Program Income Exclusions and Exemptions

Program income does not include the following:

1. Receipts for Grantee or Subrecipient controlled property that are:
    a. Proceeds from fundraising activities carried out by Subrecipients receiving CDBG assistance or
    b. Proceeds from the disposition of real property acquired or improved with CDBG funds when such disposition occurs after the applicable time period specified in the CDBG regulations.
2. Interest earned by the Grantee on grant funds before their disbursement is not program income, and must be returned to the US Treasury,
3. Relocation payments, and
4. Payments for loss of rental income.

Program Income Management

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

1. The Grantee may only use program income to fund eligible CDBG activities that meet a National Objective. All program expenditures must be approved by application to Grant Support.
2. The Grantee must maintain financial records on the receipt and expenditure of program income funds separately from other CDBG program funds currently being administered at the local level. A separate bank account must be established and entitled 'CDBG Program Income Account'. The Grant Support field monitors and State Board of Accounts' examiners will compare all receipts and disbursements against the information supplied by the Grantee in its quarterly program income reports.
3. The Grantee must submit quarterly status reports on the program income received and disbursed to Grant Support. Please use Financial Management Form 8.
4. The Grantee must treat program income as a form of CDBG funding and adhere to the specific CDBG program requirements as it relates to procurement, environmental reviews, labor standards, etc.

Successful Financial Management and Grant Monitoring and Audit
Following the expenditure of all federal and local funds and completion of the project OCRA will monitor the project. The list below contains possible Financial Management related infractions:

1. Violation of the $5,000 / Five Day Rule
2. Inadequate financial documentation
3. Expenses incurred that were not related to the project
4. Costs incurred outside of the effective period of the grant
5. Unallowable costs incurred under the CDBG regulations
6. Costs that required prior approval and none was obtained
7. Payments to Engineers, Architects or Grant Administrators with CDBG funds when these services were not procured following federal regulations.

6.8. Applicable Regulation Summary

Applicable regulations pertaining to the management of CDBG funds include:
24 CFR 85.41. The regulations under this law deal with the general administrative requirements in regards to the disbursement and accounting of federal funds.

24 CFR 570.489. The regulations under this law set for the specific administrative requirements of the Grantees in respect to the disbursement and accounting of federal funds. This law also addresses issues such as interest earned, gross income, program income, and revolving funds.

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

OMB Circular A-133.

7. Contract Development and Modification

7.1. Overview

Once a Vendor has been selected, it is time to develop and execute a Contract. A Contract is a formal agreement between two or more parties which clearly states the responsibilities of each party, agreed upon compensation for services and payment terms, and conditions and procedures under which the contract may be terminated by either party. When a Contract has been fully executed, it is enforceable by law.

All work and services to be accomplished for the completion of a Community Development Block Grant (CDBG) funded project must be covered by a legally enforceable, fully executed contract, regardless of the source of funds to be used for payment of the contract amount.

Before any contract may be fully executed, it is the Grantee's responsibility to insure that the contract complies with applicable federal and state laws, provides complete and full provision of the project scope, and avoids any real or implied Conflict of Interest concerns.

7.2. Contract Development

There are two types of contracts permitted under the CDBG regulations. They are:

1. **Firm, Fixed-Price Contract or Lump-Sum Contract**
   A Firm, Fixed-Price Contract requires that the contractor deliver the product or service for the agreed-upon price. This type of contract is required for:

   a. Professional services, including Grant Administration, Labor Standards, and Environmental Review,
   b. Engineering or Architectural services except when the level of work to be completed is unknown at the time of contract execution,
   c. Legal fees, rate consultant, or any other type of professional services required, and
   d. Construction of the project activities.

2. **Cost Reimbursement Contract**
   This type of contract is permitted for professional services when the level of work to complete a specific task is unknown. The fully executed contract must always state an estimated amount and a 'Not to Exceed' limit.

Costs Plus Percentage of Cost contracts are specifically prohibited by CDBG regulations for any type of work or services to be performed on CDBG funded projects.

7.3. Contract Requirements

All contracts executed for performance of CDBG related activities must include a full and complete description of the federal and state requirements for contract compliance. The following documents must be physically attached to each contract as applicable:

1. Professional Service Contracts must include the 'Third Party Contract Provisions'.
2. Construction contracts must include the 'Federal Construction Contract Provisions', including the Housing and Urban Development (HUD) Form 4010.

Construction contracts must include the following documents either physically or by reference to the project bid specifications and any addendums:

1. Applicable Davis-Bacon and Related Acts (Davis-Bacon) Wage Decision assigned to the project.
2. Bid Bond, Payment Bond and Performance Bond obtained by contractor and provided to Grantee to insure contract fulfillment.
    a. The Bid Bond guarantees that the selected bidder will execute the required contract documents within the specified period of time.
    b. The Payment Bond is binding upon the contractor, subcontractors and their successors or assigns, for the payment of all indebtedness to a person for labor and service performed, material furnished, or services rendered.
    c. The Performance Bond ensures that the contractor will fulfill all of the obligations under the contract within one year of substantial completion.

The bonding company issuing the bonds must hold a 'Certificate of Authority' as acceptable sureties.

Contract Contents and Provisions

All contracts for work or services on CDBG funded projects must include the following provisions:

1. Effective date of contract,
2. Detailed description of the work or services to be performed,
3. Specifications of materials or other services to be provided,
4. Time for performance and completion of contract services,
5. Method of Compensation,
6. Conditions and terms under which the contract may be terminated, and remedies for violation or breach of contract, and
7. Printed and signed names and titles of Signatories for all contract parties.

Retainage Requirements
It is a requirement of Indiana Code that for public works projects a percentage of the total contract amount due to all construction contractors be set aside until the project is satisfactorily completed, all suppliers have been paid in full, and all contractors, subcontractors and suppliers have submitted lien waivers. The amount of retainage withheld may not exceed:

1. 10% of the dollar value of all work satisfactorily completed until 50% of the project is complete, or
2. 5% of the dollar value of all work satisfactorily completed until 100% of the project is complete.

A Retainage Agreement must be reached, in writing, between the Grantee and the prime contractor to establish a procedure for holding the retained funds until all parties agree that the retainage may be released to the contractor upon satisfactory completion of the project.

Retainage Account funds may be:

1. Deposited into a mutually agreed upon financial institution, in a separate account. If deposited to an interest bearing account, any accrued interest belongs to the contractor,
2. Held in a bank account belonging to the Grantee, with transactions recorded and maintained in a separate ledger account, or
3. Deducted from amounts of draw-downs for payments due contractor so that the State is holding the retainage funds until they become due and payable to the contractor.

The Retainage Funds may only be released by the signature of both the Grantee and prime contractor.

Change Order Procedures
No change orders are permitted prior to the onset of construction. While the CDBG funded project is under construction, circumstances may arise that require changes to the scope of work called for in the original contract. Change orders are permitted if properly prepared and approved. Total net (+/-) change orders on a project may not exceed 20% of the original contract amount. Change orders must be prepared by the project Architect or Engineer and approved by the Grantee's governing board, in writing. When additional units of materials are needed, the cost used to calculate the change order amount must be the same price as quoted in the original contract.

Contractors should never assume a change order will be approved and commence the work identified in the change order before all approvals have been obtained. Verbal approvals are not sufficient and additional work or services not formally approved could result in the contractor doing work for which the Grantee is not obligated to pay.

Construction projects may sometimes encounter unforeseen circumstances which require changes to the scope of the project contract which exceed the 20% maximum net change orders permitted. Should this occur, it is the responsibility of the project Architect or Engineer to present to the Grantee a written explanation of the nature of the required changes and a full and complete explanation as to why the circumstances encountered were unforeseen during project design. The decision to approve this change must be made by the Grantee and it is recommended that legal counsel be obtained.

Changes to a project which result from unforeseen circumstances do not count toward the 20% maximum change order limit.

Insurance Requirements
All contractors and vendors performing work or services on CDBG funded projects are required to carry the following types of insurance policies for at least the minimum level of coverage:

1. Worker's Compensation/Employees' Liability, $100,000 per person,
2. Auto Insurance for injuries and damages caused by the contractor's vehicle on the job site,
3. Comprehensive Public Liability, $250,000 per person, and
4. Property Damage Policy, $100,000 per incident with an aggregate minimum of $300,000.

Other types of insurance coverage may be required based upon the specific federally assisted project.

Disclosure Reports and Code of Conduct
The Grantee must maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest exists. Such a conflict would arise when the employee, officer, or agent, or any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award.

In order to affirm that no conflict of interest exists on the implementation of any contracts which are a part of the federally assisted project, the Grantee must complete a Disclosure Report, Contract Form 1, to be included in all applications for grant funding. The Disclosure Report must be updated throughout the project as additional contracts are awarded, and maintained in the project files. A final Disclosure Report listing all contracts pertaining to the federally assisted project must be submitted to the Office of Community and Rural Affairs (OCRA) at monitoring.

Contractor Debarment
Contracts for work or services for compensation on a project funded in whole or in part with CDBG funds may not be awarded to parties excluded from participation in federally assisted projects. Please refer to the Labor Standards chapter for more information on the Excluded Parties List.

Any entity that enters a contract to perform work or services on a CDBG project may be subject to debarment proceedings for the following violations:

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

Recommendations for debarment for any of the above violations may be addressed to the OCRA's Grant Support stating the conditions under which the violations occurred.

7.4. Modifications

After a Grant Agreement has been fully executed for a CDBG funded project, there should be no changes made to the project activities, beneficiaries, budget, grant amount or grant ending date. The Grantee is expected to carry out the project exactly as stated in the grant application for which the grant was awarded and the Grant Agreement was executed.

On occasion, there may be unforeseen circumstances that require a modification to the Grant Agreement. In those instances, it is the responsibility of the Grantee to submit a written request for modification to Grant Support, with a full and complete explanation of the reason for the request for modification. The Grantee's request should include a written explanation from the project architect or engineer identifying the changes needed and stating why the situation was unforeseen at project design.

