



**COMMUNITY DEVELOPMENT BLOCK GRANT
PROGRAM MANUAL**

for

Acquisition and Construction Projects

*Washington County
Office of Community Development
Updated August 2016*

Instructions to Applicants for Community Development Block Grant Funding

This Program Manual outlines the various requirements that will apply to entities receiving funding for Acquisition and Construction projects from the Community Development Block Grant (CDBG) program that is funded by the federal Department of Housing and Urban Development (HUD) and administered by Washington County Office of Community Development (OCD). One of our responsibilities, as grant administrators, is to ensure that federal and local program requirements are met. These requirements are implemented locally through the current Washington County, Oregon Consolidated Plan, and guided by the Washington County Community Development Block Grant Program Policy Manual. The purpose of the CDBG Program Manual is to provide guidance to applicants about the steps they must undertake and consider before submitting an application for funding from Washington County's CDBG Program.

In certain aspects of program activity, federal requirements may be quite detailed. We have not attempted to copy all federal requirements in this manual; rather to give you enough information to know whether you can proceed on your own or should contact this office for further instructions relating to individual project needs. In some areas, federal requirements may be vague and/or subject to interpretation. Do not hesitate to contact this office if you have any questions as to how to proceed. If necessary, we will contact HUD for guidance.

Sponsors are cautioned that federal requirements may apply to non-CDBG funded portions of a project or to activities that are undertaken prior to receipt of a grant award. For example, federal labor requirements may apply to demolition activities necessary for construction of a CDBG funded facility, even if the sponsor uses their own funds for the demolition. Another example, once a sponsor's application is received for an acquisition project, federal regulations governing the displacement of tenants, both people and businesses, may go into effect (assuming the project later receives a grant award), as well as the implications of environmental review requirements, which prohibit any "choice-limiting" activities be performed on the project site after the application for funding is submitted but prior to completion of the environmental review and "Notice to Proceed".

Once you are notified your project has been selected for funding, OCD will conduct the environmental review and draw up an agreement with your jurisdiction or agency. This agreement will require compliance with specific federal and local program requirements. OCD will send you a "Notice to Proceed" when the environmental review is completed and the agreement between the County and your jurisdiction or agency will be signed by both parties. From that date to the termination date specified in the agreement, you will be able to undertake project activities reimbursable by the grant program.

Please note those actions described in the guidebook that must be completed before you submit an application. Your application will need to include documentation evidencing what you have done, and failure to do so may mean that your application will not be considered.

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Section I: Environmental Review Requirements

Environmental Review Requirements

The guidelines that follow apply to all projects receiving awards of CDBG funds from Washington County Office of Community Development (OCD). This section offers guidance for the completion of a site and project Environmental Review (ER) under HUD regulations found at 24 CFR Part 58. It is critical that environmental reviews be conducted in a timely and accurate manner so that projects may move forward and receive positive consideration for CDBG funding. **Incomplete or inaccurate reviews may result in decisions to deny or rescind project funding.**

Overview of the Environmental Review Process

As an applicant for funding from the Washington County Office of Community Development's CDBG program, you may be seeking to acquire property for your project, or you may already own the property on which your project will be located. Please read the following guidance carefully to determine whether your project will be compliant with the HUD requirements related to property acquisition and environmental reviews.

The Environmental Review Checklist included in this section is intended, once completed, to provide enough information for OCD staff to determine whether a project may be considered to have "passed" environmental review, or whether more detailed information will be needed to evaluate the property.

It is OCD's expectation that grant applicants will complete the ER checklist to the best of their knowledge and ability; OCD staff is always available to provide consultation and assistance, and will review the data gathered upon checklist completion. If the answer to a question is unknown, please do not leave the question blank, but simply answer "unknown".

Some environmental reviews for some activities will not require publishing of public notices or comment periods, but if there are any mitigating factors to consider as part of the review, this may be necessary. For a site requiring an "Environmental Assessment" level of review, we will always have to publish a public notice known as a "Finding of No Significant Impact," or "FONSI" in local publications. That FONSI allows the public to comment directly to HUD on the content of and methodology used to create the Environmental Review Record (ERR) for the project. Following the comment period, any comments are considered by HUD in conjunction with the County's request that the record be approved, which is accomplished through a "Request for Release of Funds and Certification." OCD staff will discuss this process with you in more detail as you work through your environmental review process. Sponsors should be prepared for an environmental assessment level of review to take 2-4 months to conduct, depending on the complexity of the review. For that reason, it is important for you to make sure that information and answers to questions about the environmental conditions of your project site are given to OCD staff in a timely manner.

Please note the following if your project includes acquisition of land and/or buildings:

Guidance for Purchase of Property Prior to Application for Funding

If you or a third party purchase bare land or land with improvements before you apply for CDBG funds, the following will apply:

- CDBG funds may not be used to reimburse you or the third party for your purchase if it occurred prior to the completion of the HUD Environmental Review and prior to having executed a CDBG Grant Agreement.
- Once an application for CDBG funds is submitted, no other choice-limiting actions can take place on the property prior to completion of the Environmental Review.

- You will still need to demonstrate that you acquired the property through a voluntary transaction with the seller, and that your purchase price was either the fair market value based on an appraisal or broker's estimate, or another, lower negotiated price. If these disclosure notices are not executed correctly, the entire project will be ineligible for funding.
- If the property has been purchased by a third party with the intent to transfer it to your ownership at some point, the transfer cannot take place until the Environmental Review has been completed. The eventual transfer price from the third party to you cannot be for more than the price for which they purchased the property. In other words, the third party cannot receive holding fees for participating in the transaction.
- The third party also may not initiate any choice-limiting actions on the site after application for CDBG funds but prior to completion of the Environmental Review.

Guidance for Purchase of Property *after the Environmental Review Process is completed*

- No choice-limiting actions can take place until the entire HUD Environmental Review process has been completed. Types of choice-limiting actions include but are not limited to: executing a purchase agreement for acquisition (though an option agreement is allowed), demolition, construction, and executing construction contracts.
- The property may be purchased with non-public funds only after the completion of the HUD Environmental Review process described at 24 CFR Part 58. If CDBG funds are being used for the acquisition, you will also need to have completed and/or met all conditions of the award of funding, and have executed a CDBG Grant Agreement prior to completing your purchase transaction.
- At the time you submit your application for CDBG funds, you will ideally have a written option agreement with the seller of the property you would acquire for your project. You will need to be able to demonstrate that the sale is contingent on completion of the HUD Part 58 Environmental Review process. With the option agreement, you will need to deliver and have the seller sign one or more specifically-worded Uniform Relocation Act (URA) acquisition notices indicating that the seller's decision to sell you their property is voluntary (see Section II).
- You will also need to have either an appraisal or a certified broker's estimate of the fair market value of the property you wish to acquire, ideally before an offer is made to the seller, and will need to provide that information to the seller.
- Your purchase price must be the lesser of either the fair market value, or an agreed upon sales price.
- Your purchase price may not exceed the appraised/broker estimated fair market value of the property.

Please remember that under no circumstances may you, or a third party intending to transfer property to you, acquire the property using any resource after you submit an application for CDBG funds but before the environmental review is completed. Failure to comply with this requirement will cause your project to become ineligible for CDBG funds.

ENVIRONMENTAL REVIEW CHECKLIST

The following checklist must be completed prior to submittal of your project application, and will be used by Washington County Office of Community Development (OCD) for purposes of review during our visit to your project site. Please note that all of the information you provide in this checklist will be subject to confirmation by OCD staff. This checklist was also provided in electronic form on the CD insert of the packet you received at the Application Workshop. If you have questions about any of the required information or would like to request an electronic version of this checklist be emailed to you, please contact the Office of Community Development at 503-846-8814.

Name of Applicant: _____

Name of Project: _____

Project Location/Address: _____

Township/Range/Section: _____

I certify that this checklist has been accurately completed to the best of my knowledge.

Preparer Name (printed)

Preparer Signature

Date

Title of Preparer

A. Site/Area Maps

Maps must be attached to as indicated in the checklist when it is submitted for review by Washington County Office of Community Development staff.

1. In addition to map requested in the application, please attach a map that identifies the location of your project site in relation to its surrounding uses. The lists below note those things that must be identified, or that is helpful for you to identify if that information is also readily available.

Required for identification:

- Location of any airport within 15 miles
- All railroad lines within 3,000 feet
- Four-lane roads or highways within 1,000 feet

Optional for identification:

- Hospital, police and fire departments
- Social service agencies/facilities
- Recreational facilities
- Shopping/professional services
- Schools

2. A copy of the pertinent flood plain map for your project site. FEMA floodplain maps are available at www.fema.gov or click [here](#).

B. Existing Structures

1. Are there other structures on your site that will not be included in the project you are proposing?

Yes/No _____

2. If "Yes," are there plans to demolish any structures?

Yes/No _____

Please describe, noting which if any will be demolished:

C. Soil Suitability (Answer only if your project consists of acquisition and/or new construction)

1. Is your site level, or sloped? _____

If sloped, give the range of degrees of slope (if known): _____

2. Are there any signs of unstable soils on or in the vicinity of your site? (e.g., cracked foundations, sinkholes)

Yes/No _____

3. Are soils on or around your site highly erodible (subject to removal by water or wind)?

Yes/No _____

4. Describe the soil type and bearing:

5. Have you had a soils report completed for your site?

Yes/No _____

If yes, please provide a copy.

D. Site/Surrounding Hazards

1. Are there any natural hazards on or in the area of your site? (e.g., dangerous trees, sinkholes, ravines, avalanche-prone slopes, etc.)

Yes/No _____

Information Source: _____

If "Yes," please describe in detail:

2. Are any non-natural hazards present on or in the area of your site? (e.g., above ground storage tanks within one mile, high pressure petroleum or natural gas pipelines, power substations, high voltage power transmission lines through or adjacent, overgrown buildings or property, abandoned buildings, unfenced commercial/industrial property, drainage ditches, open wells, deteriorated streets or sidewalks, sources of excessive vibration, sources of odors or dust, field crops, or livestock).

Yes/No _____

Information Source: _____

If "Yes," please describe in detail and attach a map showing where the hazards are located relative to your site:

E. Hazardous Materials

1. If your project would consist of rehabilitation or demolition of an existing structure, was the structure built prior to 1978?

Yes/No _____

If "Yes," have you had the structure(s) evaluated for the presence of lead-based paint?

Yes/No _____

2. Are you aware of any asbestos-containing materials present on or in the structure?

Yes/No _____

If "Yes," have you had the structure(s) evaluated for the presence of asbestos?

Yes/No _____

Please describe how you evaluated the structure for the presence of lead-based paint and/or asbestos. If you have had the structure evaluated by a professional inspector, please note the name of the inspector/firm, and include a copy of their inspection report's summary, findings and recommendations.

3. Have you completed "environmental due diligence" for your site through a Phase I or II environmental assessment? (Not always required - For more info, refer to:

<http://www.epa.gov/swerosps/bf/aai/index.htm>)

Yes/No _____

If "Yes," please provide a copy of the assessment's summary, findings and recommendations.

4. Is there any evidence of contamination or potential contamination on your site? (e.g., are any of the following present today, or have they been present at any time in the past: landfills, chemical storage facilities, gasoline service stations, vehicle storage, wrecking or repair businesses, chemical processors, plating plants, dry cleaners, underground storage tanks, odors, pipes sticking out of the ground, oil drums, distressed soil or vegetation, fill, contaminated wells, transformers, power transmission lines, power substation.)

Yes/No _____

EPA Enviromapper: <http://www.epa.gov/emefdata/em4ef.home>

If "Yes," please describe.

5. Is there evidence of any of the contamination or potential contamination sources listed above on any of the properties near your site?

Yes/No _____

If "Yes," please describe.

6. Is there any evidence of fill having been placed on your site?

Yes/No _____

If "Yes," does documentation exist to demonstrate that the fill was engineered and is appropriate for the intended use?

Yes/No _____

If "Yes," please attach your engineer's certification of suitability.

F. Site Safety

1. Is your site located in a Runway Clear Zone - an area immediately beyond the end of an airport runway?

Yes/No _____

(Note: No site located in a Runway Clear Zone is eligible to receive CDBG funding.)

2. Are there any above-ground tanks (other than residential fuel oil tanks of less than 100 gallons in size) visible from any part of your site?

Yes/No _____

If "Yes," do they contain explosive or flammable materials, or have they contained such materials in the past without being decommissioned? Examples of such tanks include commercial propane tanks, fuel oil depots, gasoline storage, or industrial solvent storage.

Yes/No _____

3. Are there any tanks of the type described above within one mile of your site that are not visible, but are shielded only by other buildings and not by topography?

Yes/No _____

If "Yes," do they contain explosive or flammable materials, or have they contained such materials in the past without being decommissioned?

Yes/No _____

Information Source: _____

If you answered "Yes," that there are tanks, either visible or not visible but within 500 feet, please provide a map and describe the approximate location in relation to the project site and contents:

G. Noise

1. Is the project for new construction, purchase or resale of existing, modernization, or rehabilitation of noise sensitive use (i.e., housing, mobile home parks, nursing homes, hospitals, and other non-housing uses where quiet is integral to the project's function, e.g. libraries)?