Review of the modification request will be evaluated by Grant Support for the following criteria prior to any decision being made:

1. Does the proposed modification present any deterrent to meeting federal and state policies?

2. Does the proposed modification affect the original scoring of the application to the extent that would have prevented the grant from being awarded if presented as identified in the modification request?
3. Does the Grantee have any monitoring findings or overdue reports on this particular grant?
4. Has the Grantee made every effort to proceed with the project in a timely and responsible manner?

If Grant Support is unable to approve the modification request, the Grantee may voluntarily de-obligate the grant and cancel the project until such time as the problems are resolved and a subsequent application may be submitted.

If the modification request is approved, the Grantee will be notified by letter as soon as possible after review of the request is completed.

Modifications are classified as Category 1, Category 2 or Category 3. Before submitting a modification request, the Grantee must determine which Category best describes their modification and follow the requirements for the appropriate category.

Category 1 Modification

1. **Modifications include:**
    a. Requests for extension of the project completion date (Contract Form 2)
    b. Requests to revise the budget by moving project costs between line items (Contract Form 3)
    c. Requests to modify the grant goals to be accomplished by less than 10% (Contract Form 3)

2. **Modifications require:**
    a. A written explanation from the Chief Elected Official (CEO) and project engineer, if applicable

Category 2 Modification

1. **Modifications include:**
    a. Requests to revise the budget by moving more than 10% of the project costs between line items (Contract Form 4)
    b. Requests to modify the grant goals to be accomplished by more than 10% (Contract Form 5)

2. **Modifications require:**
    a. A written explanation from the CEO and project engineer, if applicable,
    b. Requirement that the Grantee hold a Public Hearing to inform the citizens of the proposed changes to the project and consideration of citizen comments for or against the changes. Use Contract Form 6 for Public Hearing notice,

c. Proof of Publication of legal advertisement stating date, time and place of Public Hearing published at least ten (10) days in advance,
d. Minutes of Public Hearing signed by an officer of the Grantee or the Grant Administrator with written authorization from the CEO,
e. Sign in sheet providing the names of all attendees, and
f. A written statement by the governing board regarding resolution of any citizen complaints received regarding proposed changes to the project.

Category 3 Modification

1. **Modifications include:**
   a. Requests to change the project location or participants
   b. Requests for additional grant funding if less than maximum grant amount was originally awarded – request considered ONLY after contact with Grant Support determines that additional funds are available

2. **Modifications require:**
   a. Written explanation from the CEO and the project engineer, if applicable,
   b. Requirement that Grantee hold a Public Hearing to inform the citizens of the proposed changes to the project and consideration of citizen comments for or against the changes,
   c. Proof of Publication of legal advertisement stating date, time and place of Public Hearing published at least ten (10) days in advance,
   d. Minutes of Public Hearing signed by an officer of the Grantee or the Grant Administrator with written authorization from the CEO,
   e. Sign in sheet providing the names of all attendees, and
   f. Written statement of governing board regarding resolution to any citizen complaints received regarding proposed changes to the project;
   g. Adopted Resolution of governing board to submit the modification request for approval. See Sample Resolution Form 7.

Every attempt must be made to complete the project within the allotted time frame. Time extensions are a deterrent to the expenditure of funds ratio maintained by HUD and could put future funding allocated to the State of Indiana in jeopardy. Grant funded projects are expected to be completed as proposed with only rare occasions when a modification must be requested.

7.5. Applicable Regulation Summary

Applicable Regulations pertaining to contract development and modification of CDBG projects include:

24 CFR 85
24 CFR 570.489
24 CFR 570.611
24 CFR 84.42

31 CFR 223.1
OMB Circular A-87
IC-5-3-1-2
IC-5-16
IC-5-22
IC-36-1-12

8. Civil Rights

8.1. Overview

This chapter covers the rules and regulations that are applicable to upholding the rights of every individual regardless of race, color, religion, gender, disability, age, familial status, or national origin on projects that utilize federal funds.

The premise of the established civil rights rules and regulations, as they pertain to Community Development Block Grant (CDBG) funded projects, is to promote the following:

- Equal Employment Opportunities (EEO's) for All Persons,
- Equal Opportunity in Services, Benefits, and Participation in CDBG Projects,
- Promotion of Fair Housing Practices, and
- Promotion of Section 3 Requirements

Upon Grant award, the Grantee must designate a Civil Rights/Section 3 Officer to oversee the implementation of all civil rights procedures applicable to the CDBG project. Upon appointment of a Civil Rights/Section 3 Officer, the Grantee must complete a Civil Rights Form 1 and submit it to the Office of Community and Rural Affairs (OCRA) Civil Rights Specialist no later than Release of Funds.

The remainder of this section provides a detailed account of the rules and regulations that the Civil Rights/Section 3 Officer must understand and implement as applicable.

8.2. Affirmatively Furthering Fair Housing (AFFH)

Every Grantee must promote fair housing practices within its jurisdiction. While there are many ways that Grantees can promote fair housing practices, the following guidelines have been adopted by OCRA:

Step 1: Develop a Fair Housing Ordinance.
The Grantee should work with their Attorney to develop a Fair Housing Ordinance if one does not exist. A sample Fair Housing Ordinance has been provided as Civil Rights Form 2**.** Once the Fair Housing Ordinance has been developed, the ordinance must be formally adopted by the Grantee and submitted to the OCRA Civil Rights Specialist for review on or before Release of Funds.

Step 2: Display the Applicable Fair Housing Posters.
Upon receipt of the Grantee's Civil Rights/Section 3 Officer Notification, the OCRA Civil Rights Specialist will provide the applicable fair housing posters to Grantee's Civil Rights/Section 3 Officer. These posters must be displayed in public buildings, such as local government buildings, and must always be posted at the job site.

Step 3: Conduct Fair Housing Activity.
Grantees are required to take additional steps to further promote fair housing practices within the community. Grantees must choose an activity from the AFFH Checklist (Civil Rights Form 3) to conduct during the grant period. This form must be submitted prior to Release of Funds. These activities must then be documented for review at monitoring. Grants will not be closed out prior to completion of the chosen activity. Examples of acceptable steps to promote Fair Housing practices include but are not limited to distributing the Fair Housing Brochure, reviewing sales and rental practices in the community, or conducting a Fair Housing Assessment.

8.3. Drug Free Workplace Policy

A Drug Free Workplace Policy must be formerly adopted by the Grantee, if one does not exist. This policy is intended to establish a drug free workplace, and will be considered as a condition of employment. A sample Drug Free Workplace Policy has been provided as Civil Rights Form 4.

The Drug Free Workplace Policy MUST be adopted by the Grantee and a copy provided to the OCRA Civil Rights Specialist prior to Release of Funds.

8.4. Minority and Women Business Enterprises Opportunities (MBE/WBE)

Federal rules and regulations require the promotion of equal opportunities in services, benefits, and participation in federally funded projects. These opportunities must be extended to business enterprises classified as MBE/WBE. An MBE/WBE owned business is defined by OCRA as a business that has met the qualifications and has been certified as an MBE/WBE business by the State of Indiana's Department of Business Administration. A list of Certified MBE/WBE businesses may be obtained through the Minority Business Development Division's website.

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

The Civil Rights/Section 3 Officer is required to maintain documentation supporting the Grantee's 'best efforts' to achieve the state goal of 10% minority business participation on each CDBG funded project. While there are many ways that Grantees can document their 'best efforts', the following guidelines have been adopted by OCRA:

Step 1: Solicitation
When the Grantee procures professional services such as Grant Administration or architectural/engineering services; and all construction related activities, the Grantee is required to solicit at least two Certified MBE/WBE firms by certified mail, return receipt requested. The returned certified mail receipts must be

maintained in the Grantee's Civil Rights file and copies must be provided to OCRA in order to obtain Release of Funds.

Step 2: Documentation
If applicable, document reasons MBE/WBE firms were not selected.

Step 3: Recordkeeping
If applicable, maintain and document information regarding the dollar amount of all MBE contracts awarded. This information is needed for reporting requirements and final monitoring review.

8.5. Section 3 Requirements

The **Section 3** program requires that recipients of certain Housing and Urban Development (HUD) financial assistance, to the greatest extent possible, provide job training, employment, and contract opportunities to Low and Very Low Income residents in connection with projects and activities in their neighborhoods.

- HUD funds are one of the largest sources of federal investments in distressed communities
- These funds frequently result in new job and/or contracting opportunities

The Greatest Extent Feasible means recipients must make every effort to target, recruit, and direct economic opportunities to Section 3 residents and businesses.

Section 3 Beneficiaries
Section 3 Beneficiaries are those people with Low and Very Low Income. Section 3 sets the low income limit at 80% and very low income limit at 50% of the median family income for counties and metropolitan areas across the country. Please note that the definition for Section 3 Beneficiaries does not exactly match the definition that CDBG uses for Low to Moderate Income (LMI). Use Civil Rights Form 5 to document eligibility.

Section 3 residents may include:
1. Residents of public housing,
2. Section 8 voucher holders,
3. Recently unemployed,
4. Veterans,
5. Recipients of other federal assistance (TANF, unemployment, etc.),
6. Single mothers re-entering the workforce, and
7. Recent college graduates

Employment opportunities may include:
1. Construction labor,
2. Management and administrative support,
3. Architectural, engineering and professional services, and
4. Payroll, bookkeeping, and clerical positions.

Eligibility for employment opportunities:

1. A Section 3 resident must meet the qualifications of the position to be filled.
2. A Section 3 business concern must have the ability and capacity to perform. Use Civil Rights Form 6 to document business eligibility.
3. Section 3 is not intended to create an entitlement for eligible residences and businesses – it creates opportunities.
4. Simply meeting the definition does not automatically mean that jobs or contracts will be awarded.

OCRA has established the following guidelines to promote and encourage Section 3 participation. It is the responsibility of the local community to promote Section 3.

Grantee Responsibilities

It will be the responsibility of the Grantee's Civil Rights/Section 3 Officer to be familiar with the Section 3 guidelines in the Civil Rights Section of the CDBG Handbook and to oversee the implementation and procedures of Section 3.