Yes/No _____

(If No, STOP, the project is not subject to noise standards)

2. If Yes, is any part of your site within 3,000 feet of a railroad?

Yes/No _____

3. Is any part of your site within 1,000 feet of a highway or other road with four or more lanes?

Yes/No _____

4. Are there any other noise generators located nearby (such as heavy industrial facilities, rail yards, fire stations)?

Yes/No _____

If you answered "Yes" to any of the above noise questions, please describe the sources of the noise and their proximity to your site and hours of the day when the noise is most likely to occur:

H. Air Quality Screening *(New construction or major rehabilitation projects only)*

1. Is your site subject to air quality impacts not generally shared with the entire community? (e.g., close proximity to a gravel pit, pulp mill, processing plant, or other source generator of air pollution).

Yes/No _____

If "Yes," please describe the air pollution source.

I. Historic Preservation

1. Does the project include repair, rehabilitation or conversion of existing properties; new construction; the acquisition of undeveloped land; or any activity that requires ground disturbance (defined as one cubic foot of disturbed soil)?

Yes/No _____

If Yes, explain: _____

2. Is any part of your site in an established or proposed historic district? Yes/No _____

3. Is your site or any structure on it listed in a local historic or cultural resources inventory or the National Register of Historic Places?

Yes/No _____

4. Are any immediately adjacent sites or structures listed in a local historic or cultural resources inventory or the National Register of Historic Places?

Yes/No _____

5. If your project will require any ground disturbance, are there any known or suspected archaeological resources on your site, on adjacent sites, or in the vicinity of your site?

Yes/No _____

If "Yes" to any of the four questions above, please explain:

6. List the year each existing structure on your site was built, or attach other documentation:

7. Describe the sources of information you used to answer the historic preservation questions above, and include copies of documentation you have gathered.

J. Flood Plains

Federal funds may not be used for construction activities occurring within the 100-year flood plain as mapped by the Federal Emergency Management Agency (FEMA), or within a 500-year floodplain, except under limited circumstances.

[For Flood Plain Maps from FEMA.gov CLICK HERE](#)

1. What is the FEMA Map Number for your site? _____ Map Date _____

2. Is any part of your site located within the **100**-year flood plain according to the FEMA map?

Yes/No _____

3. Is any part of your site located within the **500**-year flood plain according to the FEMA map?

Yes/No _____

If Yes, Does your project involve a critical action, defined as an activity for which even a slight chance of flooding would be too great because it might result in loss of life, injury or property damage? Specific examples include:

- Structures or facilities that produce, use or store highly volatile, flammable, explosive, toxic or water-reactive materials.
- Structures or facilities that provide essential and irreplaceable records or utility or emergency services that may become lost or inoperative during flood and storm events (e.g., data storage centers, generating plants, principal utility lines, emergency operations centers including fire and police stations, and roadways providing sole egress from flood-prone areas).
- Structures or facilities that are likely to contain occupants who may not be sufficiently mobile to avoid loss of life or injury during flood or storm events, e.g. persons who reside in hospitals, nursing homes, convalescent homes, intermediate care facilities, board and care facilities, and retirement service centers. Housing for independent living for the elderly is not considered a critical action.

K. Wetlands

1. Does the project include new construction, rehabilitation that expands the footprint of the building, or ground disturbance? Yes/No _____

If no, STOP here.

2. Has any part of your site (including off-site construction areas) been identified as potentially being or containing a jurisdictional wetland?

Yes/No _____

Please refer to and print a Wetlands Map: <http://107.20.228.18/Wetlands/WetlandsMapper.html#>

2. If no wetlands or potential wetlands have been identified on your site, does the site have any of the following characteristics:

- | | |
|---|--------------|
| Wetland vegetation (<i>e.g. cattails, rushes, reeds, sedges, reed canary grass, creeping buttercup</i>) | Yes/No _____ |
| Hydric Soils (Soil & Water Conservation District Service Maps) | Yes/No _____ |
| Seasonally saturated conditions | Yes/No _____ |
| Water table within 18 inches of the surface | Yes/No _____ |
| Wetland wildlife (<i>ducks, salamanders, frogs, nutria, etc.</i>) | Yes/No _____ |

Please list the sources you used to document your answers to the wetland questions above.

L. Vegetation and Wildlife

1. Have any endangered, threatened or candidate plant or animal species been identified on your site or within a 1/4 mile radius of your site?

Yes/No _____

Access Endangered Species list by County at: <http://www.fws.gov/oregonfwo/Species/Lists/>

If "Yes," please describe:

2. If you answered "Yes" above, have you had a consultation with the state or federal agency that has jurisdiction over the identified endangered, threatened or candidate species?

Yes/No _____

If "Yes," please describe and provide copies of any written materials provided to you through the consultation process.

3. Describe the predominant ground cover and any wildlife noted through field observation.

4. Will your project add any new impervious surface, or expand the footprint of a structure?

Yes/No _____

Note: If your project will add any new impervious surfaces, please consult with OCD staff to discuss plans for stormwater management on the project site.

M. Environmental Justice

1. Will the proposed site be suitable for its proposed use?

Yes/No _____

2. Is there an adverse environmental impact caused by the proposed action?

Yes/No _____

3. Is the proposed action subject to an adverse environmental impact?

Yes/No _____

4. If yes, is the impact disproportionate on minority or low income populations?

Yes/No _____

5. Can you provide written evidence of outreach, public participation, and community involvement in the planning of the project to minimize environmental impact?

Yes/No _____

Identify the affected population(s), including demographics and all adjacent land uses (attach a separate sheet if necessary):

(For more information refer to: <http://www.epa.gov/compliance/environmentaljustice/index.html>)

Please submit this checklist to:

**Washington County
Office of Community Development
328 West Main Suite 100, MS 7
Hillsboro, OR 97217-3967
(503) 846-8814**

**SECTION II:
Uniform Relocation and
Real Property Acquisition Policies Act**

**Requirements of the Uniform Relocation
and Real Property Acquisition Policies Act
of 1970, as amended (49 CFR Part 24)**

The CDBG program is covered by the federal Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended (URA). Under the URA, all persons (families, individuals, businesses, not-for-profit organizations and farms) displaced (forced to move) as a direct result of rehabilitation, demolition or acquisition (privately undertaken or public) for a CDBG-assisted project are entitled to relocation payments. Displaced residential tenants are also entitled to replacement housing payments. It is the policy of OCD to encourage project sponsors to pursue only those projects that will not permanently cause displacement. Consistent with the goals and objectives of the URA, the CDBG recipient must ensure that all reasonable steps have been taken to minimize the displacement of businesses and/or persons as a result of a project assisted with federal funds. To the extent feasible, residential tenants must be provided a reasonable opportunity to lease and occupy the same or another suitable, decent, safe, sanitary and affordable dwelling unit in the building/complex upon completion, and perhaps during the course of the project. Displacement not only includes the physical displacement of persons, it also includes "economic displacement" which means that as a direct result of the project, the existing tenant is not able to afford a new, higher rent for their current unit. If a CDBG applicant intends to rehabilitate an occupied property, the issue of economic displacement needs to be of particular concern.

Applicants intending to acquire and/or rehabilitate renter-occupied structures are encouraged to contact OCD prior to submitting an application for funding and must follow the process outlined below. If you, the applicant, are planning to acquire the property, you must advise the current owner that you will be providing notices to their tenants. Agreement from the property owner that they will not require tenants to move, except for cause, must be obtained. All new tenants (once the first contact with tenants has been made) must be advised of the project in writing, and documentation must be kept showing both that prospective tenants have been so notified, and that tenants moving from the property did so voluntarily and without coercion.

Steps to Take BEFORE YOU APPLY for CDBG Funds:

• **General Information Notice. A general information notice must be sent to all tenants (residential and commercial) prior to submission of a funding application.** The notice must be sent by certified mail/receipt requested, or hand delivered and a delivery receipt obtained. Copies of all notices must be provided to OCD with your funding application. Copies of sample notices are available upon request for use for:

- Tenants whose displacement status is unknown at the time of application;
- Tenants who will be permitted to reside in the project after completion; and
- Tenants who will be required to move or may be displaced because of the project.

Applicants must submit evidence to OCD with their application indicating that all information notices were issued to all tenants. This can be accomplished by submitting a copy of the signed receipt (if sent certified) for each tenant, or by submitting a copy of the notice that has been signed by each tenant to acknowledge their receipt.

A copy of the brochure entitled "Relocation Assistance to Persons Displaced from Their Homes" must be provided to all residential tenants with the general information notice. A copy of the brochure will be provided by OCD upon request, and can also be made available in Spanish. If the tenant in the property is a business, contact the City for the appropriate brochure. The business brochure must be provided with the general information notice.

• **A tenant survey must be completed.** This is a preliminary survey to determine who currently occupies the property and to identify potential URA problems. This includes both residential and commercial tenants. Please use the Tenant Survey Form (provided by OCD upon request) and present it at the same time you present the General Information Notice. Copies of all surveys must be provided to OCD with your funding application.

After Submitting your CDBG Application:

• **Displacement Prevention Plan (DPP).** HUD requires that all reasonable steps be taken to minimize displacement of tenants as a result of a HUD-assisted program or project. It is in the grantee's best interest to avoid tenant displacement through careful planning and documentation of efforts to accommodate each tenant during rehabilitation of their rental unit so that there is not a claim of unintended displacement. This means considering whether displacement or temporary relocation will occur, identifying potential relocation workload and resources early in project planning and feasibility determinations, and following notification and advisory services procedures carefully. The purpose of developing a Displacement Prevention Plan is to assure that tenants do not leave their rental unit because they have not been informed about plans for the project or their rights. It is imperative to document efforts to assure that each tenant will occupy a decent, safe and sanitary unit following and during construction, and that concerns about tenants' special needs are considered early in the planning of the project. The plan must be written to inform tenants how and when the rehabilitation will impact their living conditions so that each may make an informed decision to remain in their unit during construction activities or be temporarily relocated to another unit.

• **Notice to New Tenants.** Each new prospective tenant must be provided a notice informing him or her about the rehabilitation project **before a lease or rental agreement is signed**. The tenant must sign a form (provided by OCD upon request) acknowledging receipt of this notice. Failure to issue this notice can be very costly, as the tenant may later be able to prove eligibility for payment of relocation assistance.

• **Notice to Tenants Who Move.** Documentation (provided by OCD upon request) is necessary to show that each tenant moving after the CDBG application submission date has done so voluntarily. A person may be evicted for cause, if properly documented, but not in order to avoid paying relocation assistance.

Upon Date of Execution of CDBG Funding Agreement:

• **Update the Tenant Survey.** Update the survey to reflect tenants who have moved, new tenants, and other new information.

• **Notice of Displacement/Non-Displacement.** As soon as possible after the date the CDBG funding agreement is executed, a notice must be issued (provided by OCD upon request) to each tenant who was in occupancy on the date the funding application was submitted. The notice must either:

- Contain a specific offer of a suitable, affordable unit in the project, or
- Be a notice of displacement, if the tenant will be permanently displaced. It must inform the tenant of the specific relocation benefits for which they are eligible.

• **Temporary Moves.** Arrange for temporary moves if necessary. Planning for temporary moves should be addressed in the Displacement Prevention Plan described above. Document temporary move notices and document all temporary moving costs. Tenants must be given reasonable advance written notice explaining the terms and conditions of the move, and must be reimbursed for all reasonable out-of-pocket expenses relative to the move. Tenants cannot be required to move their personal belongings, but may choose to.

• **Lead Based Paint Disclosure Forms.** Upon execution of a CDBG funding agreement, if the rental units were constructed before January 1, 1978, you must contact each tenant household and provide them with a lead paint disclosure form (provided by OCD upon request). The form is a way to verify that all lead paint information has been disclosed to current and prospective tenants, and that each tenant household has received a copy of the pamphlet, "Protect Your Family from Lead in Your Home." It is also acceptable to have the Agent and/or Lessor (they may be the same) fill out, sign and date the disclosure form in advance, and then present a copy of that form to each tenant household for original signature. You are required to retain tenant-signed forms for review by OCD. You must also obtain a signed copy of the lead paint disclosure form from each new tenant as they move in. It is suggested that you make these disclosure forms a part of the lease document for any buildings completed before 1978.

• **Occupant Protection Plan.** For pre-1978, non-exempt projects that involve the disturbance of lead paint or the control of lead hazards, a written Lead Hazard Occupant Protection Plan must be submitted to the City for approval prior to the initiation of any work. The Occupant Protection Plan for lead hazards will coincide with your Displacement Prevention Plan and, if necessary, will need to include provisions for temporary relocation to another unit that has been determined to be lead safe. If certified abatement work is involved, additional notifications to the State are required. Whenever a project includes lead disturbance or control, tenants will not be permitted to enter contained work areas, nor may they be allowed to return to the unit until certified clearance has been obtained.

• **Rehabilitation Project Completion/Project Closeout.** Update tenant survey to account for all tenants in place on date of project closeout. This date begins the compliance period for your project.

• **Comparable Units.** Prior to providing a tenant that is being displaced with the 90 day notice to move, funding recipients must identify comparable units and provide the tenant with a list of such units. To be comparable, units must be inspected, meet the HUD Section 8 Housing Quality Standards, and meet the needs of the tenant.