Requirements include:

1. Assuring that advertisements for procurement promote and describe the Section 3 guidelines.
2. Assuring that Bid Specifications written by the Engineer or Architect include the detailed Section 3 requirements provided by HUD and the State.
3. Conducting a Pre-Bid Conference utilizing the Pre-Bid Conference Guide available on the OCRA website.
4. Providing OCRA with copies of the Pre-Bid Conference meeting minutes, acknowledgement form and sign-in sheet prior to Release of Funds. The meeting minutes should confirm that the requirements to comply with Section 3 Guidelines were discussed. See Examples of Efforts to Award Contracts to Section 3 Business Concerns and Examples of Efforts to Offer Training and Employment Opportunities (Civil Rights Form 7). Section 3 brochures are available from OCRA or on the HUD website in both English and Spanish.
5. Conducting a Pre-Construction Conference utilizing the Pre-Construction Conference Guide available on the OCRA website.
6. Providing OCRA with copies of the Pre-Construction Conference acknowledgement form before any drawdowns will be approved.
7. Displaying Section 3 posters in the nearest Work One Offices and community buildings. Locations of the nearest Work One Office as well as applicable contact persons are available at www.in.gov/dwd/WorkOne/.
8. All contractors and subcontractors will place the appropriate job vacancy on Indiana Career Connect (ICC) website, www.indianacareerconnect.com/. All contractors and subcontractors will search ICC for candidates that meet the requirements of the position and contact the appropriate regional contact and coordinate with the regional provider to help in filling open positions.
9. Assuring a list of all contacts received regarding Section 3 employment is maintained and providing the list to the Contractor if new positions are available.

10. Assuring the Section 3 Compliance Form (See Civil Rights Form 8) is completed by all contractors and subcontractors when work on their contract is complete and provided to the Grantee or their Civil Rights/Section 3 Officer.

8.6. Equal Employment Opportunity (EEO) Compliance

The EEO Posters must be displayed at the job site. It is the responsibility of the Civil Rights/Section 3 Officer to provide the posters to the Grantee and verify that the posters are displayed at the job site.

8.7. Accessibility Certification

All CDBG assisted facilities must be designed, constructed and altered so as to be accessible to and usable by persons with physical disabilities. To accomplish this, the Civil Rights/Section 3 Officer must complete the following tasks:

Step 1: Architect/Engineer Coordination
Coordinate activities with the design Architect or Engineer.

Step 2: Certification of Accessibility
The Grantee and project Engineer or Architect are responsible for:

a. Affirming that the completed project is accessible to all persons regardless of disabilities,
b. Completing the Certification of Accessibility, Civil Rights Form 9 and submitting to OCRA's Civil Rights Specialist no later than Project Monitoring.

Certain types of projects utilizing CDBG funds are exempt from the above step. Exempt projects include the purchase of fire trucks, planning projects and the purchase of some equipment for economic development purposes. Contact the OCRA Civil Rights Specialist for clarification, if needed.

8.8. Limited English Proficiency

In Compliance with Executive Order 13166, OCRA has conducted the four-factor analysis and developed the following Language Access Plan (LAP) for Limited English Proficiency (LEP) persons.

In certain situations, failure to ensure that persons who have limited English proficiency can effectively participate in, or benefit from, federally assisted programs may violate the federal prohibition against national origin discrimination.

Because virtually all assistance is provided by the Unit of Local Government (ULG) or nonprofits, all Grantees are required to follow the measures outlined below.

Step 1: Conduct Analysis

Conduct the four-factor analysis prior to advertising the initial public hearing. See Sample Civil Rights Form 10. Because the State's four-factor analysis has already identified five counties with LEP populations exceeding 1,000, (Allen, Elkhart, Lake, Marion and St. Joseph) all applicants from those counties will be required to prepare a LAP regardless of the results of their four-factor analysis.

Step 2: If Required, Provide Language Assistance

If the four-factor analysis reveals one or more LEP populations (an LEP population of five percent but at least 50 persons or a LEP population of 1,000 or more persons) within the jurisdiction, the Grantee will provide appropriate language assistance by 1) posting notices of the CDBG application public hearings in areas frequented by LEP persons of the threshold population(s) in the language(s) spoken, and 2) providing translation services at public hearings if requested to do so by LEP persons.

Step 3: Develop LAP

If an application is funded, the community will be required to develop a LAP if necessary and provide a description of outreach efforts prior to Release of Funds. Particular attention will be given to plan details for projects including acquisition, relocation or housing rehabilitation.

Step 4: Documentation of LAP

If a LAP is required, the LAP will include certifications that Plans have been developed, adopted, and will be implemented for all CDBG funded projects. The Grantee LAP will include an identification of all LEP populations exceeding 1,000 or five percent of total jurisdiction population, whichever is less, the identification of materials to be made available to LEP persons, the means by which the materials will be made available to LEP persons, and the identification of any other translation services which may be necessary. Grantees will be monitored for implementation of their LAP.

8.9. Applicable Regulation Summary

Applicable Statutes

- Drug Free Workplace Act of 1988
- Title VI of the Civil Rights Act of 1964 and as amended in 1988
- Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. 3601–3619)
- Title II of the Civil Rights Act of 1968 (25 U.S.C. 1301-1303, Indian Civil Rights Act)
- Section 3, Housing and Urban Development Act of 1968
- Architectural Barriers Act of 1968
- Title IX of the Education Amendments Act of 1972

- Section 504 of the Rehabilitation Act of 1973
- Section 508 of the Rehabilitation Act of 1973
- Section 109 of Title I of the Housing and Community Development Act of 1974
- Section 104(b)(2) of the Housing Community Development Act of 1974
- Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act of 1990
- Housing for Older Persons Act of 1995 (HOPA)

Applicable Executive Orders

- Executive Order 11063: Equal Opportunity in Housing, November 20, 1962 (State and Entitlement Community Development Block Grant grantees)
- Executive Order 11246: EEO and Affirmative Action Guidelines for Federal Contractors Regarding Race, Color, Gender, Religion, and National Origin, September 25, 1965
- Executive Order 11375: Amending Executive Order No. 11246, October 13, 1967
- Executive Order 12086: Consolidation of contract compliance functions for equal employment opportunity, October 5, 1978
- Executive Order 12892: Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing, January 17, 1994
- Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, February 11, 1994
- Executive Order 13166: Improving Access To Services For Persons With Limited English Proficiency, August 11, 2000
- Executive Order 13217: Community-Based Alternatives for Individuals with Disabilities, June 19, 2001
- Executive Order 13330: Human Service Transportation Coordination, February 24, 2004

9. Labor Standards and Certified Payroll Review

9.1. Overview

This chapter includes a description of the laws and regulations associated with federal Labor Standards administration and enforcement.

Construction contracts assisted, in whole or in part, with federal funds are subject to prevailing wage requirements. While the U.S. Department of Labor (DOL) has general administrative oversight of all federal Labor Laws, Housing and Urban Development's (HUD's) Office of Labor Relations works closely with DOL to administer the day-to-day responsibilities of enforcing Davis-Bacon and Related Acts (Davis-Bacon).

This chapter covers policies and procedures that must be followed when undertaking construction projects with CDBG funds, including bidding and contracting requirements, compliance with labor standards requirements, pre-construction conferences, and construction oversight requirements.

9.2. Determining Applicability of Federal Labor Standards

The following summaries outline the requirements for each labor standards act.

1. **Davis-Bacon** requires the payment of prevailing wage rates, which are determined by the DOL, to all laborers and mechanics on construction projects that are larger than $2,000 (the entire project, not separate contracts), and regulates:
    a. Wage rates by work classifications
    b. Fringe benefits
    c. Fair payment without deductions/rebates
    d. Withholding of funds from contractors in noncompliance
    e. Termination of contract due to noncompliance

2. The **Contract Work Hours and Safety Standards Act (CWHSSA)** applies to contracts that are greater than $100,000 (contracts under $100,000 are still subject to other labor laws). The CWHSSA serves the following functions:
    a. Regulates overtime compensation
    b. Requires payment of time and one-half of regular pay for overtime hours worked on the covered project
    c. Defines overtime as all hours worked - on all projects - in excess of 40 hours in one workweek

3. The **Copeland Act (Anti-Kickback Act)** makes it a federal crime for anyone to require any laborer or mechanic employed on a federally assisted project to kickback (i.e. give up or pay back) any part of their wages. The Anti-Kickback Act:
    a. Requires contractors and subcontractors to submit weekly certified payroll reports

b. Regulates permissible payroll deductions
c. Requires that all contractors and subcontractors keep accurate payroll records and maintain those records for a minimum of three years following completion of the project
d. Prohibits contractors or subcontractors from paying workers with an I.O.U., equipment, or any other form of barter. All payments must be in the form of a weekly check written to the employee, or a direct deposit to the employee's account

4. The **Fair Labor Standards Act** stipulates federal minimum wage, overtime, and child labor requirements. These standards may be pre-empted by more stringent federal standards such as the Davis-Bacon and CWHSSA.

9.3. Labor Standards Officer Notification

When a grant is awarded, the Grantee must designate a Labor Standards Officer to ensure compliance with Davis-Bacon. This designee must be a certified Grant Administrator. When the designee has been appointed, Labor Standards Form 1 is to be completed and submitted to OCRA's Labor Standards Specialist within 30 days of the grant award.

The Labor Standards Officer is responsible for obtaining wage determinations and contract provisions, verifying contractor and subcontractor eligibility, conducting pre-bid and pre-construction conferences, obtaining all required documentation, reviewing weekly certified payroll reports, conducting site visits for employee interviews, monitoring project compliance, and maintaining appropriate files.

Once it is determined that a construction project is subject to federal Labor Standards Provisions, the following steps must be taken to ensure compliance.

9.4. Federal Construction Contract Provisions

The Labor Standards Officer is responsible for providing the project Architect or Engineer with a copy of the Federal Construction Contract Provisions (including HUD 4010 Labor Standards Provisions) to be included in the project bid specifications. The Labor Standards Provisions HUD 4010 must also be attached to all construction contracts (prime contractor and all sub-contractors). The Federal Construction Contract Provisions and the prevailing wage rates must either be included or referenced in the contract. The latest Federal Construction Contract Provisions and HUD 4010 can be found on OCRA's website.

9.5. Wage Determination Online Program

The DOL has issued a directive that the Davis-Bacon Wage Determination that is in effect on the day of bid opening is the wage decision that must be used for all construction on a federally funded project.

In order to comply with that requirement, OCRA has assigned the responsibility of obtaining the appropriate wage decision(s) for a project to the Labor Standards Officer. An initial wage decision should be obtained 45 to 60 days prior to bid opening and provided to the Architect or Engineer to be included in the project bid specifications. The Labor Standards Officer will need to access the DOL website in order to obtain the Davis-Bacon Wage Determination for the project.

Although there are three types of wage decisions, OCRA construction projects will use either the Heavy/Highway or Building decisions. The majority of projects will only have one wage decision. For example, if you are building a library and it includes the installation of a paved parking lot, the wage decision that should be used is the Building determination. The parking lot, if it were a separate project, would be considered a Heavy/Highway project, but in this example, because it is incidental to the library, it is covered by the Building determination. Rarely will a project have a budget that shows 50% Building and 50% Heavy/Highway construction activities, but in this instance two decisions would have to be utilized. If there is a question as to whether your project requires two different decisions please contact OCRA's Labor Standards Specialist.

9.6. Initial Wage Determination Assignment Notice

After obtaining the correct wage determination, the Labor Standards Officer must complete the Initial Wage Determination Assignment Notice **(**Labor Standards Form 2**)** and submit to OCRA's Labor Standards Specialist to verify that the correct wage decision has been assigned to the project. This notice also requires the Labor Standards Officer to provide the wage determination to the Architect or Engineer to be included in the project bid specifications.

9.7. Invitation for Bids

Once the bid document is prepared (including the applicable wage decision, Federal Construction Contract Provisions and HUD 4010 Labor Standards Provisions), it is time to advertise for construction bids. See Procurement Chapter for Competitive Sealed Bid instructions.

9.8. Pre-Bid Conference Requirement

It is mandatory to hold a Pre-Bid Conference for every OCRA funded project. The Grantee must schedule a Pre-Bid Conference no less than 10 days prior to bid opening, for which the date, time and place of meeting must be included in the advertised invitation for bids. Representatives of the Grantee, the Labor Standards Officer, prospective contractors and subcontractors, and the Engineer or Architect for the project should attend.

The Labor Standards Officer should review the federal requirements with those present. The Pre-Bid Conference Guide outlines what the Labor Standards Officer must cover at the meeting. At the meeting, the Engineer or Architect should discuss the scope of work and give the prospective bidders a chance to comment or ask questions regarding the plans and specifications. Each attendee is required to sign the attendance sheet (Labor

Standards Form 3). The Labor Standards Officer must sign the acknowledgement form stating that all required information was provided at the meeting. (Labor Standards Form 4).The meeting minutes, along with Labor Standards Form 3 and Form 4 must be provided to OCRA at the Release of Funds meeting.

Prospective bidders must be advised that the wage decision included in the bid specifications is subject to change and the wage decision that is in effect on the date of the bid opening will be applicable to the project, provided that the contract is awarded within 90 days of bid opening. If an addendum needs to be issued to clarify any items discussed, including the updated wage determination (if one is issued), it must be issued to all plan holders of record no less than 72 hours prior to bid opening. The Labor Standards Officer must insure that this information is communicated to all prospective bidders at the Pre-Bid Conference.

9.9. Wage Determination Lock-In Notice

Because the DOL continually monitors the economic conditions of the construction contracting profession, the wage rates are subject to change. It is essential that the Labor Standards Officer verify that the most current rates are being utilized.

The Davis-Bacon Wage Determination that is ***in effect*** on the ***day of bid opening*** is the wage decision that must be used for all construction related activities on the federally funded project. Therefore, the following actions must be taken:

1. The Labor Standards Officer must obtain the wage decision in effect on the day of bid opening and provide it to the project Architect or Engineer to be forwarded to all prospective bidders,
2. If it can be justified that there was not a 'reasonable time' available before bid opening to notify bidders of the modification, the previous wage decision may be assigned to the project with a written report of the justification submitted with the Wage Determination Lock-In Notice. OCRA defines a 'reasonable time' as a minimum of 72 hours prior to bid opening,
3. The Labor Standards Officer must complete Labor Standards Form 5 and submit to OCRA's Labor Standards Specialist for verification of the wage decision issued as the final decision applicable to the project, and
4. Wage Decisions are only effective for 90 calendar days after the bid opening. On the 91st day the previously issued determination expires. The Labor Standards Officer is to notify OCRA's Labor Standards Specialist if the contract is not awarded within 90 calendar days of bid opening by sending in a new Labor Standards Form 5. The Labor Standards Officer is also responsible for notifying the contractor and Engineer or Architect of the new wage decision that is applicable to the project. If the contract is not awarded within 90 calendar days of the bid opening, the wage decision that is in effect on the date that the construction contract is signed is the decision that will be utilized for the entire project.

9.10. Bid Opening

At the bid opening the bids should be taken under advisement and no action taken until AFTER the grantee receives Release of Funds from OCRA. Refer to the Procurement Chapter for specific instructions on how to proceed with the bidding process.

9.11. Verification of Contractor/Subcontractor Eligibility

After bid opening but prior to Release of Funds, it is the Grantee's responsibility to verify that the lowest responsible and responsive bidder is eligible to work on federally funded projects. The Labor Standards Officer must verify contractor/subcontractor eligibility by checking the Federal Excluded Parties List System provided by the U.S. General Services Administration. Print out the results of your search and keep in each contractor file.

The Labor Standards Officer must then submit a certified statement (Labor Standards Form 6) to OCRA's Labor Standards Specialist verifying that the contractors or subcontractors are eligible to participate in the federally funded project.

At this time the prime contractor(s) may not have identified all subcontractors that will be working on the project. Before any new subcontractors can work on the project the Labor Standards Officer must verify their eligibility by checking the above website and submitting Labor Standards Form 6 to OCRA's Labor Standards Specialist. The Labor Standards Officer must stress to the prime contractor(s) the importance of being notified of any new subcontractors that they plan to use on the project.

9.12. Release of Funds

After the bid opening, if all required documentation has been received and approved by Grant Support, the Grantee will be issued a Release of Funds letter. Refer to the Financial Management Chapter for specific information needed to obtain Release of Funds.

9.13. Notice of Contract Award

When the Grantee has received the Release of Funds letter, the construction contract(s) may be awarded. Immediately upon contract award, the Labor Standards Officer must provide the Notice of Contract Award **(**Labor Standards Form 7**)** to OCRA's Labor Standards Specialist. The Labor Standards Officer must make sure that a copy of the Federal Construction Contract Provisions, the Federal Labor Standards Provisions (HUD 4010) and the final wage determination are physically attached to all construction contracts entered into on the federally funded project; including: general contractor(s), and subcontractor(s), second and third tier sub-contractor(s), and self-employed owner(s). Refer to the Procurement Chapter for specific instructions on items that need to be included in the construction contract.

If the project has two or more phases/divisions a separate Form 7 must be submitted for each contract awarded.

9.14. Pre-Construction Conference Requirements

When the eligibility of the bidder(s) has been verified and before any work is performed by the contractor, the Grantee shall schedule a Mandatory Pre-Construction Conference. The Pre-Construction Conference must be attended by the Grantee, Labor Standards Officer, Contractor(s), known Subcontractor(s) and the Engineer or Architect. This conference reduces the likelihood of later conflicts caused by assumptions and misunderstandings between the contractor and the Grantee.

The Labor Standards Officer should follow the OCRA Pre-Construction Guide and plan to utilize and distribute a pre-construction checklist to ensure that all areas are properly addressed. A Pre-Construction Conference Guide containing the information to be explained as well as the required posters that must be displayed at the job site is available on the OCRA website.

In addition to the labor standards requirements, the Labor Standards Officer must also review the Civil Rights and Section 3 requirements with the contractors. A brief overview has been included in the Pre-Construction Conference Guide; however, for additional information please refer to the Civil Rights Chapter.

At the conference, the Labor Standards Officer must make a copy of HUD's guide 'Making Davis Bacon Work: A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects' available to all contractors and subcontractors in attendance. After the conference, the Labor Standards Officer must send the Pre-Construction Guide Acknowledgement Form (Labor Standards Form 8), to OCRA's Labor Standards Specialist. This information must be received by OCRA before any claim vouchers for construction costs will be processed.

HUD's guide 'Making Davis Bacon Work: A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects', discusses labor standards requirements, and is available for downloading on their website.

9.15. Wage/Fringe Benefit Certification

Prior to any work beginning on the project, the Labor Standards Officer must obtain the Wage/Fringe Benefit Certification from the prime contractor(s) and any known subcontractor(s). This form can be found in the forms section of the CDBG Handbook and in the Pre-Construction Guide on OCRA's website. After reviewing those documents and determining that the contractor(s) are aware of the Davis-Bacon wage rates for the project and have listed how the entire package will be paid, a copy of the signed Labor Standard Form(s) 9 must be forwarded to OCRA's Labor Standards Specialist prior to any claims being submitted.

For a detailed listing of what documentation is needed as proof of fringe benefit packages, please see section 9.20 Fringe Benefits.

9.16. Conformance Rates

Occasionally a contractor plans to use classifications of workers that are not listed on the wage decision assigned to the project. When this occurs, the Labor Standards Officer must request a conformance rate from OCRA's Labor Standards Specialist. A written request must be sent identifying the work classification that is missing and describing the work that is to be performed. OCRA's Labor Standards Specialist will suggest a conformance wage rate for the missing classification subject to the approval of the DOL. The Labor Standards Officer will be notified in writing of the conforming rates and the Labor Standards Officer must provide the rates to the prime contractor and any subcontractor(s) who will use this classification of workers on the job site. Should the contractor or subcontractor dispute the conformance rate assigned by OCRA's Labor Standards Specialist, the DOL in Washington, D. C. must be sent a written request for a conforming rate.

9.17. Contractor Certification/Subcontractor Certification

At this time, the Labor Standards Officer must obtain the Contractor Certification (Labor Standards Form 10) and all Subcontractor Certifications (Labor Standards Form 11). Forms 10 and 11 are to be placed in the contractor(s) and/or subcontractor(s) files and be available for review at monitoring.