• **Record Keeping.** Funding recipients must keep records to document each step in the process of communicating with tenants about their rights and responsibilities under the URA. These records should document what happens to each tenant, whether or not they are displaced, from the start to the finish of the project. Copies of all records and documents related to URA, and gathered prior to or during your project, must be provided to OCD.

Acquisition-specific Requirements of the URA

Site control is an important issue in OCD's consideration of funding proposed projects. Projects without control of a site, either through ownership, an option to purchase, or an earnest money agreement, will likely be at a competitive disadvantage.

The URA also covers the act of property acquisition. There are two types of acquisition procedures that must be followed depending upon the type of acquisition that will occur, voluntary acquisition procedures and involuntary acquisition procedures. Involuntary acquisition procedures are much more astringent and must occur when the acquisition is site-specific, in that the project cannot occur without a specific parcel to be acquired. In most instances, the URA's voluntary acquisition procedures will apply. HUD and OCD prefer that, when an applicant does not already own a property prior to submitting an application to OCD, purchase options be used to obtain site control for purposes of your funding application. Your option should provide adequate time (six months to a year, at least) to allow your funding application to be reviewed by OCD, the environmental review to be completed, funding decisions made by OCD, funding agreements executed, and your property transaction to close. Please keep in mind that other funding sources (e.g., private loan funding for acquisition) may also have time frames that need to be taken into account in determining the length of the option agreement for your purchase.

Information that you as an applicant/recipient will need to provide to the seller is intended to inform them that:

- You do not have the power of eminent domain, and therefore will not acquire their property if an amicable agreement cannot be reached and they do not wish to sell.
- The purchase price must be the lesser of the property's fair market value, or a price you and the seller agree to.
- The seller must be informed of the fair market value of their property, and must be given the opportunity to withdraw from the transaction at the time they are notified of the fair market value, even if there is a purchase agreement in place.

The purchaser should give the seller this written information before making a formal offer. If for some reason the seller has not been informed of these facts, and the sale has not yet closed, the seller should immediately be informed and allowed to withdraw from the purchase agreement without penalty.

If you are planning to acquire property as part of your project, you will need to follow certain steps in order to comply with URA requirements:

- **Notice of Disclosure to Seller (either before or with the purchase offer).** You are required to provide the seller with the appropriate Notice (sample provided by OCD upon request) before completing your property transaction. **Remember too that no actual purchase transaction or other choice-limiting action may take place until the HUD Environmental Review for the subject property has been satisfactorily completed.**

- **Notice of Disclosure to Seller of Fair Market Value.** You are required to complete a determination of the fair market value of the property you wish to acquire either by hiring an appraiser, or by receiving an estimate from a qualified real estate broker. Once you have determined the fair market value of the property, the seller must be informed of its value, and that the purchase price must be the lower of either that value, or a price you negotiate with them.

For tenant-occupied properties, the seller must also allow the acquiring agency to send the Relocation Notices described above to tenants.

Please plan to confer with OCD for more information about the URA and your obligations as a funding applicant and possible recipient of federal funds.

The Uniform Relocation Act
Seven Things Every CDBG Funding Applicant Should Know

1. HUD cares about this. The federal government takes the rights of tenants in rental acquisition and rehabilitation properties very seriously.
2. So should we. Sponsors and developers who are working on HUD-funded projects need to understand that the Uniform Relocation Act (URA) is basic consumer legislation that addresses “fairness” issues. Tenants whose living circumstances are changed by a project—either by higher rents or involuntary moves—should and will be protected and compensated.
3. The relocation rules are not all one-sided. There are actions that can be taken to control costs and prevent displacement. These actions include informing tenants about the project, treating them fairly during the process, staging work if it is feasible, and keeping their rents affordable. Tenants must continue to pay rent and comply with their lease during the process.
4. Mistakes can be costly. Planning for relocation and tenant concerns is critical because tenants can take actions that can incur a financial liability for the sponsor/developer. Displaced tenants are entitled to 42 or 60 months of rental assistance, depending on the situation. Many claims exceed \$10,000 per household. Although some claims are unavoidable, there is no reason to incur these costs by failure to follow the rules.
5. Planning is critical. Relocation concerns must be thought about early in the process so decisions about rents, construction timing and project feasibility can be considered before they are a crisis.
6. Cooperation is essential. All parties involved in the project must “do the right thing” in order to make the process work.
7. There are three basic requirements for tenants in rental acquisition and/or rehabilitation projects:
 - They must be given timely information about the pending application. If the project is approved, they must be advised about any changes that will occur to their situation. If they are not advised—and move—they could claim that they were displaced even if that was not intended.
 - If they must be displaced, they must be offered a comparable replacement unit that is decent, safe and sanitary. Moving expenses must be paid. No one can be required to move without 90 days notice.
 - Tenants who will stay in the property after work is complete must be offered a suitable unit that is decent, safe and sanitary, and affordable to them.

**Section III: Guidelines for Project Beneficiary
Income Verification/Documentation**

CDBG Program Guidance: Project Beneficiary Income Verification/Documentation

One basic intent of the Community Development Block Grant (CDBG) program is to assist people with low incomes in meeting their needs for housing or services. As this is a prime purpose of the programs, it follows that it is of critical importance for funding recipients, Washington County Office of Community Development (OCD), and the U.S. Department of Housing and Urban Development (HUD) to know that low income people are indeed benefiting from the investment of CDBG resources. The best way to gain this knowledge is to verify and document the incomes of all project or activity beneficiaries who qualify based on income. This section details the responsibilities each recipient of CDBG funding from OCD must accept, and the tasks that must be carried out, in order to qualify for CDBG funding for acquisition and construction projects.

OCD and its funding recipients generally must verify household income eligibility for all of the beneficiaries of federally assisted programs and activities. Community Development Block Grant program resources must be used in ways that primarily benefit people in Washington County with incomes at or below 80% of the Median Income Level for their household size. CDBG Program income limits refer to the HUD Median Income Levels for the Portland Primary Metropolitan Statistical Area. These income limits are included in the application package for CDBG funding, and are available upon request.

Overview of Income Eligibility Determination process for Public Infrastructure projects

Projects may qualify on the basis of providing services to all residents of a geographic area and at least 50.44% of those residents are low/moderate income persons. To determine eligibility of the area of benefit for a CDBG-funded activity, the project Sponsor must first identify the Census tract and block group that the project will be located in, as well as the address of the project site or general area, if known. A map clearly identifying the Area of Benefit must be included with the application for funding.

Sometimes a Public Infrastructure projects must base low-income beneficiary data on a Demographic Survey of the area if the project is not in a low-income Census Block Group. Projects that must use the Demographic Survey method to determine the income eligibility of the service area should contact the Office of Community Development staff as soon as possible. Note that the Demographic survey should be conducted with a methodology approved by HUD. ***CDBG applicants should contact OCD as soon as possible and prior to conducting any survey to ensure the service area boundaries and methodology is acceptable.***

Public Infrastructure projects are not required to report race and ethnicity data for beneficiaries unless this data is made available through a demographic survey.

Overview of Income Eligibility Determination Process for Public Facility Projects

Funding recipients receiving funding for Public Facility projects that are not determined to be eligible on an area basis are required to determine the number of low-income beneficiaries as well as the race, ethnicity, disability status, and whether it is a female-headed household. Data reported to OCD should be collected for each person accessing services at the facility within a one-year time period, typically between July 1 – June 30th of the program year in which the Sponsor is receiving CDBG funding. While the Sponsor is not required to submit this program accomplishment data with each Voucher Request for reimbursement, the Sponsor will be asked to provide this information to OCD at the completion of the project.

The CDBG program regulations require that the income of all adult (18 or older) household members (with certain exceptions) be included in the determination of "annual income." Also, income limitations are relative to household size. In practice, this means that before determining

income, you must first determine the number of persons comprising the household, then calculate the income of all adult persons in the household.

For the purpose of determining eligibility for assistance, the CDBG regulations require that funding recipients “anticipate” or “project” a beneficiary household's annual income. In order to accomplish this, a "snapshot" of the household's current circumstances can be used to project future income. You can then assume that a household's current circumstances will continue for the next 12 months, unless there is verifiable evidence to the contrary.

To compare a household's annual income information to the area median income table:

- Find the column that corresponds to the number of persons in the household, then
- Compare the verified annual gross income of the household with the income limit for that household size. If the annual gross income is at or below the limit for the household size, then the beneficiary is determined to be income qualified.

The attached Sample Client Intake Form contains the minimum information that must be collected by the Sponsor for all beneficiaries of a Public Facilities project for purposes of reporting “limited clientele” data to the Office of Community Development. Please note that all beneficiary information must represent an UNDUPLICATED count – so please count each person served only once. Sponsors of facility projects need to demonstrate that the facility will continue to serve low income people for the time period specified in the grant agreement.

Please consult with OCD staff for a determination of eligibility on area basis, or if the nature and purpose of the facility must be qualified based on a clientele basis.

CDBG Client Intake Form
(Effective March 30, 2016)

Date: _____

Income Reporting

In the table below, please find your household size (the total number, including yourself, who live in your home) in the first column, and then look at the three numbers in the columns to the right of your household size. Please circle the one number that is both **higher** than your annual income, and the **closest** to your annual income:

Household Size	80% AMI (Low Income)	50% AMI (Very Low Income)	30% AMI (Extremely Low Income)
1	\$41,100	\$25,700	\$15,400
2	46,950	29,350	17,600
3	52,800	33,000	20,160
4	58,650	36,650	24,300
5	63,350	39,600	28,440
6	68,050	42,550	32,580
7	72,750	45,450	36,730
8	77,450	48,400	40,890

Race and Ethnicity Reporting (Report for both Race AND Ethnicity)

1) Please check the box below next to your race: (You may check more than one box.)	2) Please check the box below next to your ethnicity: (Check only one box.)
<input type="checkbox"/> American Indian or Alaska Native	<input type="checkbox"/> Hispanic or Latino
<input type="checkbox"/> Asian	<input type="checkbox"/> Not Hispanic or Latino
<input type="checkbox"/> Black or African American	
<input type="checkbox"/> Native Hawaiian or Other Pacific Islander	
<input type="checkbox"/> White	
<input type="checkbox"/> American Indian or Alaska Native and White	
<input type="checkbox"/> Asian AND White	
<input type="checkbox"/> Black/African American and White	
<input type="checkbox"/> American Indian/Alaska Native and Black	
<input type="checkbox"/> Other Multi-Racial	

<p>Do you have a disability?</p> <input type="checkbox"/> Yes <input type="checkbox"/> No	<p>Please check the box below next to your gender:</p> <input type="checkbox"/> Male <input type="checkbox"/> Female
<p>Are you a City of Hillsboro resident residing in either the 97123 or 97124 area code?</p> <input type="checkbox"/> Yes <input type="checkbox"/> No	<p>If you checked "female" above, are you the head of your household (either living alone, or a single mother, or living with a female roommate)?</p> <input type="checkbox"/> Yes <input type="checkbox"/> No

Instructions for the Race and Ethnic Data Reporting

Applicants and organizations receiving Federal financial assistance from the Department of Housing and Urban Development (HUD) are required to report race and ethnic information. The revised definitions of ethnicity and race have been standardized across the Federal government and are provided below.

Please note that HUD’s collection of racial data treats ethnicity as a separate category from race. To report race and ethnicity data correctly, each person must first identify his or her race, and then select the appropriate ethnicity (either Hispanic/Latino or NOT Hispanic/Latino). Example, if someone answers that they are Latino, you would indicate “Hispanic/Latino” under the ethnicity column, and then ask the person to indicate which category under race most closely identifies with that person’s continent of origin.

<i>Race</i>	<i>Ethnicity</i>
American Indian or Alaska Native. A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.	Hispanic or Latino. A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The term “Spanish origin” can be used in addition to “Hispanic” or “Latino.”
Asian. A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.	Not Hispanic or Latino. A person not of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
Black or African American. A person having origins in any of the black racial groups of Africa. Terms such as “Haitian” or “Negro” can be used in addition to “Black” or “African American.”	
Native Hawaiian or Other Pacific Islander. A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.	
White. A person having origins in any of the original peoples of Europe, the Middle East or North Africa.	

HUD states that self-reporting of self-identification, rather than observer identification is the preferred method for collecting race and ethnicity data. Self-identification for race and ethnicity means that responses are based on self-perception. You must make every effort to collect data for the aforementioned racial and ethnic categories. You may use the category “Other Multi-Racial” category, but you must still track what these race categories or race combinations are. Anytime you gave a number that fits in this “other Multi-Racial” category, you should provide a narrative description in the space provided.

Section IV: CDBG Guidelines for Selection and Procurement of Project Contractors

**CDBG Program Guidance:
Selecting and Procuring Project Contractors
(Applies to both Architectural/Design Services and Construction
Contracting Services)**

It is the policy of the Washington County Office of Community Development to encourage and foster competition in the awarding of contracts to be funded with federal CDBG resources. Applicants must be aware of the requirements that will apply to their selection of the contractors that will carry out the work proposed in a CDBG funding application.

Depending upon various factors such as the type of agency seeking funds, the type of project, and the contractual relationship that an applicant will have with Washington County Office of Community Development (subrecipient or non-subrecipient as defined by HUD), specific federal procurement regulations may or may not apply. Prior to developing project plans or specifications, or soliciting contractors for a project, applicants should contact Washington County Office of Community Development to request that a determination be made regarding the procurement requirements for their project. Early determination is critical because applicants may need to proceed differently depending upon which requirements apply.

The new OMB “Super-Circular”, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, supersedes and streamlines requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, and A-133; and the guidance in Circular A-50 on Single Audit Act follow-up. (available at: http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl)

Applicants are encouraged to review these documents as you prepare your project application and as you are preparing to procure goods and/or services. Regardless of whether or not specific federal procurement regulations apply to an applicant, there are a number of universal procurement standards that apply to all capital projects funded in whole or in part through Washington County Office of Community Development’s CDBG program.

Key procurement and contracting requirements that apply include:

Cost reasonableness must be determined and documented for all project costs including costs for purchase of goods and services. Some form of price analysis must be made and documented in the applicant’s procurement files in connection with every procurement action. At a minimum, records must include: criteria for proposal selection, justification for lack of competition when competitive bids or offers are not obtained, and the basis for making a cost reasonableness determination. 2 CFR Part 200 – Subpart E stipulates that a cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.

Using a price analysis to determine cost reasonableness may be accomplished in various ways, including: the comparison of price quotations submitted; independent and qualified third party estimates or in-house estimates that are performed and documented prior to receiving contractor proposals; or written comparisons to market prices and similar indicators.

Procurements shall, to the maximum extent practical, provide for open and free competition. To achieve this goal Washington County Office of Community Development requires that you secure at least two, preferably three or more, proposals from architectural, design or engineering firms if their services will be needed for your project, as well as at least two, preferably three or more, proposals from licensed, bonded and insured contractors for construction or rehabilitation elements of your project.

If an applicant chooses to negotiate a price from a specific contractor in lieu of a competitive bidding process, the applicant must clearly demonstrate cost reasonableness of the negotiated price by using one or a combination of the aforementioned methods of price analysis.

The favored approach to contractor selection shall be a "Request for Proposals" process rather than a sealed bid process. Applicants may also want to conduct a "Request for Qualifications" outreach process first in order to establish a pool of interested and qualified proposers.

Proposals shall be reviewed and compared in order to assess cost reasonableness, scope, completeness, and satisfaction of other criteria that may have been stipulated in the request for proposal. While project cost will in all cases be weighted heavily in reviewing competing proposals, the selected proposal shall be the one determined to be most advantageous when price, quality, and other factors such as contractor experience and capacity for your specific project, are considered.

Cost agreements with contractors shall be in the form of a lump sum (aka: fixed sum or stipulated sum) for work or services that are clearly delineated.

The applicant makes the final contractor selection and will contract directly with the contractor. Washington County Office of Community Development does not and will not have a contractual relationship with the contractor, does not endorse or recommend one contractor over another, warranty the work or performance of any contractor, or require that the applicant relies solely upon the list or lists of contractors that may be provided.

In selecting project contractors for funding requests of **any amount**, affirmative effort shall be made to provide opportunities for minority business enterprises (MBEs) and women's business enterprises (WBEs) to submit project proposals. Listings can be found at <https://oregon4biz.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp>. Additional information on these requirements follows (see "MBE/WBE Outreach Requirement Overview").

In selecting project contractors for projects where the total CDBG or HOME funding requested is exceeds \$200,000, **and** which will have one or more contracts in excess of \$100,000, affirmative efforts must be made to solicit proposals from Section 3 firms. Additional information on these requirements follows (see "Section 3 Overview").

Funding recipients are required to maintain records and documentation relative to their efforts to contract with MBE/WBE firms and Section 3 firms. These requirements are detailed further in other parts of this section covering each topic.

Solicitation documents must be provided to Washington County Office of Community Development to review prior to distribution to contractors. All **solicitation documents** must include the following or similar language:

"The project described in this (Request for Proposals or other solicitation document, as applicable) is being funded in whole or in part with funding from the U.S. Department of Housing and Urban Development through the Washington County Office of Community Development CDBG program. MBE/WBE contractors and Section 3 businesses are encouraged to submit a proposal."

Contractors that assist you in the development of specifications, requirements, statements of work, invitations for bids and/or requests for proposals for the project you are proposing for funding may be precluded from competing for contracts on your project. Check with Washington County Office of Community Development prior to making such an arrangement with a contractor.

All construction contractors must be CCB licensed, bonded and insured. Contractors may not be listed on the federal debarred, suspended or ineligible contractor list (found at www.sam.gov/).

For construction contracts that exceed \$100,000, bid bonds, performance bonds and payment bonds are required.

- Bid Guarantee of 5% of contract
- Performance Bond - at 100%
- Labor and Material Bond - at 100%
- Payment Bond - at 100%
- **NEW:** Public Works Bond - ORS 279C.836 requires that all independent contractors working on qualifying public works projects, with a total project cost that exceeds \$100,000 must obtain and file with the Construction Contractors Board (CCB) a public works bond with a corporate surety authorized to do business in Oregon for the amount of \$30,000 before starting work on a contract or subcontract for a public works project. Bonds must be purchased prior to the start of work and valued at not less than \$30,000 for every contractor who works at the job site. If you choose you may also require these bonds for contracts in amounts less than \$100,000.

Make sure your project budget reflects the costs of these bonds and the payment of state (BOLI) or Federal (Davis-Bacon) prevailing wages, as they apply.

All CDBG-funded contracts must be provided to Washington County Office of Community Development to review prior to execution. All **contract documents** must include the following language:

“This contract and the work it will carry out is being funded in whole or in part with funding from the U.S. Department of Housing and Urban Development through the Washington County Office of Community Development CDBG program.”

In addition to the above statement, contract documents must also include certain federally required clauses, depending on the type of service contract. (*See attached, “CDBG Construction Contract Clauses and CDBG Professional Services Contract Clauses”*)

Funding recipients will be required to designate a project manager to facilitate the selection of contractors, executing construction contracts, and coordinating funded activities with Washington County Office of Community Development.

Projects funded with CDBG must meet HUD Section 8 Housing Quality Standards (24 CFR 982.401) upon completion of the assisted project. Examples of such repairs that would need to be addressed include inadequate plumbing, heating, or electrical systems or failing structural components. Recipients of federal funds shall be responsible for an initial determination, with the review and approval of the Washington County Office of Community Development staff, of the scope of work to be performed at the project site. An initial HQS inspection is recommended to determine deficiencies that will need to be included in the scope of work. At a minimum, the scope of work to be performed on a property must correct any HQS deficiencies upon project completion. The project contractor(s) are required to adhere to all applicable building codes and either the owner or the contractor(s) shall obtain all required building permits. Where permits are required, documentation that all work has passed final inspections must be provided prior to final payment to the contractor(s).

METHODS OF PROCUREMENT

Four methods of procurement are allowed: (1) small purchases, (2) competitive sealed bids (formal advertising), (3) competitive proposals and (4) noncompetitive proposals. Whatever method of procurement is used, all contracts and Requests for Proposals (RFP's) must be reviewed by the Office of Community Development before prospective vendors are allowed to

tender a bid or submit a proposal. In addition, OCD must pre-authorize any noncompetitive proposal procurement.

1. Small Purchases (not more than \$150,000)

Small purchasing procedures are applicable for the procurement of services, supplies, or other property costing in the aggregate not more than \$150,000. These procedures are relatively simple, informal and do not always involve competitive bidding. In obtaining goods or services by the small purchase method, local Contract Review Board Rules and ORS 279 must be followed, where applicable. In addition, a minimum of three competitive price quotes must be obtained for any small purchase. Competitive sealed bids or competitive negotiation procedures may be followed for small purchases. Advertising is optional for professional service contracts under \$150,000. If advertising is not followed, then the Request for Proposal should be sent to at least three (3) qualified firms to ensure open competition.

2. Competitive Sealed Bids (over \$100,000)

This method of procurement is appropriate for all construction and material contracts exceeding \$150,000. Competitive sealed bids mean sealed bids are publicly solicited through formal advertising and a formal bid opening is conducted. A firm fixed price contract is awarded to the responsible bidder whose bid conforms to all the material terms and conditions of the bid invitation and is the lowest in price. The contract awarded may be a lump sum or a unit price contract. (See Section III, Part F, "Bid Documents and Procedures".)

3. Competitive Proposals (over \$150,000)

This method is appropriate for the procurement of professional services such as architectural or engineering. For contracts exceeding \$150,000 a Request for Proposal (RFP), Request for Letters of Interest (RLI), or Request for Statement of Qualification should be published in a business newspaper of general circulation. Proposals from qualified vendors are evaluated based on experience, price, personnel, and other pertinent factors. The most qualified is selected subject to negotiation of fair and reasonable compensation.

Such contracts are usually written for a "fixed price" or "cost plus fixed fee not to exceed". Regardless of fee schedule, professional service contracts should include a schedule of payments tied to the completion of specific tasks. Reimbursable costs, such as printing, mileage, and long distance telephone calls should be listed separately.

In utilizing competitive proposals, the following requirements must be met:

- a) Solicit proposals from a sufficient number of qualified vendors to permit reasonable competition.
- b) The Request for Proposal shall identify all significant evaluation factors.
- c) Sponsors will have a method for conducting technical evaluations of the proposals, and for making the award.
- d) Awards will be made to the responsible firm, whose proposal is the most advantageous for the purpose of the project, with price and other factors considered.
- e) Sponsors may use competitive proposal procedures for qualifications-based procurement of Architectural/ Engineering (A/E) services. Competitor qualifications can be evaluated and the most qualified competitor is selected subject to negotiation of fair and reasonable compensation. The method where price is not used as a selection factor can only be used in procurement of A/E professional service.

The RFP should ask for a list of the firm's clients and employee references. Frequently, professional consultants change employment or start their own firms. By contacting previous employers, a more thorough background check of a firm and its employees can be made.

The RFP should also require detailed cost information for each phase of the work. The number of hours and the cost to complete each task should be clearly shown in the proposal received.

4. Noncompetitive Proposals

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and one of the following circumstances apply:

- a) the item is available only from a single source;
- b) Public emergency when the urgency for the project will not permit a delay relative to competitive solicitation;
- c) After solicitation of a number of sources, competition is determined inadequate; or,
- d) HUD authorizes noncompetitive negotiation.

MINIMUM PROCUREMENT REQUIREMENTS

Any sponsor using CDBG funds to purchase goods or services should have formalized procurement procedures in place prior to contracting for any goods or services. At a minimum the sponsor procurement practices should:

1. Require the maintenance of records sufficient to detail the history of procurement. These records will include, but not be limited to the rationale for the procurement, selection of contract type, contractor selection or rejection, and the basis for contract price.
2. Include procedures to handle and resolve disputes relating to procurement and allow for full disclosure of information regarding a protest to OCD.
3. Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. The description shall not contain features that unduly restrict competition.
4. Address the avoidance of real or apparent conflicts of interest and specify standards of behavior.
5. Follow competitive bidding/selection whenever possible.
6. Make positive efforts and document actions to attract small businesses, minority owned businesses, and female owned businesses to bid on CDBG contracts.
7. Establish procedures to prohibit "cost plus a percentage of cost" and "percentage of construction cost" methods of contracting.
8. Establish procedures to review contracts or requests for financial, contractual, and programmatic requirements prior to payment.

9. Award the contract to the lowest bidder, unless there is a clear indication that the contract should not be awarded to the lowest bidder based on an assessment of the integrity, resources, capacity and past performance of the firm making the bid.

10. Perform a cost or price analysis for every procurement, including contract modifications. A cost analysis must be performed when the bidder is required to submit elements of the estimated cost, e.g., under professional, consulting, and architectural engineering service contracts. A cost analysis is necessary when adequate competition is lacking, for sole source procurements unless price reasonableness can be established. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

11. Comply with the procurement procedures of [2 CFR part 200](#).

BID DOCUMENTS AND PROCEDURES

This section applies to construction projects over \$100,000. All bid specifications must be reviewed and approved by the Office of Community Development before perspective vendors are allowed to tender a bid or submit a proposal. Following receipt of the Notice to Proceed from OCD, sponsors must follow, at a minimum, the steps outlined below.

Bid Documents should include:

- a) Instructions to bidders (see Appendix D for required advertisement language);
- b) Agreement, including time limit and liquidated damages;
- c) Federal Contract Provisions which include the applicable federal use determination (OCD will provide clean copy of HUD contract specifications, forms and other program required language); and,
- d) Specifications and drawings. Brand names can only be used if "or approved equal" is included in their reference.

Bid documents with an estimated construction cost exceeding \$100,000 shall require the following:

Bonds

- 1) A bid guarantee equal to five percent (5%) of the proposed contract. The bid guarantee may be secured through a bid bond or a certified check, and must accompany a bid as assurance that the bidder will, upon acceptance of his bid, execute the contractual documents within the time specified.
- 2) A separate Performance Bond and Labor and Material Payment Bond, each for one hundred percent (100%) of the contract price.
- 3) Payment Bond for one hundred percent (100%) of the contract price.

Public Notice & Distribution

- 1) Advertise for bids in at least one general business newspaper. You must also advertise in one minority newspaper, unless other methods have been used to conduct MBE/WBE outreach. A normal bid time is two to four weeks depending on the complexity of the project.