9.18. Notice of Start of Construction

Following execution of the contract documents and submission of all required forms, a notice to proceed may be issued to each prime contractor to begin work. The Engineer or Architect usually prepares the notice. When work on the project begins, the Labor Standards Officer must provide the Notice of Start of Construction (Labor Standards Form 12) to OCRA's Labor Standards Specialist.

Open projects must be under construction for an additional grant application to be approved. At the monitoring visit, payrolls from the construction start date, reported above, through construction completion will be reviewed.

9.19. Certified Payroll Reports

Certified Payroll Reports (CPRs) must be submitted no less often than weekly to the Labor Standards Officer to be maintained in the Grantee's Labor Standards files. Payrolls must be submitted in one of the two following ways:

- Federal Form WH-347 (CPR)
- Computer Generated form that includes all information included in the WH-347

Either option for submitting the CPR requires that it be accompanied by a Statement of Compliance signed by the owner or an officer of the contractor/subcontractor. The Statement of Compliance is Page 2 of the WH-347 or a separate document if using a computer generated payroll form.

The contractor and subcontractor(s) must number and date each CPR. The first week in which work is performed, the CPR must be marked 'Initial' and the last payroll report must be marked 'Final'. Contractor(s) and subcontractor(s) are required to submit a CPR for each consecutive week from the Initial Report to the Final Report. 'No work' CPRs must be submitted whenever there is a temporary break in the work on the project. If a contractor completes a portion of the work identified in his contract and is required to be off the job site for a period of time while project construction continues to the point where he can complete the remainder of the work identified in his contract, this contractor may submit a written statement to the Labor Standards Officer, signed by the owner or officer of the company that no work will be performed on the job site from Month, Day, and Year to Month, Day and Year. When this statement is received, the contractor is not required to submit weekly CPRs until their work on the project resumes.

CPRs must contain the name and the last 4 digits of the social security number (XXX-XX-1234) for all persons performing work on the project job site. CPRs must also list the correct work classification for all duties performed and the hourly rate of wages paid, number of hours worked on the project daily and weekly, gross pay from all hours worked on the project, gross pay earned during the pay period for work on all jobs, authorized deductions and net wages paid. Authorized deductions are based on the gross amount earned for all jobs during the pay period so that the net amount paid to the employee corresponds with the payroll check issued. When an employee performs work in more than one classification in any pay period, they must be listed twice on the CPR identifying separately the classification of work, rate of pay and hours worked in that classification during the period.

Owners of businesses working with their crew on the federally assisted job site may certify to the payment of their own prevailing wages in conjunction with the prevailing wages paid to their employees. This exception to reporting standards does not suggest that such owners are not likewise entitled to prevailing wages for their labor. Rather, it accepts the wage payment certification on weekly payroll reports by the owner for his or her own wages as that certification accompanies the certification offered for the payment of prevailing wages to his or her employees. Such owners need only list their name, work classification including 'Owner' and the daily and total hours worked. Such owners do not need to list a rate of pay or amounts earned. Company owners following this procedure must be listed on Labor Standards Form 10 or Form 11 in order to be classified as an owner.

It is the responsibility of the Labor Standards Officer, on behalf of the Grantee, to review the CPR's for accuracy and to determine that no unauthorized deductions have been made. Customary deductions that are required by law or by the order of a proper authority are permitted. Any voluntary deduction, other than those required by law or proper authority, must be authorized in writing by the employee. A written statement, signed by the employee, must accompany the first payroll on which the deduction appears. If the deduction will be ongoing, such as health insurance, a weekly statement is not required. However, if the voluntary deduction is occasional, such as the purchase

of tools, each time the deduction occurs the CPR must be accompanied by a written authorization from the employee.

The principal contractor (also referred to as the prime contractor) is responsible for full compliance with the labor standards provisions applicable to the project - with regard to its own workforce and with regard to the compliance of every subcontractor, including lower-tier subcontractors.

As a tool to assist the Labor Standards Officer with monitoring the receipt of CPRs, a Monthly Payroll Report Summary (Labor Standards Form 13) may be maintained. This is not a required form.

Every person who performs work on a federally assisted construction project is 'employed' regardless of any contractual relationship which may be alleged to exist between a contractor or subcontractor and such person. The contractor/subcontractor is responsible for insuring that the worker is paid at least as much as the wage rate (base + fringe benefits) listed on the wage decision for the classification of work they perform and must be listed on the CPR submitted weekly.

Truck drivers are **COVERED** by Davis-Bacon in the following circumstances:

1. Drivers of a contractor or subcontractor for time spent working on the site of the work.
2. Drivers of contractor or subcontractor for time spent loading and/or unloading materials and supplies on the site of the work, if such time is not de minimis.
3. Truck drivers transporting materials or supplies between a facility that is deemed part of the site of the work and the actual construction site.
4. Truck drivers transporting portion(s) of the building or work between a site established specifically for the performance of the contract or project where a significant portion of such building or work is constructed and the physical place(s) where the building or work called for in the contract(s) will remain.

The **Site of Work** for a Prevailing Wage project, 29 CFR 5.2(k)(1), is limited to the physical place or places where the construction called for in the contract will remain when work on it has been completed. For example, if the project is for new waterlines throughout the Town, the entire Town is the site of work.

9.20. Fringe Benefits

Fringe Benefits listed on the applicable wage decision must be paid to the employee or for the employee for every hour worked on the federally assisted project. Those benefits may be provided to the employee in the form of a fringe benefit package or the cash equivalent of the fringe benefits due may be added to the amount of the base wage with the total amount due reflected in the hourly rate column on the Certified Payroll Report.

Paragraph (a) or (b) on the Statement of Compliance must be marked on every certified payroll report to indicate the method by which fringe benefits will be paid.

If the fringe benefits are being paid to a bona fide fringe benefit plan, the Labor Standards Officer must obtain verification from the contractors or subcontractors of the calculation of benefits paid and proof of payment. Bona fide fringe benefit plans are identified at 29CFR 4.171. Examples include but are not limited to:

1. **Health, life or other similar insurance premiums paid by the employer**
   Documentation includes:
   a. Most recent insurance statement with a breakdown of each covered employee's premium, and
   b. A signed letter by an officer of the company that states how much of the premium they cover (percentage or dollar amount).

2. **Pension or retirement contributions recognized by the Internal Revenue Service (IRS) and contributed by the employer**
   Documentation includes:
   a. Letter from Pension Provider stating which employees participate in the program,
   b. Signed letter by an officer of the company that states what percentage of contributions they match, or if it is automatically given to the employee even if they do not contribute, and
   c. Monthly statements throughout the project that show how much the employee contributed and how much the employer contributed.

3. **Holiday and/or vacation pay contributed by the employer**
   Documentation includes:
   a. Copy of Employee Handbook that states the number of paid vacation and holidays provided to employees and a copy of employer's calculations for the amount of fringe benefit credit claimed for vacation and holiday pay listed by employee.

4. **Union Fringe Benefit Packages**
   Documentation includes:
   a. Copy of the Union Benefits Breakdown provided by each specific Union to the contractor, and
   b. Monthly statement listing covered employees and verifying payment to the plan.

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

The Labor Standards Officer must verify that the base rate + fringe benefit amount paid to each employee is equal to or greater than the amount stated in the wage decision

assigned to the project. To determine the hourly amount of fringe benefits being paid by the contractor for the employee, the annual amount paid must be divided by 2080 hours.

Example: $150.00 per month medical insurance premium paid by employer
X 12 Months per year = $1,800.00 Annual Premium
Divided by 2080 (Full time hours/year) = $0.87 hourly fringe amount

If the contractor's total wage plus fringe benefits package equates to less than the total wage plus fringe benefits amount specified in the Davis-Bacon wage decision, the difference should be paid directly to the employee as part of his/her weekly check.

Example: ABC Construction pays $3,000 per year to Redline Insurance for John Smith. They also contribute $5,000 per year to a 401 K plan for John. ABC's yearly fringe benefit contribution for John Smith is $8,000. On an hourly basis, this equates to $3.85 ($8,000/2,080 hours per year). The specified fringe benefit amount according to the applicable wage decision for John's classification is $5.20. ABC Construction will need to add the difference of $1.35 ($5.20 - $3.85) to John's hourly rate.

9.21. Overtime Pay

All employees who work more than 40 hours in a work week are eligible for overtime pay. If the overtime hours occur on the CDBG project, the employees must be paid time and one-half on the base wage plus straight time fringe benefits for every hour over 40 worked. If the overtime occurs on other jobs, the overtime should be calculated at the employee's regular rate of pay. It is not the Labor Standards Officer's responsibility to enforce the overtime law for work done other than on the CDBG project. If violations of this or any other labor law are suspected, they may be reported to the DOL.

9.22. Record of Employee Interview

It is the Labor Standards Officer's responsibility to conduct on-site employee interviews of at least 10% of each classification of workers. The interview forms (Labor Standards Form 14) are held in the Grantee's Labor Standards files for review at monitoring.

If any discrepancies are disclosed, the Labor Standards Officer, on behalf of the Grantee, must take immediate action to resolve the issue(s). Where underpayments of wages have occurred, the employer will be required to pay wage restitution to the affected employees. The Labor Standards Officer will notify the employer and prime contractor in writing of any underpayments that are found during payroll review or employee interviews. The prime contractor is responsible for ensuring that any restitution is paid. If any contractor is non-responsive, the Grantee may withhold payment to the prime contractor until compliance is obtained. If the contractor fails to make restitution, the Grantee will be held responsible for the additional payments owed to the contractor's employees. In addition, the contractors or subcontractors that violate the Labor Standards Federal Provisions may face administrative sanctions imposed by HUD and/or DOL.

9.23. Final Wage Compliance Report

When the final CPRs have been received and reviewed, the Final Wage Compliance Report (Labor Standards Form 15) must be submitted to OCRA's Labor Standards Specialist. This form must report any restitution paid to the workers with attached proof of payment.

9.24. Final Inspection and Project Completion

When all work on the project has been completed in accordance with the grant application, Grant Agreement and bid specifications and there are no pending issues, the Labor Standards Officer must submit the Final Inspection and Project Completion Report (Labor Standards Form 16) to Grant Support. This form must be signed by the Grantee's Chief Elected Official and the project Engineer or Architect.