- 2) Request the Affidavit of Publication and provide a copy to OCD.
- 3) Distribute copies of the bid documents to local plan centers.
- 4) Following a minimum two week bidding period, the sponsor shall publicly open the bids received. OCD may attend the bid opening. The sponsor shall:
 - Contact OCD to assure that the apparent low bidder is not on the General Services Administration's Excluded Parties list.
 - Review the bids with the Architect/Engineer (A/E).
 - Execute the Contract.
 - Conduct Preconstruction Conference. The General Contractor and all subcontractors must attend. Please let OCD staff know at least one week in advance so that they may attend and provide the contractor the applicable forms and explain HUD requirements.
 - Send the Notice to Proceed to the General Contractor and provide a copy to OCD staff.

CONTRACT COMPLIANCE

This section includes some of the provisions which must be included in contracts. Others are addressed in the previous section on bid documents. It also includes some ways to ensure contract compliance.

Contract Provisions

The sponsor's contracts must contain the provisions of this section.

- a) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts other than small purchases.)
- b) Termination for cause and for convenience by the sponsor including the manner by which it will be effected and the basis for settlement (for all contracts in excess of \$10,000).

Professional Service Contracts

The sponsor must monitor consultants for the following:

- a) Certificate of Insurance; and,
- b) Invoices for completion of stated work and current charges.

Construction Contracts

The sponsor must monitor the General Contractor and provide copies to OCD of the following:

- a) Bonds for contracts/subcontracts over \$100,000 (Bid Bond, Performance Bond, Labor and Material Payment Bond);
- b) Certificate of Insurance (construction of new structures requires "Builder's All Risk" insurance);

c) Submission by the contractor of the Schedule of Values if the contract does not require unit prices;

d) Written change orders; and

e) Payment retainage to the contractor.

The Contract Work Hours and Safety Standard Act, Davis Bacon Act, Section 3, and Minority Business Enterprises (MBE) requirements will be monitored by OCD.

SPONSOR DOCUMENTATION

Each project sponsor must maintain and fully document the procurement process for each project.

Meeting Davis-Bacon Labor Standards

(Applies to Construction Contracting Services)

Applicability

The Davis Bacon and Related Acts (DBRA) requires all contractors and subcontractors performing work on federal construction contracts or federally assisted contracts in excess of \$2,000 to pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits for corresponding classes of laborers and mechanics employed on similar projects in the area. The prevailing wage rates and fringe benefits are determined by the Secretary of Labor for inclusion in covered contracts.

Federal Davis-Bacon prevailing wage rate requirements apply to your project if you are proposing a CDBG-funded project that will involve construction or rehabilitation of a public facility (e.g., a homeless shelter), installation of public improvements to support affordable housing (e.g. streets, water/sewer lines), or rehabilitation of multifamily housing containing eight or more assisted units.

These requirements often have an impact on the cost of projects, and carry with them significant record keeping procedures, so applicants are encouraged to contact OCD early in their project planning for further information if a proposed project will be subject to Davis-Bacon. If yours will be a covered project, your solicitation documentation will need to alert contractors that Davis-Bacon requirements will apply, and will need to include the appropriate federal wage decision and other required labor provisions. Federal wage decisions will be made available by OCD for project cost feasibility determinations upon request.

The following checklist has been prepared to assist Contractors and Subcontractors in meeting contractual labor standards responsibilities. All major administrative and procedural activities have been covered in the sequence they will occur as the construction contract progresses. Careful attention to and use of the checklist should result in a minimum number of problems with respect to labor standards.

The word “employer,” as used below, refers to the Prime Contractor, each Subcontractor, or each Lower-tier Subcontractor. Payrolls and documentary evidence of compliance is required to be sent in the delivery procedure as follows:

- Each Lower-tier Subcontractor, after careful review, submits required documents to the respective Subcontractor.
- Each Subcontractor, after checking his own and those of each Lower-tier Subcontractor he may have, submits required documents to the Prime Contractor.
- The Prime Contractor, after reviewing ALL payrolls and documentation, including his/her own, and correcting violations where necessary, submits all to OCD.

Working Subcontractors Are Not Exempt From Receiving Prevailing Wage. Davis-Bacon Act regulations specifically stipulate that independent subcontractors are not exempt from receiving weekly prevailing wage for the classification of work which they perform. This is true regardless of any contractual relationship between the primary contractor and subcontractor. This means that it is the prime contractor’s responsibility to ensure that a prevailing wage rate is paid to subcontractors performing on-site work. (Source documentation: Department of Labor Relations Letters dated January 13, 1993 and December 2, 1996.)

Davis-Bacon Compliance Checklist

BEFORE CONSTRUCTION BEGINS, THE CONTRACTOR HAS:

- Not been debarred or otherwise made ineligible to participate in any Federal or Federally-assisted project (found at www.sam.gov)
- Received the appropriate contract provisions covering labor standards requirements.
- Reviewed and understands all labor standards contract provisions
- Received the applicable wage decision as part of the contract.
- Requested through Washington County Office of Community Development (OCD) and received the minimum wage for each classification to be worked on the project which was not included on the wage decision by the additional wage classification process and before allowing any such trade(s) to work on the project.
- If an apprentice is to be performing work on the project, the contractor has requested and received certification of his/her apprentice program from the State's Bureau of Apprenticeship and Training (recognized by USBAT) and submitted copy thereof to the recipient prior to employment on the project. Likewise, "trainee" program certification from U.S. BAT, if applicable, must be submitted.

AT CONSTRUCTION START, THE CONTRACTOR HAS:

- Notified Washington County Office of Community Development (OCD) of the construction start date in writing
- Has placed each of the following on a bulletin board prominently located on the project site which can be seen easily by workers (and replaced if lost or unreadable at any time during construction):
 - A copy of the Wage Decision
 - "Notice to Employees" Poster
- Before assigning each project worker to work, has obtained the worker's name, job classification, and best mailing address. (Note: It is no longer necessary to report an employee's Social Security number on every certified payroll report, only the last four digits of the employee's SSN must be reported, and only on the first payroll report in which that employee worked on the Davis-Bacon covered project).
- Has informed each worker of:
 1. His/her work classification (journeyman or job title) as it will appear on the payroll
 2. His/her duties of work
 3. The U.S. DOL's requirements on this project that he/she is either a journeyman, apprentice, or laborer:
 - If a journeyman, he/she must be paid a journeyman's minimum wage rate or more.
 - If apprentice, he/she is to be paid not less than the apprentice's rate for the trade based on his year of apprenticeship.
 - If a laborer, he/she is to do laborer's work only—not use any tool or tools of the trade and not perform any part of the journeyman's work and is to be paid the laborer's minimum rate or more.
- If applicable*, has obtained a copy of each apprentice's certificate with the apprentice's registration number, percentage of wage to be paid and his year of apprenticeship from the State BAT.
- Understands the requirements that each laborer or mechanic who performs work on the project in more than one classification within the same work week shall be classified and paid at the highest wage rate applicable to any of the work which he performs unless certain requirements are met (refer to "Additional Guidance for filling in a Payroll Report"):
- Has informed each worker of:
 - His/her hourly wages (not less than the minimum wage rate for his/her work as stated on the Wage Decision);
 - Payment of overtime at the rate of time and one half for all work over 40 hours per week;

- Fringe benefits, if any (see wage decision for any required), paid in cash or into an approved third party trust;
 - Permissible deductions from his/her pay and/or any deductions voluntarily requested in writing from the employee.
- Has informed each worker that he is subject to being interviewed on the job by a representative of OCD to confirm that the employer is complying with all labor requirements.
 - Has informed each foreman, journeyman, and apprentice that the proper journeyman-to-apprentice ratio must be observed on the job site at all times when an apprentice is working.

DURING CONSTRUCTION, EACH EMPLOYER:

- Has not selected, assigned, paid different pay rates to, transferred, upgraded, demoted, laid off, and not dismissed any project worker because of race, color, religion, sex, or national origin.
- Has employed all registered apprentices referred to him through normal channels up to the applicable ratio of apprentices to journeyman in each trade used by the employer.
- Will maintain basic employment records for no less than three years, accessible to inspection by HUD, OCD, or other U.S. government representatives.
- Must comply with all safety and health standards.
- Must pay all workers weekly**
- Must submit weekly payroll reports prepared on either recommended form WH-347 (or on computerized printouts cleared by Washington County Office of Community Development) and accompanied by the Statement of Compliance.
- HUD considers the following project workers exempt from labor requirements and does not require them to be shown on payrolls:
 - Project superintendent
 - Supervisory foreman (performing less than 20% in a classification)
 - Messenger
 - Clerical workers

WEEKLY PAYROLL REVIEW:

- Subcontractors and Lower-tier Subcontractors have promptly reviewed the weekly payroll for compliance with all labor standards requirements (using this checklist) and has made any necessary corrections
- The Prime Contractor has received all weekly payrolls or reports that no work was performed (refer to “No Work Performed” Notice) from each Subcontractor or Lower-tier Subcontractor, has reviewed and requested necessary corrections and has submitted all payrolls, including his own, to OCD **within 7 work days of the last date of the respective work week.**

AFTER PROJECT COMPLETION:

Each employer is required to keep all weekly payroll reports on the project for no less than three years after the Prime Contractor’s project completion date.

MBE/WBE Outreach Requirement Overview

Applicability

At a minimum, Washington County Office of Community Development and the recipients of funding through its CDBG program are required to implement outreach programs to ensure that contracting opportunities are facilitated, to the maximum extent possible, for entities owned by minorities and women. MBE/WBE compliance requirements are included in all CDBG funding agreements. These requirements include provisions that all funding recipients, prime contractors, and owners of CDBG -assisted projects comply with the MBE/WBE outreach program procedures as a condition of assistance.

Definitions

A Minority Business Enterprise (MBE) is defined as a business firm which is at least 51 percent (51%) owned by minority group members, or in the case of a publicly owned business, at least 51 percent (51%) of the stock of which is owned by minority group members. A Women's Business Enterprise (WBE) is defined as a business firm which is at least 51 percent (51%) owned by women group members, or in the case of a publicly owned business, at least 51 percent (51%) of the stock of which is owned by women group members. The minority or women's ownership must exercise actual day to day management and control of the business; **Minority and Women's Business Enterprises must be officially certified or recognized as such, and must be included on the state of Oregon's listing of such firms**, available at <https://oregon4biz.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp>.

Please consult with OCD staff to assure that you receive and work with a copy of the most recently-updated MBE/WBE list.

Requirements and Procedures

Washington County Office of Community Development can help applicants prepare a solicitation list of certified MBE/WBE firms which includes their capabilities, services, supplies and/or products. The services and assistance of the Minority Business Development Agency of the U.S. Department of Commerce, and other appropriate federal and state agencies, may also be called upon as needed to meet the MBE/WBE requirements. The Office of Minority, Women, and Emerging Small Businesses and the MBE/WBE Directory Web site noted above offer comprehensive on-line directories of minority and women owned business enterprises specific to the area of a proposed project site.

OCD and its recipients of CDBG funds will both maintain records which describe MBE/WBE outreach activities undertaken, and will require that prime contractors, developers and owners of CDBG-assisted projects do the same and submit annual reports on their MBE/WBE outreach activities to OCD as a condition of receipt of federal funds while funded projects are underway. Contractor reporting forms are available from OCD.

As a prerequisite to demonstrate MBE/WBE goal achievement, applicants will need to provide OCD with the following information:

- Copies of timely solicitation letters (dated a minimum of fourteen (14) calendar days prior to bid opening) sent to MBE/WBE firms. The solicitation letters should include the specific type or work and delivery schedule conforming to the type of work that the MBE/WBE firm performs.
- Documentation of any other efforts to extend opportunities to MBE/WBE firms, such as advertisements in minority and women trade association newsletters and minority-owned media and written notification sent to minority and women contractor associations.
- The names of selected MBE/WBE subcontractors to be utilized.
- The type of work and dollar amount to be awarded to each MBE/WBE subcontractor.
- The total dollar amount of MBE/WBE participation.

Post Contract Award Compliance

Within fifteen (15) calendar days of notice of award of contract, MBE/WBE verification letters signed by all the MBE/WBE participants, or copies of all MBE/WBE related subagreements signed by the general contractor and subcontractors, shall be submitted to OCD. General contractors must promptly report any and all proposed changes in the utilization of MBE/WBE firms to the funding recipients and to OCD, in writing, with appropriate documentation. Changes to the previously reported MBE/WBE utilization will be considered by OCD only for one of the following reasons:

1. The MBE/WBE firm is unable to meet the delivery requirements of the construction schedule.
2. The MBE/WBE firm is not punctual in complying with the requirements of the contract documents.
3. The MBE/WBE firm is prevented from performing due to bankruptcy, insolvency or other incapacities.

The forms in this section provide tools 1) for contractors and subcontractors to report on their MBE/WBE status, and 2) for contractors to report on their use of subcontractors. OCD will provide these forms for use by sponsors and contractors at the pre-construction conference and throughout the course of a project.

CONTRACT AND SUBCONTRACT ACTIVITY REPORT

The following information is required by the U.S. Department of Housing and Urban Development (HUD) and is used to monitor and evaluate Section 3, Minority Business Enterprise (MBE) and Women-owned Business Enterprise (WBE) contracting opportunities.