9.25. Exceptions to Davis-Bacon Coverage

There are certain exceptions to the Davis-Bacon and Related Acts (Davis-Bacon). The Act does not apply to:

1. Construction projects at or below $2,000, if they are not part of a larger project (arbitrarily separating a project into contracts below $2,000 in order to circumvent the requirement is not permitted)

2. Rehabilitation or new construction of residential structures containing less than eight units

3. For projects that require the purchase of equipment only; the Davis-Bacon wage rates apply when CDBG funds are used to purchase equipment that requires installation and the installation charges involve more than an incidental amount of construction work. HUD defines 'incidental amount' as 20% of the cost of the equipment. Therefore, if installation charges are less than 20% of the cost of the equipment, Davis-Bacon does not apply. If installation cost exceeds 20% of the cost of equipment, Davis-Bacon does apply and the prevailing wage rates must be paid to the installers.

4. Any individual classified as an Apprentice may be paid less than the prevailing wage rate only if that employee is registered in a bona fide apprenticeship program approved by the DOL through the Bureau of Apprenticeship and Training or a DOL recognized State Apprenticeship Council. Duly registered apprentices may be paid wage rates in accordance with the levels identified in the approved apprenticeship program. This includes probationary apprentices (6 weeks to 6 months of probation) but excludes pre-apprentices (those on a waiting list for the apprenticeship program). If the employee is not in a registered apprenticeship program, they must be paid the prevailing wage rate for the classification of work performed.

The Apprenticeship Certification document for each employee claimed as an apprentice must be obtained prior to any work being performed by an apprentice on the job site. The maximum number of apprentices that may be used on the job site may not exceed the ratio of apprentices to journeymen allowed in the approved program.

5. Foremen or supervisors who spend at least 80% of their time on site performing supervisory duties are exempt from Prevailing Wage coverage. These employees may occasionally fill in for another worker such as during lunch breaks but should the performance of any type of construction labor on the project amount to more than 20% of their total hours on site, they must be paid prevailing wages plus fringe benefits for the classification of work they perform doing construction labor.

6. Owners of businesses working with their crew may certify the payment of their own wages in conjunction with the prevailing wages paid to their employees. Such owners need only list their name, work classification including 'owner' and the daily and total hours worked. They do not need to list a rate of pay or amounts earned.

7. Truck Drivers are **NOT COVERED** by Davis-Bacon in the following instances:
    a) Material delivery truck drivers while off "the site of the work".
    b) Drivers of a contractor or subcontractor traveling between a Davis-Bacon job and a commercial supply facility while they are off the "site of the work".
    c) Truck drivers whose time spent on the site of the work is *de minimis*, such as only a few minutes at a time merely to pick up or drop off materials or supplies.

8. Employees working off the 'site of work' such as in fabrication plants, tool yards, batch plants, borrow pits, job headquarters, etc.

9. With prior approval from OCRA, any regular employee of the state or political subdivision may perform certain work on the project construction at less than the prevailing wage rates. This is identified as 'Force Account Work' and with advance approval from OCRA these employees may work for their regular hourly pay rate which may be less than the prevailing wage rates assigned to the project.

   Example: If a City wants to use their utility employees to install light fixtures for a downtown project, the Mayor must submit a letter to OCRA (prior to grant application submittal) requesting to use Force Account Labor as in-kind match on the project. The letter must describe the services that they will be performing, number of hours each employee anticipates working, and their regular hourly rate of pay. For example, the letter might state: 'The City Utility employees have sufficient manpower to install the replacement light fixtures.

Our Utility Superintendent anticipates that it will take approximately 90 hours, (three employees at 30 hours each) at a cost of $2,250 (90 hours x $25.00 per hour. We are therefore requesting to use $2,250 in Force Account Labor In-kind local match.'

If a Grantee wishes to utilize the force account work option, they should reference IC-36-1-12-3 and request approval from OCRA prior to submitting their application. The approval letter from OCRA must be included in their grant application. In addition, the grantee must provide documentation of the hours worked by the employees at the project site.

10. Volunteer Labor approved by OCRA and included in the grant application. After the grant award, the Labor Standards Officer must contact OCRA's Labor Standards Specialist to request that the volunteer labor work be submitted to HUD's Labor Relations Director for approval. All volunteer labor must be approved by HUD, whether or not it is being counted as In-Kind local match. Volunteer labor is always calculated at $10.00 per hour, no matter what type of work or classification is being performed. In order for an individual to be considered a volunteer, the individuals must meet the following criteria:

    a. Must perform services on a volunteer basis only,
    b. Absolutely no compensation may be paid for the service,
    c. Must not be otherwise employed in construction on the project,
    d. Must provide a signed letter from volunteer stating that they are volunteering their services and expecting no compensation (Labor Standards Form 17)
    e. Must be pre-approved by OCRA and the letter of approval must be included in application for funding, and
    f. Must be approved by HUD prior to the Start of Construction.

    The Grantee must have documentation from each volunteer of all hours worked and type of work performed on the project available at monitoring**.** The following two forms must be used at the jobsite to compile the information from the volunteers at the jobsite. Labor Standards Form 18 is to be filled out by the Labor Standards Officer with all the names of the individuals that have been approved to work at the jobsite and given to the Grantee to post at the jobsite. Labor Standards Form 19 should be filled in each day by the approved volunteers to track the number of hours and type of work each individual completed at the jobsite.

    If an individual is not listed on Labor Standards Form 18, they are NOT authorized to complete work at the jobsite.

11. Demolition work, which is not related to construction, is not subject to the prevailing wage requirements of DBRA. For example, the demolition of a building because such structure is no longer needed would not in itself be a covered

construction activity. However, where an existing building is being demolished as a phase of a construction project subject to DBRA, the demolition would also be covered, as in the case of demolition performed to permit construction of the new building.

Grant Support should be contacted if there are questions regarding whether a project is covered by DBRA.

9.26. Applicable Regulation Summary

The U.S. Department of Labor has published rules and instructions concerning the Davis-Bacon and Related Acts in the Code of Federal Regulations. These regulations, which are used as the basis for administering and enforcing the laws, may be found in 29 CFR Parts 1, 3, 5, 6, and 7.

10. Reporting and Recordkeeping

10.1. Overview

A critical Grant Administrator responsibility is to maintain a complete set of records documenting the project and the compliance with all applicable regulations, and to provide timely reporting on the project.

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 Office of Community and Rural Affairs (OCRA) upon request, including any pertinent books, records, accounts, documents, papers, and other material that is relevant to the grant. Certain records must also be available to the public. Additionally, 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. Financial records, supporting documents, statistical records and all other records pertinent to a grant must be retained until 3 years after OCRA closes the grant year from which funds were allocated with the U.S. Department of Housing and Urban Development (HUD).

The submission of timely reports is essential for compliance with the Grant Agreement. Grantees are ineligible to apply for and receive other grants, as long as they have overdue reports. Grantees will not be allowed to drawdown funds if they have overdue reports.

10.2. Semi-Annual Reporting

Semi-Annual Reports providing updates on the status of the project must be submitted by the Grantee. The reporting periods and due dates are as follows:

1. For the period of January 1 through June 30 the report is due no later than July 31.
2. For the period of July 1 through December 31 the report is due no later than January 31.

The semi-annual reporting requirement begins when the Grantee receives a copy of the fully-executed Grant Agreement from Grant Support and continues until the Grantee has reached Financial and Administrative closeout of the grant. The Semi-Annual Report is available as Reporting Form 1.

Claim Vouchers will not be processed and no additional funds will be awarded if Semi-Annual Reports are delinquent.

10.3. Subrecipient Semi-Annual Reporting

If a Subrecipient is involved in the federally assisted project, a Subrecipient Semi-Annual Report must be submitted for a period of five years after administrative closeout

of the grant. Report periods and due dates are the same as stated above for the Grantee Semi-Annual Reports. The Subrecipient reporting requirement begins when the Grantee's Semi-Annual Reporting period ends, at administrative closeout. It is the responsibility of the Grantee to monitor the performance of the Subrecipient during the five-year period to insure that the federally assisted facility continues to meet all of the stated grant goals and objectives. The Subrecipient Semi-Annual Report form is available as Reporting Form 2.

10.4. Recordkeeping

Grantees must establish a system for record keeping that assists OCRA with the review of files for compliance. In other words, records should be kept in a manner that clearly tells the whole story of a Community Development Block Grant (CDBG) project from beginning to end.

The Grantee is responsible for maintaining all records pertinent to a grant, including supporting documentation, for three years from the date the State closes the program year, from which the grant funds were awarded. Because this required record retention period could exceed ten years, the State will notify Grantees when a program year has been closed with HUD and include the end date of the record retention period.

Representatives of HUD, the Inspector General, the General Accounting Office, the Comptroller General of the United States, the State Auditor's Office, the State Board of Accounts, and OCRA or any of their duly authorized representatives will have access to any pertinent books, records, accounts, documents, papers, and other materials belonging to or in use by the Grantee or sub-grantee in order to conduct audits, examinations, excerpts or transcripts.

Procurement: The required documentation is as follows:

1. **Supplies/Materials**
    a. Copy of Request for Quotation (RFQ)
    b. Certified mail receipts from Minority Business Enterprise (MBE) vendors
    c. Documentation of all quotes received
    d. Justification of selection
    e. Cost Analysis performed when only one quote is received

2. **Professional Services**
    a. Copy of the Request for Proposal (RFP) or Request for Qualifications (RFQ)
    b. Copy of the RFP/RFQ newspaper advertisement
    c. Certified mail receipts from MBE/WBE firms
    d. List of companies who submitted Statements of Qualifications
    e. RFP/RFQ evaluation and scoring documents
    f. List of short-listed firms and documentation of interview process
    g. Short-listed firms evaluation and scoring documents

h. Justification for selection of contractor

3. **Construction and Related Services**
    a. Copy of Invitation for Bid (IFB)
    b. Copy of IFB newspaper advertisement
    c. Certified mail receipts from MBE/WBE firms
    d. Minutes from public meeting where IFB's were opened
    e. Copy of the bid tabulation sheet, certified by the project architect/engineer
    f. Justification of selection

Contract Development: The required documentation is as follows:

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

2. **Construction – Related Services**
    a. Copy of a Firm, Fixed – Price Contract with the required Federal Construction Contract Provisions attached
    b. Copy of the Bid Guarantee
    c. Copy of the Performance Bond
    d. Copy of the Payment Bond
    e. Copy of contractor(s) insurance policy
    f. Disclosure Report for each contract
    g. Proof of the established Retainage Account
    h. Documentation on all Change Orders

Financial Management: The required documentation is as follows:

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

Environmental Review: The required documentation is as follows:

1. **Exempt Activity Project Classification**
    a. Copy of the Certificate of Exemption
    b. Copy of Notice of Removal of Environmental Conditions

2. **Categorically Excluded Projects Subject To**
    a. Copy of Certification of Categorical Exclusion (Subject to) and a copy of Statutory Worksheet
    b. Copy of the Categorically Excluded Activity Notification letters and responses
    c. Copy of the Notice of Intent to Request Release of Funds (NOI/RROF) advertisement
    d. Copy of the RROF Certification
    e. Copies of any letters received in response to the NOI/RROF
    f. Copy of OCRA's Notice of Removal of Environmental Conditions

3. **Assessed Activity Project Classification**
    a. Copy of environmental request packet
    b. Copy of all environmental response letters
    c. Copy of any environmental studies e. g. archaeological surveys, etc.
    d. Copy of completed Format II document
    e. Copy of the "Combined Notice of Finding of No Significant Environmental Impact and a Request for Release of Funds
    f. Copy of the RROF Certification
    g. Copy of OCRA's Notice of Removal of Environmental Conditions

Acquisition and Relocation: The required documentation is as follows:

1. **Property Acquisition**
    a. Copy of Title Searches
    b. Copy of completed property questionnaire
    c. Copy of letter to owner(s) informing them of the Grantee's interest in the property and of the owner(s) rights outlined in the Uniform Relocation Act (URA) brochure, "When a Public Agency Acquires Your Property"
    d. Certified mail receipts and/or signed dated receipts regarding above referenced letter
    e. Copy of property owner(s) certified mail receipt for notification of appraisal, if applicable
    f. Copy of market estimates on property valued under $10,000
    g. Copy of appraisal and review appraisal on property valued over $10,000
    h. Copies of appraisers' pocket identification cards
    i. Copy of offer to owner(s)

j. Copy of purchase option or signed easement agreement
k. Copy of donation/waiver forms
l. Proof of payment, if applicable

2. **Relocation** (Contact OCRA Acquisition Specialist for forms and assistance.)

   a. Copy of letter to owner(s) informing them of the Grantee's interest in the property and of the owner(s) rights outlined in the appropriate URA brochure
   b. Certified mail receipts regarding above referenced letter
   c. Copy of the Notice of Nondisplacement or Notice of Eligibility for Relocation Assistance
   d. Documentation of the replacement needs assessment
   e. Documentation of comparable replacement dwellings
   f. Copy of the Ninety-Day Notice
   g. Copy of the Relocation Claim Forms

Civil Rights: The required documentation is as follows:

1. Copy of Civil Rights Officer Notification
2. Copy of Grantee's Fair Housing Ordinance
3. Verification that all Equal Employment Opportunity (EEO) and Drug Free and Fair Housing Posters are displayed
4. Copy of all MBE/WBE bid solicitation and project participation
5. Copy of Invitation for Bid with appropriate civil rights documentation
6. Copy of construction plans and specifications with appropriate civil rights documentation attached
7. Copy of contractor(s) EEO Reports, if applicable
8. Copy of contractor(s) Affirmative Action Plans, if applicable
9. Copy of the Section 3 Compliance form
10. Copy of updated Disclosure Form

Labor Standards: The required documentation is as follows:

1. Copy of the Labor Standards Officer Notification
2. Copy of Wage Determination Assignment Notice
3. Copy of Invitation For Bid
4. Copy of construction plans and specifications with appropriate labor standards documentation attached
5. Copy of Pre-Bid Conference Sign-in sheet
6. Copy of Pre-Bid Conference Guide Acknowledgement
7. Copy of the Wage Determination Lock-In Notice
8. Copy of the Contractor/Subcontractor Verification form
9. Copy of the Notice of Contract Award
10. Copy of the construction-related contract(s) with the HUD 4010 form and Federal Construction Contract Provisions referenced or attached

11. Copy of the Preconstruction Conference Acknowledgement
12. Copy of contractor(s) fringe benefit programs
13. Copy of Force Account Labor approval letter from OCRA, if applicable
14. Copy of Force Account Labor time cards, rates of pay, and hours worked for each employee working on project
15. Copy of Volunteer Labor approval letter from OCRA, if applicable
16. Documentation showing hours worked and jobs completed by each volunteer
17. Copy of any apprenticeship certification programs, if applicable
18. Copy of Contractor(s) Certification form
19. Copy of Subcontractor(s) Certification forms, if applicable
20. Copy of the OFCCP Subcontract Notification, if applicable
21. Copy of all weekly certified payroll reports for contractor(s)/subcontractor(s)
22. Copy of all employee interviews
23. Copy of the Final Wage Compliance form
24. Documentation of any wage deficiencies and copies of restitution payments, if applicable
25. Copy of the Final Inspection/Project Completion report

Modifications: The required documentation is as follows:

1. **Category 1 Modification**
    a. Copy of the Modification Request letter
    b. Copy of OCRA approval of the request

2. **Category 2 Modification**
    a. Copy of the 'Notice of Grant Modification' newspaper advertisement
    b. Copy of the minutes and attendance roster of the modification public meeting
    c. Copy of the modification request packet
    d. Copy of OCRA approval of the request

3. **Category 3 Modification**
    a. Copy of the 'Notice of Grant Modification' newspaper advertisement
    b. Copy of the minutes and attendance roster of the modification public meeting
    c. Copy of the modification resolution
    d. Copy of the modification request packet
    e. Copy of OCRA approval of the request

Other Documentation

1. Verification of all new water and sewer users
2. Proof of Insurance on assisted facilities
3. Intake documents for non-presumed Limited Clientele and Job Creation projects
4. Job Creation Verification Reports for all new employees

Grant Closeout: The required documentation is as follows:

1. Copy of Grantee Performance Report
2. Copy of the grant monitoring documentation
3. Copy of the Financial Settlement/Expenditure Summary
4. Copy of the Administrative Closeout documentation

10.5. Applicable Regulation Summary

24 CFR Part 570.490(d) The applicable regulations for the recordkeeping requirements of the State CDBG program.

11. Closeout and Monitoring

11.1. Overview

The closeout and settlement process is the final phase of the Community Development Block Grant (CDBG) project administration. This process is comprised of a series of activities that verify that the requirements of the agreement between the Office of Community and Rural Affairs (OCRA) and the Grantee have been completed. After activities are completed and funds drawn down, closeout can begin. This chapter will discuss the steps associated with the grant closeout process.

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

11.2. Closeout Process

For most grants, the Grantee has 18 months to complete the CDBG project as stated in the Grant Agreement and to initiate the closeout process. With Planning Grants, the Grantee has 12 months. To initiate the Closeout process, the following conditions must be met:

1. All costs must be incurred and paid.
2. No contingent liabilities should be outstanding unless Grant Support provides their written consent.
3. The work to be assisted with CDBG funds must be completed and the new facility or improvement must be available for use by the grant beneficiaries.

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

The Closeout process involves four distinct progressive steps: 1) Financial Settlement, 2) Grant Monitoring, 3) Administrative Closeout, and 4) Final Closeout.

11.3. Financial Settlement

Financial Settlement involves the verification of the expenditure of all CDBG funds. The documentation associated with this activity must be submitted to Grant Support within 30 days after the project's completion or after the last CDBG disbursement was made, whichever comes first.

1. **Grantee Performance Report**: The Grantee must document the final amount of all expenditures, both federal and local, using Closeout Form 1**.**

Upon receipt of Closeout Form 1, the CDBG Accountant will review the financial information and either reject or approve the information based upon the content of the Grant Agreement.

When approved, the CDBG Accountant will forward the financial settlement documents to Grant Support staff for the purpose of project monitoring. Grant Support personnel will then contact the Grantee through their Grant Administrator to set up a date for the monitoring to be conducted.

11.4. Grant Monitoring

Grant Support will conduct an on-site or desk monitoring to review all grant documentation, financial records, and the actual facility and/or improvements. The purpose of the monitoring visit is to verify that the project has met the stated goals and objectives and all of the federal CDBG regulations. Successful monitoring meetings largely depend upon the organization and accuracy of record keeping by the Grant Administrator. A Monitoring Manual as used by Grant Support to conduct the monitoring is available for review on OCRA's website in CDBG Resources.

If required materials are not available on the date of the monitoring, Grant Support will request the Grantee or Grant Administrator submit the required documentation within 15 days. If not submitted within 15 days, the issues will be listed on the official monitoring letter. The Grantee will be ineligible for CDBG funding on any project until such issues are resolved.

Within 30 days after the monitoring meeting, Grant Support will forward a letter to the Grantee informing them of their grant status. This letter will state one of the following results:

1. **No Findings**: If the Grantee's performance was found to be in compliance with all CDBG and OCRA regulations, Grant Support will state that the project had no findings and inform the Grantee to proceed to the next step of the Closeout process.

2. **Unresolved Findings**: If compliance issues were raised at the monitoring meeting, Grant Support will address these issues in writing. The Grantee will then have 30 days to resolve these issues. After Grant Support reviews the submitted documentation, Grantee will be advised how to proceed with the Closeout process.

Until the Grantee has resolved all findings, the Grantee will not be eligible to apply for or receive any other CDBG funding. This includes CDBG grants from the Indiana Housing and Community Development Authority (IHCDA).

Financial Settlement/Expenditure Summary
When it has been determined that the Grantee has no findings or all findings have been resolved, the Grantee will be advised to submit a financial settlement/expenditure summary report to Grant Support. Please use Closeout Form 2. The submission of this form completes the financial settlement portion of the Closeout process.

11.5. Administrative Closeout

This step involves the verification of attained goals and objectives (e.g. job-creation or housing-occupancy goals) set forth in the grant agreement. These goals/objectives will be reviewed at the monitoring visit.