Project Address: _____ Amount of Contract: \$ _____

Name of Contractor/
Subcontractor: _____ CCB #: _____

Street Address: _____

Phone: _____

Fax: _____

Email: _____

IRS Identification Number (*either business tax ID number or SSN*): _____

Woman owned business? (*Circle one*) **Yes / No** State Certification Number: _____

Minority-owned business? (*Circle one*) **Yes / No** State Certification Number: _____

Which best indicates Contractor's/Subcontractor's service: (*check all that apply*)

- | | |
|---|--|
| <input type="checkbox"/> (1) New Construction | <input type="checkbox"/> (6) Professional |
| <input type="checkbox"/> (2) Substantial Rehab. | <input type="checkbox"/> (7) Tenant Services |
| <input type="checkbox"/> (3) Repair | <input type="checkbox"/> (8) Education/Training |
| <input type="checkbox"/> (4) Service | <input type="checkbox"/> (9) Architectural/Engineering Appraisal |
| <input type="checkbox"/> (5) Project Management | <input type="checkbox"/> (10) Other: _____ |

Indicate the racial/ethnic character of the owner/controller(s) of the business:

- | | |
|--|---|
| <input type="checkbox"/> White American | <input type="checkbox"/> Hispanic American |
| <input type="checkbox"/> Black American | <input type="checkbox"/> Asian/Pacific American |
| <input type="checkbox"/> Native American | <input type="checkbox"/> Hasidic Jews |

Signed: _____ Title: _____ Date: _____

To be Completed by OCD Staff:

Project Number _____ Total Project Cost: \$ _____

Funding Source _____ Date Contract Executed: _____

Subcontractor Reporting Form

Project Name: _____ Project #: _____
 Project Address: _____

 Property Owner/Sponsor: _____

Prime Contractor: _____

Address: _____

Phone: _____ CCB # _____ Tax ID #: _____

The Prime Contractor must identify all subcontractors who will perform work on the project identified above. Please use your own format or additional sheets if necessary.

Subcontractor Name		Subcontractor Name	
Address		Address	
Phone		Phone	
CCB#		CCB#	
Subcontractor Name		Subcontractor Name	
Address		Address	
Phone		Phone	
CCB#		CCB#	
Subcontractor Name		Subcontractor Name	
Address		Address	
Phone		Phone	
CCB#		CCB#	

I certify that the information presented above is true and complete to the best of my knowledge.

 Prime Contractor/Representative

 Date

Section 3 Overview

What is Section 3?

Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 (implemented through HUD's regulations at 24 CFR Part 135) that helps foster local economic development, neighborhood economic improvement, and individual self-sufficiency. The Section 3 program requires that recipients of certain HUD financial assistance, to the greatest extent feasible, provide job training, employment, and contracting opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods.

What contracts are affected by Section 3?

Contracts and subcontracts for:

- Work to be paid with Section 3-covered HUD assistance; or
- Work arising in connection with a Section 3-covered project where the individual contract or subcontract exceeds \$100,000 **and** the amount of HUD assistance for the project exceeds \$200,000. **Both conditions must be present.**

Are any other contracts excluded?

Contracts exclusively for supplies or materials, unless the contract includes their installation.

What is a Section 3 covered project?

A Section 3 covered project means:

- Housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair and replacement);
- Housing construction (including reconstruction, conversion); or
- Other public construction including other buildings or improvements, regardless of ownership, assisted with federal housing or community development assistance.

What is "Section 3-covered assistance?"

Funding provided by HUD for any HUD housing or community development program for work in connection with a Section 3-covered project as described above.

What does Section 3 require me to do?

1. Commit to awarding to Section 3-covered businesses **at least**:
 - 10% of the total dollar amount for Section 3-covered contracts for building trades work arising in connection with housing rehab, housing construction or other public facility/improvement construction; and
 - 3% of the total dollar amount of all other Section 3-covered contracts
2. Notify Section 3 businesses of your contracting opportunities funded by Section 3-covered assistance.
3. Notify all potential contractors for Section 3-covered projects of the Section 3 contracting requirements and include the required Section 3 clause in all Section 3-covered contracts.
4. Assist and actively cooperate with HUD in obtaining contractor/subcontractor compliance with Section 3 requirements.

5. Not award contracts to any contractor who has been found to have violated the Section 3 requirements.
6. Take appropriate remedial action against contractors who fail to comply with the Section 3 requirements (e.g., termination)
7. Document actions (including results and impediments) taken to comply with Section 3 requirements.

What does Section 3 require my contractors and subcontractors to do?

1. To the **greatest extent feasible**:
 - Provide employment and training opportunities for Section 3 residents by meeting the percentage goals in 24 CFR 135.30(b)(3)
 - Provide subcontracting opportunities to Section 3 businesses by meeting the percentage goals in 24 CFR 135.30(c) (*NOTE: This only applies to subcontracts in excess of \$100,000 each.*)
2. Notify labor unions and organizations of the contractor's commitments under Section 3.
3. Post notices conspicuously at all Section 3-covered work sites describing:
 - The Section 3 preference
 - The minimum number and job titles subject to hire
 - Apprenticeship and training positions available; the qualifications for each; and the name and location of the person taking applications
 - The anticipated start date of the work
4. Include the Section 3 requirements clause in all applicable subcontracts.
5. Take appropriate action if a subcontractor violates the Section 3 regulation.
6. Not to subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found to be in violation of the Section 3 regulation.
7. Certify that the contractor did not circumvent the Section 3 employment opportunity requirements, if the contractor hired any persons not covered by Section 3 between the time the contractor was selected and the contract was executed.

Who are Section 3 residents?

Section 3 residents are:

- Public housing residents, or
- Persons who live in the area where a HUD-assisted project is located and who have a household income that falls below HUD's definition of "low income" or "very low income."

What is a Section 3-covered business?

A business:

- That is 51 percent or more owned by Section 3 residents; **or**
- Employs Section 3 residents for at least 30 percent of its full-time, permanent staff; **or**
- Provides evidence of a commitment to subcontract to Section 3 business concerns, 25 percent or more of the dollar amount of the awarded contract.

How can I be sure that a business is really a Section 3-covered business?

Businesses must self-certify as to their qualification for Section 3 preference. If in doubt, you may request supporting evidence.

What types of economic opportunities are available under Section 3?

Opportunities include:

- Job training
- Employment
- Contracts

Examples of Opportunities include, but are not limited to:

- | | | |
|-------------------------|------------------|------------------------|
| • Accounting | • Architecture | • Appliance repair |
| • Bookkeeping | • Bricklaying | • Carpentry |
| • Carpet Installation | • Cement/Masonry | • Computer/Information |
| • Demolition | • Drywall | • Electrical |
| • Elevator Construction | • Engineering | • Fencing |
| • Florists | • Heating | • Iron Works |
| • Janitorial | • Landscaping | • Machine Operation |
| • Manufacturing | • Marketing | • Painting |
| • Payroll | • Plastering | • Plumbing |
| • Printing Purchasing | • Research | • Surveying |
| • Tile setting | • Transportation | • Word processing |

Who receives priority under Section 3?

For training and employment:

- Persons in public and assisted housing
- Persons in the area where the HUD financial assistance is spent
- Participants in HUD Youthbuild programs
- Homeless persons

For contracting:

- Businesses that meet the definition of a Section 3 business concern

How can businesses find Section 3 residents to work for them?

Businesses can recruit Section 3 residents in public housing developments and in the neighborhoods where the HUD assistance is being spent. Effective ways of informing residents about available training and job opportunities include:

- Contacting resident organizations, local community development and employment agencies
- Distributing flyers
- Posting signs
- Placing ads in local newspapers

Are recipients, contractors, and subcontractors required to provide long-term employment opportunities, not simply seasonal or temporary employment?

Recipients are required, to the greatest extent feasible, to provide all types of employment opportunities to low and very low-income persons, including permanent employment and long-term jobs. Recipients and contractors are encouraged to have Section 3 residents make up at least 30 percent of their permanent, fulltime staff.

A Section 3 resident who has been employed for 3 years may no longer be counted towards meeting the 30 percent requirement. This encourages recipients or contractors to continue hiring Section 3 residents when employment opportunities are available.

What if it appears an entity is not complying with Section 3?

There is a complaint process. Section 3 residents, businesses, or a representative for either may file a complaint if it seems a recipient is violating Section 3 requirements are being on a HUD-funded project.

Will HUD require compliance?

Yes. HUD monitors the performance of contractors, reviews annual reports from recipients, and investigates complaints. HUD also examines employment and contract records for evidence that recipients of federal funding are training and employing Section 3 residents and awarding contracts to Section 3 businesses as it applies.

Section 3 Survey

Project/Location: _____ Project # _____

Project Period: _____

Purpose: Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 (implemented through HUD's regulations at 24 CFR Part 135) that requires that recipients of certain HUD financial assistance, to the greatest extent feasible, provide job training, employment, and contracting opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods. Washington County Office of Community Development is providing more than \$200,000 in public funding for the above named project, and requires *all contractors with contracts exceeding \$100,000 to complete and return this survey to Washington County Office of Community Development (328 West Main, Suite 100, MS 7, Hillsboro, OR 97123.*

Please indicate below if you intend to hire an employment position for the above named project. Washington County Office of Community Development will assist you if needed to identify local organizations that will help facilitate the hiring of qualified low-income residents within the project area. As required by the Section 3 Clause, the contractor is required to give such persons the opportunity to apply and qualify for the position(s) being offered.

Please contact the Office of Community Development at 503-846-8814 if you have any questions.

Have you reviewed the Section 3 Clause contained in your contract agreement?

- Yes
- No

Do you plan to offer any training or employment positions during the project period?

- No, this company does not anticipate hiring anyone for a training or employment position during the project period. However, if plans change and this company does intend to hire, I (we) will contact Washington County Office of Community Development and request the list of income qualified persons prior to completing the hiring process.
- Yes. Please send information about how to contact area residents who may qualify as a Section 3 resident so that we can inform them of this opportunity. This company anticipates hiring someone with the following skills:

Authorized Signature: _____ Date: _____

Print Name: _____ Title: _____

Company Name: _____ Phone Number: _____

Company Address: _____

**Contract Clauses Required in All Community Development Block Grant (CDBG)
Construction Projects**

This contract and the work it will carry out is being funded in whole or in part with funding from the U.S. Department of Housing and Urban Development through the Washington County Office of Community Development CDBG program.

1. Access to Records and Retention of Records

The Community Development Block Grant (CDBG) recipient, Washington County Office of Community Development, the U.S. Department of Housing and Urban Development (HUD), the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to this contract, for the purpose of making audit, examination, excerpts, and transcriptions. All required records must be maintained by the contractor for four years after the recipient makes final payments and all other pending matters are closed.

2. Section 3 of the Housing and Community Development Act

(Applicable to contracts/subcontracts of \$100,000 or more AND when the funding recipient has received \$200,000 or more in CDBG and/or other federal funding.)

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

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

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

D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this Contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this Contract that are subject to the provisions of Section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

3. Emerging-Small (ESB), Minority-owned (MBE) and Women-owned (WBE) Business Enterprises

(Applicable to contracts/subcontracts of \$25,000 or more in CDBG and/or other funding.)

Affirmative steps must be taken to assure that emerging small, minority and women-owned businesses and firms located in labor surplus areas are used when possible as sources of supplies, equipment, construction and services. Affirmative steps shall include the following:

- Include any such qualified firms on solicitation lists.
- Assure that such firms are solicited whenever they are potential sources.
- When economically feasible, divide total requirements into smaller tasks or quantities so as to permit such firms maximum opportunities for participation through subcontracting.
- Where possible, establish delivery schedules which will encourage such participation.
- Use the services and assistance of the Small Business Administration, the Office of Minority, Women and Emerging Small Business (State of Oregon) and other sources when appropriate.

4. Prohibition on the Use of Federal Funds for Lobbying *(Applicable to federally funded contracts/subcontracts of \$100,000+)*

The contractor hereby certifies that:

a. No federal funds have been paid or will be paid, by or on behalf of Washington County Office of Community Development, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

b. If any funds other than federal funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the local government shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

5. Lead-Based Paint

The use of lead-based paint on any interior or exterior surface is prohibited. For properties constructed prior to 1978, the construction work performed under this contract is subject to the Lead-Based Paint Regulations adopted by the Department of Housing and Urban Development (24 CFR Part 35) and by the State of Oregon (OAR 333.069).

6. Equal Employment Opportunity

Contractor shall comply with the requirements of Executive Order 11246, "Equal Employment Opportunity," as amended by Executive Orders 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR Chapter 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," which provide that no person shall be discriminated against on the basis of race, color, religion, sex or national origin in all phases of employment during the performance of federal or federally assisted construction contracts. Contractors and subcontractors on federal and federally assisted construction contracts shall take affirmative action to insure fair treatment in employment, upgrading, demotion, or transfer; recruitment or recruitment advertising.

7. Copeland "Anti-Kickback" Act

Contractor shall comply with the Copeland "Anti-Kickback" Act (18 USC 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). Contractor and all subcontractors shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled.