1. If it is determined at the monitoring visit that these goals and objectives have been met or found not to be applicable, the Grantee may proceed to Administrative Closeout by completing Closeout Form 3.

2. If it is determined that the goals/objectives have not been met, the Grantee must continue to submit the Semi-Annual Reports (see the Reporting and Recordkeeping Chapter for more detail) until such time as the goals and objectives are met or modified by Grant Support. Once Grant Support has determined that the Grantee has met all obligations, the Grantee may proceed to Administrative Closeout by completing Closeout Form 3.

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If the goals/objectives were met at the time the grant was monitored, Closeout Form 3 may be submitted to Grant Support along with Closeout Form 2. Upon approval of the Administrative Closeout Form, Grant Support will sign the form and place the grant in Administrative Closeout status.

When Grant Support has approved a Grantee's Administrative Closeout Form and placed it in the Administrative Closeout status, the Grantee does not need to submit any more Semi-Annual Reports. However, if the Grantee has a subrecipient, the Grantee is responsible for the submission of the subrecipient Semi-Annual reports for a period of five years after the date of Grant Support's approval of the Administrative Closeout (see Section 11.7).

11.6. Audits

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 Certified Public Accountant (CPA), with a current license to practice in Indiana can perform an audit.

One of the primary financial management requirements implicit in the use of federal funds is the annual audit. The Indiana State Board of Accounts performs an A-133 audit, when applicable, at the time they audit all of the Grantee's financial records. OMB Circular A-133 provides requirements for audits of governmental entities and nonprofit

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

The type and level of audit required is based on the amount of federal funds expended by a Grantee in a given fiscal year. Federal awards include financial assistance provided by the federal government to the Grantee in the form of grants, loans, property, contracts, loans guarantees, etc. Organizations that have expended more than $500,000 in Federal funds within a fiscal year are required to have an A-133 audit conducted. A **single audit** is an audit that includes both an entity's financial statements and its federal awards (from all applicable federal programs). If an organization expends less than $500,000 a year in federal funds, it is exempt from the federal audit requirements for that year; however, financial records must be made available if requested.

11.7. Final Closeout

The final stage of the closeout process is the issuance of a Certificate of Project Completion. This certificate is issued when OCRA has received the A-133 Federal Audit from the Indiana State Board of Accounts covering all years that CDBG funds were expended by the Grantee. If an A-133 Audit is not required, the Grantee must complete a 'Notification of Single Annual Audit Form' (Closeout Form 4)for each year that CDBG funds were expended. This form must be signed by the Chief Financial Official of the Grantee.

For OCRA projects where the Grantee has designated a Sub-Recipient, the Certificate of Completion will not be issued until 5 years from the date of Administrative Closeout. During that 5 year period, OCRA must receive the above mentioned A-133 Audit or the Notification of Single Audit Form (Closeout Form 4 and Closeout Form 5), from both the grantee and the sub-recipient, covering all years that CDBG funds were expended. This form must be signed by the Chief Financial Officer for the Sub-Recipient and the Chief Elected Official for the Grantee.

If there are no discrepancies or findings by the State Board of Accounts, the Certificate of Completion is issued and a copy is forwarded to the Grantee. If there are findings issued by the State Board of Accounts for a CDBG grant the grantee is responsible for resolving the issue with the State Board of Accounts. Upon resolution, the certificate will be issued.

Findings by the State Board of Accounts will prevent the Grantee from receiving further CDBG funding until all such findings are resolved. Issuance and full execution of a 'Certificate of Project Completion' signifies that the applicable CDBG grant is considered closed by OCRA with no further associated requirements for the Grantee except for compliance with the records retention requirements of the federal government and the State of Indiana. Financial records, supporting documents, statistical records and all other records pertaining to a grant will be retained for a period of three years after the State closeout of the grant year from which the grant funds were awarded. Grantees should be advised that the record retention period could exceed ten years. Neither

Grantees nor their sub-recipients are allowed to change the use or type of beneficiaries of real property acquired or improved with CDBG funds without the advanced written approval of OCRA. See the Reporting and Recordkeeping Chapter for more detail.

11.8. Applicable Regulation Summary

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

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

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

Grant Administrator Forms

Citizen Participation

- Form 1-Letter Authorizing Firm to Conduct Public Meetings

Procurement of Services

- Form 1-Sample Request for Proposal
- Form 2-Sample Request for Proposal Publication
- Form 3-Proposal Evaluation
- Form 4-Sample Letter to Short Listed Firms
- Form 5-Sample Letter to Firms Not Short Listed
- Form 6-Interview Evaluation and Scoring Form
- Form 7-Sample Letter to Selected Firm
- Form 8-Sample Letter to Firm(s) Not Selected
- Form 9-Sample Request for Qualifications
- Form 10-Sample Request for Qualifications Publication
- Form 11-Statement of Qualifications Evaluation
- Form 12-Sample Letter to Short Listed Firms
- Form 13-Sample Letter to Firms Not Short Listed
- Form 14-Interview Evaluation and Scoring Form
- Form 15-Sample Letter to Selected Firm
- Form 16-Sample Letter to Firm(s) Not Selected
- Form 17-Sample Invitation for Bid Publication
- Form 18-Sample Bid Tabulation
- Form 19-Sole Source Cost Price Analysis
- Form 20-Small Purchase Request for Quotation
- Form 21-Cost Price Analysis

Environmental Review

- Form 1-Certification of Exemption
- Form 2-Certification of Categorical Exclusion (not subject to 58.5)
- Form 3-Certification of Categorical Exclusion (subject to 58.5)
- Form 4-Statutory Worksheet
    - Form 4a-Instructions for Completing the Statutory Worksheet
- Form 5-Sample Notice of Intent to Request Release of Funds
- Form 6-Request for Release of Funds and Certification
- Form 7-CDBG Environmental Review—Documentation Required by Agency

- Form 8-Format II Environmental Review Record
- Form 9-Sample Notice of Finding of No Significant Impact
- Form 10-Notice to Public of No Significant Impact on the Environment and Notice to Public of Request for Release of Funds
- Form 11-Notice for Early Public Review of a Proposal to Support Activity in the (100-Year Floodplain or Wetland)
- Form 12-Notice of Explanation of Project Located in a Floodplain/Wetland

Acquisition and Relocation

- Form 1-Acquisition File Checklist
- Form 2-Property Acquisition/Relocation Questionnaire
- Form 3-Initial Notice to Property Owner
- Form 4-URA Brochure: When a Public Agency Acquires Your Property
    - Form 4a-URA Brochure Receipt
- Form 5-Property Appraisal Invitation
    - Form 5a-Property Appraisal Invitation Receipt
- Form 6-Letter of Purchase Offer
- Form 7-Waiver of Acquisition Rights with Full Donation After Appraisal
- Form 8-Waiver of Acquisition Rights with Partial Donation After Appraisal
- Form 9-Waiver of Acquisition Rights with Full Donation
- Form 10-Willing Buyer/Willing Seller Transaction Letter

Financial Management

- Form 1-Federal Cash Control Register—Federal Fiscal Year
- Form 2-Contract Obligation Control Ledger
- Form 3-Contractor Expenditure Ledger
- Form 4-Property Inventory Ledger
- Form 5-Local Match Ledger
- Form 6-Release of Funds Checklist
- Form 7-Claim Voucher
    - Form 7a-Claim Voucher Sample
    - Form 7b-Claim Voucher Instructions
- Form 8-Program Income—Quarterly Report
- Form 9-Authorized Signatures for Payment Request

Contract Development and Modification

- Form 1-Applicant/Recipient Disclosure/Update Report

- Form 2-Category 1 Modification Request Letter: Sample Grant Completion Extension Request
- Form 3-Category 1 Modification Request Letter: Sample Request for Category 1 *Other Than Time Extensions*
- Form 4-Category 2 and/or Category 3 Modification Request Budget Modification
- Form 5-Category 2 and/or Category 3 Modification Request Letter: Sample Request Letter
- Form 6-Category 2 and/or Category 3—Notice of Grant Modification: Sample Public Notice
- Form 7-Category 3—Grant Modification Resolution: Sample Resolution

Civil Rights

- Form 1-Civil Rights/Section 3 Officer Notification
- Form 2-Sample Fair Housing Ordinance
- Form 3-Affirmatively Furthering Fair Housing (AFFH) CDBG File Checklist
- Form 4-Sample Drug Free Workplace Ordinance
- Form 5-Resident Employment Opportunity Data
- Form 6-Certification for Business Concerns Seeking Section 3 Preference in Contracting and Demonstration of Capability
- Form 7-Examples of Efforts to Award Contracts to Section 3 Businesses
- Form 8-Section 3 Compliance Form
- Form 9-Certification of Accessibility
- Form 10-Community Sample Language Access Plan for Limited English Proficiency Persons

Labor Standards and Certified Payroll Review

- Form 1-Labor Standards Officer Notification
- Form 2-Initial Wage Determination Assignment Notice
- Form 3-Pre-Bid Conference Sign-In Sheet
- Form 4-Pre-Bid Conference Guide Acknowledgement
- Form 5-Wage Determination Lock-In Notice
- Form 6-Contractor/Subcontractor Verification
- Form 7-Contract Award
- Form 8-Preconstruction Conference Acknowledgement
- Form 9-Wage/Fringe Benefit Certification
- Form 10-Contractor's Certification
- Form 11-Subcontractor's Certification
- Form 12-Notice to Start Construction

- Form 13-Monthly Payroll Report
- Form 14-Record of Employee Interview
- Form 15-Final Wage Compliance Report
- Form 16-Final Inspection/Project Completion
- Form 17-Sample In-Kind Volunteer Labor Letter
- Form 18-Persons Approved to Complete In-Kind Donation
- Form 19-In-Kind Donation Tracking Sheet

Reporting and Recordkeeping

- Form 1-Semi-Annual Report
- Form 2-Subrecipient Semi-Annual Report

Project Closeout

- Form 1-Grantee Performance Report
- Form 2-Financial Settlement/Expenditure Report
- Form 3-Administrative Closeout
- Form 4-Notification of Single Annual Audit
- Form 5-Subrecipient Notification of Single Annual Audit