8. Davis-Bacon Act *(Applicable to CDBG contracts for construction or rehabilitation of housing containing eight or more CDBG-assisted units; any public facility or public improvement contract exceeding \$2,000; applicable to HOME contracts for construction or rehabilitation of twelve or more HOME-assisted units.)*

All laborers and mechanics employed by contractors or subcontractors on construction work assisted under this part shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 USC 276a-276a-5), and shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours and Safety Standards Act (40 USC 327-333), and the contractors and subcontractors shall comply with all regulations issued pursuant to these Acts and with other applicable Federal laws and regulations pertaining to labor standards.

9. Contract Work Hours and Safety Standards Act

In compliance with Sections 102 of the Contract Work Hours and Safety Standards Act (40 USC. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5), each contractor/subcontractor shall compute the wages of every mechanic and laborer on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the workweek. In compliance with Section 107 of the Act, no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

10. Clean Air Act and the Federal Water Pollution Control Act

(Applicable to federally-funded contracts and subcontracts in excess of \$100,000)

This contract is subject to the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1857 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time. Contractor and any of its subcontractors agree to the following requirements:

- 1) A stipulation by the contractor and subcontractors that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 32;
- 2) Agreement by the contractor to comply with all requirements of Section 114 of the Clean Air Act, as amended (42 USC 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines thereunder;
- 3) A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA list of Violating Facilities; and
- 4) Agreement by the contractor that he will include or cause to be included the criteria and requirements in paragraph (1) through (4) of this section in every non-exempt subcontract and requiring that the contractor will take such action as the government may direct as a means of enforcing such provisions. In no event shall any amount provided under this contract be utilized with respect to a facility which has given rise to a conviction under Section 113(c)(1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.

11. Debarment and Suspension

Contractor certifies that neither it nor any of its employees or subcontractors are parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with Executive Orders 12549 and 12689, "Debarment and Suspension," as set forth at 24 CFR part 24. This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549.

12. Termination of Contract

12a. Termination by Owner:

1) Without Cause

This contract and the work it will carry out is being funded in whole or in part with funding from the U.S. Department of Housing and Urban Development through the Washington County Office of Community Development CDBG program.

The owner may terminate this contract:

- 1) In the event that the grant funds are rescinded in part or in whole; or
- 2) If the work is stopped under an order of any court, or other public authority, for a period of thirty (30) calendar days, through no act or fault of the owner, owner's employees, or legal representatives.

2) With Cause

The owner may terminate this contract if the contractor is in substantial breach of the provisions contained in the contract documents and/or repeatedly fails to:

- Comply with federal, state, and local laws and regulations;
- Provide for the safety of all occupants and public at large during the execution of the work;
- Properly pay subcontractors or suppliers for material or labor;
- Correct defective work; or
- Progress in a timely manner which demonstrates that the contractor can complete the project within the specified time-frame.

The contractor, upon receipt of written notice from the owner to terminate this contract, shall:

- 1) Cease operation in a manner that protects and preserves work already performed.
- 2) Instruct all subcontractors to cease work and cancel all special orders with suppliers.
- 3) Leave the work site in a condition that is free of hazards to occupants and the public.

If the owner terminates the contract, the contractor may be eligible to receive payment for all work completed, and for material orders already in progress and for which cancellation is not possible. Payment is contingent upon the same inspection and approval procedures by owner and grantor as specified for progress payments. If the owner terminates this contract with cause, the owner may withhold payment until all work is otherwise completed by reasonable means determined by owner. If the unpaid balance of this contract is not sufficient to cover reasonable costs incurred by the owner to complete the work, the contractor shall pay the difference to the owner. If the unpaid balance of this contract is in excess of the reasonable costs incurred by the owner to complete the work, then the owner shall pay the difference to the contractor. Reasonable costs include architect fees, administrative fees, and other expenses made necessary by the above causes.

12b. Termination by Contractor

Contractor may terminate this contract if:

- Work is stopped under an order of any court, or other public authority, for a period of thirty (30) calendar days, through no act or fault of the contractor, contractor's employees, subcontractors, or other persons or agents performing work under direct or indirect contract with the contractor;
- Work is stopped due to a declared state of emergency by government action;
- Owner fails to make payment within the time-frame and conditions stated in the Contract Documents;
- Owner repeatedly, through no fault of the contractor, contractor's employees, subcontractors, or other persons or agents performing work under direct or indirect contract with the contractor, causes delay of the work; and, such delay constitutes in excess of 100 percent of the total number of days scheduled for completion of the work specified in the Contract Documents.

12c. Termination by Mutual Consent

Both parties may terminate this contract by mutual written consent.

**Contract Clauses Required for All CDBG
Professional Services Contracts (Architects, Engineers, Consultants)**

This contract and the work it will carry out is being funded in whole or in part with funding from the U.S. Department of Housing and Urban Development through the Washington County Office of Community Development CDBG program.

1. Access to Records and Retention of Records

The CDBG recipient, Washington County Office of Community Development, the U.S. Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to this contract, for the purpose of making audit, examination, excerpts, and transcriptions. All required records must be maintained by the contractor for three years after the recipient makes final payments and all other pending matters are closed.

2. Section 3 of the Housing and Community Development Act *(Applicable to contracts/subcontracts of \$100,000 or more when the recipient received a total of \$200,000 or more in federal funding.)*

In hiring or soliciting businesses for goods, services or other types of work, consideration must first be given to local residents and firms. The work to be performed under this contract is on a project assisted under a program providing direct federal financial assistance from the U.S. Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC 170(1)(u). Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to lower income persons residing in the project's City and County, and contracts for work in connection with the project be awarded to eligible business concerns which are located, or owned in substantial part by persons residing, in the project City and County.

3. Emerging-Small (ESB), Minority-owned (MBE) and Women-owned (WBE) Business Enterprises *(Applicable to contracts/subcontracts of \$25,000 or more in federal funding.)*

Affirmative steps must be taken to assure that small, minority and women-owned businesses and firms located in labor surplus areas are used when possible as sources of supplies, equipment, construction and services. Affirmative steps shall include the following:

- a. Include any such qualified firms on solicitation lists.
- b. Assure that such firms are solicited whenever they are potential sources.
- c. When economically feasible, divide total requirements into smaller tasks or quantities so as to permit such firms maximum opportunities for participation through subcontracting.
- d. Where possible, establish delivery schedules which will encourage such participation.
- e. Use the services and assistance of the Small Business Administration, the Office of Minority, Women and Emerging Small Business (State of Oregon) and other sources when appropriate.

4. Prohibition on the Use of Federal Funds for Lobbying *(Applicable to contracts/subcontracts of \$100,000 or more in federal funding.)*

The contractor hereby certifies that:

- a. No federal funds have been paid or will be paid, by or on behalf of Washington County, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than federal funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the local government shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

**Section V:
Lead Paint Guidelines for Rehabilitation Activities**

**CDBG Program Guidance:
Requirements for Rehabilitation Projects under 24 CFR Part 35
(Lead-based Paint Poisoning Prevention in Certain Residential Structures)**

The intent of the information that follows is to provide CDBG project sponsors with general background information about federal lead-based paint regulations, and to give you a basic understanding of what the regulations will mean for your project, especially as you determine project scope and solicit contractor bids for rehabilitation work. Please note that the following information is very general, and that you will need to consult very closely with Washington County Office of Community Development (OCD) if your project contains or may contain any lead-based paint.

HUD and the Oregon Health Division have issued regulations to protect occupants and especially young children (six years of age or younger) from lead-based paint hazards in housing that is financially assisted by the federal government or being sold by the government. These regulations address the requirements for notification, evaluation and reduction of lead-based paint hazards in federally assisted properties. More information on the regulations and other educational materials can be found at www.hud.gov/lead. This summary addresses the requirements that must be met for rental housing projects that will receive Washington County Office of Community Development CDBG funding.

New EPA Rule

In addition to the HUD regulations regarding lead-based paint in federally assisted projects, the EPA has also issued a new set of lead-based paint regulations which took effect April 22, 2010. These new regulations are called the EPA's lead-based paint "Renovation, Repair, and Painting (RRP) Program." The RRP program regulations will apply to all pre-1978 houses, apartments, and child-occupied facilities such as schools and day-care centers, regardless of whether federal funding is present. The new EPA rule is similar to the HUD rule but there are some significant differences. Both the EPA and the HUD rules will apply to many of the pre-1978 projects that are financed through the CDBG programs. For more information regarding the new RRP program please contact Washington County's Office of Community Development.

Background and Summary of HUD Regulations

The HUD lead paint regulations took effect September 15, 2000, and affect both acquisition and rehabilitation of housing that was constructed prior to 1978 (known as "target housing"). All CDBG projects for pre- 1978 housing activities must comply with the new regulations. All units in an assisted project, not just federally assisted units, must comply with these regulations.

Residential Properties exempt from lead based paint regulations include:

- Properties for which construction was completed on or after January 1, 1978;
- Properties found not to have lead-based paint by an inspection conducted in accordance with 24 CFR Part 35.1320(a);
- Properties where all lead-based paint has been identified and removed using approved methods;
- Unoccupied units that will be demolished;
- Properties where rehab will not disturb paint;
- Single room occupancy units;

- Housing designated exclusively for elderly and/or disabled tenants;
- Emergency action activities (within certain parameters).

Notices that must be issued to occupants of non-exempt properties:

The regulations now require five types of notices (sample forms are available from Washington County Office of Community Development upon request):

- The lead hazard information pamphlet, Protect Your Family From Lead in Your Home, must be provided to all incoming tenants (and existing, if they have not received one); tenants must sign a receipt verifying that they have received the pamphlet;
- Owner/landlord must provide disclosure to occupants of all known lead hazards that exist in the project;
- Notice of the results of lead hazard evaluation(s) to all occupants within 15 days of completion (notice may be posted in a public place such as a lobby or mailroom);
- Notice of lead hazard reduction activities that have been undertaken to occupants within 15 days of completion (notice may be posted in a public area).
- Beginning December, 2008 construction contractors, prior to starting work, must provide occupants with the EPA's lead hazard information pamphlet: Renovate Right.

Grantees must provide verification that each of these notices was delivered and received where applicable.

**Section VI:
Non-Discrimination, Fair Housing and
Accessibility Requirements and Guidelines**

Fair Housing and Accessibility Requirements and Guidelines for Projects Receiving CDBG Funding

A broad and diverse range of building types, whether new, existing, or altered, must comply with at least some of the federal or Oregon laws mandating accessibility for people with disabilities. The different laws and standards that contain accessibility requirements apply to different types of buildings, different building uses, different building ownerships or possession, different building funding, and different points in a building's life. Different sets of accessibility-related nondiscrimination requirements apply to the CDBG program: the Architectural Barriers Act, the Fair Housing Act, and the Americans with Disabilities Act (ADA), and Section 504. It is important to note that these requirements are not necessarily addressed in the building code.

The Architectural Barriers Act

The Architectural Barriers Act of 1968 requires certain federal and federally-funded buildings and other facilities to be designed, constructed, or altered in accordance with standards that insure accessibility to, and use by, physically handicapped people. A building or facility, including a residential structure, designed, constructed, or altered with CDBG funds after December 11, 1995, and that meets the definition of a "building" (as defined below) is subject to the requirements of the Architectural Barriers Act as it is implemented through the Uniform Federal Accessibility Standards (UFAS) (24 CFR Part 40 and 41 CFR Part 101). Your project architect should be familiar with the Uniform Federal Accessibility Standards.

Building: The term "building" means any building or facility (other than (A) a privately owned residential structure not leased by the Government for subsidized housing programs and (B) any building or facility on a military installation designed and constructed primarily for use by able bodied military personnel) the intended use for which either will require that such building or facility be accessible to the public, or may result in the employment or residence therein of physically handicapped persons, which building or facility is:

- 1) To be constructed or altered by or on behalf of the United States;
- 2) To be leased in whole or in part by the United States after August 12, 1968; or
- 3) To be financed in whole or in part by a grant or a loan made by the United States after August 12, 1968, if such building or facility is subject to standards for design, construction, or alteration issued under authority of the law authorizing such grant or loan.

The Americans with Disabilities Act

The Americans with Disabilities Act (ADA) provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, state and local government services and telecommunications. The ADA also states that discrimination includes the failure to design and construct facilities that are accessible to and usable by persons with disabilities. The ADA also requires the removal of architectural and communication barriers that are structural in nature in existing facilities. Removal must be readily achievable, easily accomplishable and able to be carried out without much difficulty or expense.

CDBG applicants/recipients should alert their project architects that the provisions of the Architectural Barriers Act, the Fair Housing Act and the Americans with Disabilities Act are triggered due to federal funding so the architect can design the construction or rehab project with these requirements in mind.

Section 504

HUD's regulations implementing Section 504 in federally assisted programs services and activities are codified at 24 CFR Part 8. HUD's regulations at 24 CFR Part 8 apply to all applicants for, and recipients of, HUD financial assistance in the operation of programs or activities receiving such assistance.

Section 504 states:

"No otherwise qualified individual with a disability in the United States... shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, service or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service."

HUD's Section 504 regulations define an individual with a disability as any person who has a physical or mental disability that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment [24 CFR 8.3]. Major life activities include walking, talking, hearing, seeing, breathing, learning, performing manual tasks, and caring for oneself. The law also applies to individuals who have a history of such impairments as well as those who are perceived as having such an impairment.

A person who meets the above definition, and who is otherwise qualified for the program, service or activity, is covered under Section 504. To be otherwise qualified means the individual meets the essential eligibility requirements, including, for example, requirements for tenancy, if the program is a housing program.

Section 504 covers all programs, services and activities of recipients of HUD financial assistance, including, for example:

- Outreach and public contact, including contact with program applicants and participants
- Eligibility criteria
- Application process
- Admission to the program
- Tenancy, including eviction
- Service delivery
- Employment policies and practices

Section 504 Prohibitions Against Discrimination:

- Denying a qualified individual with disabilities the opportunity to participate in, or benefit from, the housing, aid, benefit, or service.
- Failing to afford a qualified individual with disabilities the opportunity for equal participation and benefit.
- Failing to provide a qualified individual with disabilities a program or service that affords the same opportunity to benefit as that afforded others.
- Providing different or separate housing, aid, benefits or services on the basis of disability unless providing such is necessary to provide housing or benefits that are as effective as that provide to persons without disabilities.
- Providing significant assistance to an agency, organization or person that discriminates on the basis of disability in any aspect of a federally assisted activity.
- Denying a qualified individual with disabilities the opportunity to participate as a member of planning or advisory boards.

- Denying a dwelling to an otherwise qualified buyer or renter because of a disability of that buyer or renter or another prospective tenant.
- Limiting in any other manner a qualified individual with disabilities in the enjoyment of any right, privilege, advantage, or opportunity afforded to others.
- Providing programs or services to qualified individuals with disabilities in settings that are unnecessarily separate, segregated or restricted.

Recipients' Responsibilities Under Section 504:

- Take steps to ensure effective communication with applicants, beneficiaries, and members of the public. [24 CFR 8.6]
- Take steps to ensure that employment activities, including job announcements, recruitment, interviews, hiring, work assignments, promotions and dismissals, do not discriminate on the basis of disability. [24 CFR 8.10 - 8.13]
- Ensure that all non-housing programs are operated in a manner that does not discriminate on the basis of disability and that new construction and alterations of non-housing facilities are made accessible in accordance with applicable standards. [24 CFR 8.21]
- Operate existing housing programs in a manner that does not discriminate on the basis of disability, and take steps, as needed, to ensure that existing housing programs are readily accessible to and usable by persons with disabilities. Develop and implement a transition plan to assure compliance. [24 CFR 8.24]
- Provide reasonable accommodations which may be necessary for a person with a disability to use or participate in the program, service or activity; unless the recipient can demonstrate that the accommodation will result in an undue financial and administrative burden or a fundamental alteration in the nature of the program, service or activity. A reasonable accommodation is an adaptation or modification to a policy, program, service, or workplace which will allow a qualified person with a disability to participate fully in a program, take advantage of a service, or perform a job. Reasonable accommodations may include, but are not limited to, adjustments or modifications to buildings, facilities, dwellings, and may also include provision of auxiliary aids, such as readers, interpreters, and materials in accessible formats. [24 CFR 8.4, 8.11, 8.20, 8.21, 8.24, 8.25, 8.33]
- Pay for a reasonable accommodation needed by the individual (e.g., a ramp to a unit) unless providing that accommodation would be an undue financial and administrative burden or a fundamental alteration of the program. [24 CFR 8.4, 8.11, 8.20, 8.21, 8.24, 8.25, 8.33]
- Ensure that all new construction of housing facilities is readily accessible to and usable by persons with disabilities, and meets the requirements of applicable accessibility standards. [24 CFR 8.22 and 8.32]
- Ensure that substantial alterations, when undertaken, meet the requirements for new construction. [24 CFR 8.23(a)] Ensure that all other alterations, to the maximum extent feasible, meet the requirements of the applicable accessibility standards. [24 CFR 8.23(b)]
- Conduct any required needs assessments (for recipients who are public housing agencies) to determine the extent to which the housing needs of persons with

disabilities are being met in the recipient's program and in the community. [24 CFR 8.25]

- Distribute accessible dwelling units throughout projects and sites and make such units available in the same ranges of sizes and amenities to provide housing choices for persons with disabilities that are the same as those provided to others. [24 CFR 8.26]
- Adopt suitable means to ensure persons with disabilities are made aware of the availability of accessible units and to maximize use of accessible units by individuals needing the features of these units. [24 CFR 8.27]
- Conduct any required self-evaluations of programs, services, and activities to determine if they are programmatically and physically accessible to persons with disabilities, and involve persons with disabilities in these evaluations. [24 CFR 8.51]
- Recipients with 15 or more employees must designate an employee to ensure the recipient's programs, services and activities meet the requirements of Section 504; adopt a grievance procedure to effect due process standards and prompt and equitable resolutions of complaints. [24 CFR 8.53]
- Recipients with 15 or more employees must notify participants, beneficiaries, applicants and employees of their nondiscriminatory provisions. [24 CFR 8.54]
- Recipients must maintain records and reports of efforts to meet the requirements of Section 504, and keep these records on file so that they are available if a complaint is filed, or if HUD conducts a compliance review. [24 CFR 8.55]

The Fair Housing Act

The Federal Fair Housing Act makes it illegal for landlords, managers, home owners, real estate agents, mortgage brokers, lenders, banks and others to discriminate against anyone on the basis of:

- Race
- Color
- National Origin & Ethnicity
- Religion
- Family Status (families with children under 18)
- Physical or Mental Disability
- Sex & Gender

State Protected Classes Include:

- Marital status
- Legal sources of income (except Section 8)
- Sexual orientation including gender identity
- Honorably discharged veterans / military status
- Survivors of domestic violence

Local jurisdictions may have additional protected classes that you should be aware of.

Multi-family dwellings consisting of four or more units, first occupied after March 13, 1991, must also meet the design and construction requirements of the Fair Housing Act.

- Multifamily dwellings must be designed and constructed so that at least one building entrance is located on an accessible route, unless it is impractical to do so because of the terrain or unusual characteristics of the site.

- Multifamily dwellings with a building entrance on an accessible route will be designed and constructed so that:

1. The public and common use areas are readily accessible to and usable by handicapped persons;
2. The doors are designed to allow passage into and within the common areas are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
3. All of the covered (accessible) dwelling units contain the following features of adaptable design:
 - a. An accessible route into and through the covered (accessible) dwelling unit;
 - b. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
 - c. Reinforcements in bathroom walls to allow later installation of grab bars around the toilet, tub, shower, stall and shower seat, where such facilities are provided; and
 - d. Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

The Americans with Disabilities Act

The Americans with Disabilities Act (ADA) provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, state and local government services and telecommunications. The ADA also states that discrimination includes the failure to design and construct facilities that are accessible to and usable by persons with disabilities. The ADA also requires the removal of architectural and communication barriers that are structural in nature in existing facilities. Removal must be readily achievable, easily accomplishable and able to be carried out without much difficulty or expense.

Responsibility for creation of ADA-compliant guidelines was given to the Access Board. The Access Board developed the ADA Accessibility Guidelines (“ADAAG”) from the ABA guidelines. The Access Board continues to maintain them as the ABA/ADAAG. While ABA/ADAAG contains different application, scoping, and administration provisions for compliance with the ABA and ADA requirements, the technical criteria for accessibility are common to both.

Oregon Accessibility Laws

The State of Oregon has its own laws addressing certain aspects of accessibility:

ORS 447.210 et seq., as originally enacted in 1971, applied only to government buildings, and incorporated only some of the then current ANSI A117.1 criteria. In subsequent years, the legislature extended the reach and breadth of the law. Current Oregon law is very broad, and even extends the reach of the ADA accessibility standards beyond those covered by the federal law to include certain private educational facilities, “private membership clubs, and churches” when located in buildings of two stories or more which are either: a) over 4,000 square feet in ground floor area; or b) over 20 feet in height).

ORS 447.233 contains explicit numerical requirements for accessible parking spaces and related signage, dimensional requirements, and access spaces.

ORS 456.506 et seq., passed in 2003, adopted most of the accessibility criteria of the FHA and mandated they be included in all new non-owner-occupied housing, even single units, if those units were financed or subsidized in any way by state or federal funds, guarantees, or tax credits.

ORS 701.525 et seq., passed in 2005, requires the Oregon Construction Contractors Board (“CCB”) to adopt by rule a model list of accessibility features that developers of residential housing may provide to customers purchasing new residential housing from the developer.

ORS 447.231 mandates that the OSSC include the requirements of the ADA and FHA. Oregon's Building Codes Division (“BCD”) has done a yeoman's job of incorporating the: 1) current ADAAG standards; 2) Fair Housing Accessibility Guidelines; and 3) other Oregon laws, into the OSSC.

The current OSSC is based on the IBC, but it does not incorporate the most recent version of ICC/ANSI A117.1. Although that most recent version is part of the current IBC model code, the OSSC instead relies on the previous A117.1 standard. The OSSC has hesitated because the new A117.1 contains revisions proposed to federal accessibility guidelines that have not yet been approved and adopted by the Access Board.

Rather, in order to comply with Oregon law, and to incorporate these three distinct standards into OSSC, BCD wrote a custom accessibility code unique to the OSSC. Chapter 11 of the OSSC is devoted completely to accessibility. It is important to remember that most of the laws mandating accessibility are federal laws. While Chapter 11 incorporates the literal provisions of some of these laws, the ultimate authority for interpreting the meaning and consequence of federal laws remains with those federal agencies charged with their enforcement.

Consequently, approval of project plans or inspection of actual construction by Oregon building officials is limited to compliance with the OSSC, including Chapter 11. Building designers and construction contractors (and building owners) must independently consider federal accessibility law and federal agencies' interpretations of accessibility standards based on federal accessibility laws.

CDBG applicants/recipients should alert their project architects that the provisions of Section 504, the Fair Housing Act, and/or the Americans with Disabilities Act are triggered due to federal funding so the architect can design the construction or rehab project with these requirements in mind.

**Section VII:
CDBG Program Funding Terms and Periods of
Compliance**

CDBG Program Funding Terms and Period of Compliance

Federal CDBG regulations do not stipulate periods of compliance when funds from this source are invested in eligible projects beyond five years if more than \$25,000 is granted. The County's practice, however, is to require a minimum 20-year period of compliance for all grants. New facilities will be required to meet a minimum compliance period of 30 years. Where a grant has been provided, the amount that would have to be repaid to OCD if terms of compliance are not met is for the full compliance period, plus the County's proportionate share of any shared appreciation prior to the expiration of the terms under the Promissory Note and Trust Deed. Thus, for a 20-year period of compliance, the amount that would be repaid to OCD due to non-compliance is the full grant amount, as well as the County's proportionate share of the shared appreciation at the time the facility is sold or is no longer being used for the purpose agreed upon in the grant agreement.

TRUST DEED AND PROMISSORY NOTE AGREEMENT

Any sponsor who acquires real property, constructs, or rehabilitates a facility, in whole or in part, with more than \$25,000 in Community Development Block Grant funds shall enter into a Trust Deed and Promissory Note with the county. (*Infrastructure and Public Service projects in most cases will only need to execute a Promissory Note*). The Trust Deed and Promissory Note establishes a landlord/tenant relationship between the sponsor and the county; it guarantees that the sponsor will operate the facility to meet a national objective of the CDBG program during a pre-determined period of time; and, it imposes conditions which the county determines are necessary to protect the county's CDBG investment. Following execution, OCD will have the Trust Deed recorded, at sponsor's expense, and return a copy of both documents to the sponsor.

When both a Promissory Note and Trust Deed is necessary, you must provide OCD with a copy of the deed and property description. The following policies apply:

- The County will require the sponsor to execute a Trust Deed and Promissory Note, or other legal document in the form of the County's choice, to secure the County's total projected CDBG contribution for real property acquisition and any improvements to be added to the property. Upon completion of any improvements, or at such time designated by the County, the aforementioned documents may be amended, as necessary, to reflect any change that may have occurred to the initial project budget as a result of change orders, contingency funding, etc.
- All sponsors must execute a Promissory Note and Trust Deed, where applicable, to secure the County's CDBG contribution towards acquisition within sixty (60) days following their transmittal to the sponsor by the County.
- The term of the Trust Deed and Promissory Note shall be thirty (30) years for new construction; twenty (20) years for acquisition or substantial rehabilitation of a facility or improvement; or five (5) years following the date that Washington County is no longer an urban entitlement recipient;
- The County reserves the right to receive a proportionate share in the appreciation of the facility in the event that the facility is not longer used for the intended purpose and duration as described in the term of the Promissory Note and Trust Deed (twenty or thirty years). The percentage of that shared appreciation is decided on the total amount of CDBG investment, divided by the sum of the current fair market value of the property and both the CDBG and Sponsor's contribution of the project. This calculation and percentage of proportionate share is described in the Promissory Note.
- The County shall, at the expiration of the term of the Trust Deed and Promissory Note, convey to the sponsor all of the County's interest in the property.

CONTRACT EXHIBITS

Before we can enter into a formal grant agreement with your agency that will allow you to access CDBG funds, the County must complete the HUD Part 58 Environmental Review. Once this is complete and all contracts are signed by the County Administrator, we will send you an original copy of the final executed grant agreement accompanied by the official "Notice to Proceed," which will allow you to incur eligible costs chargeable to the CDBG program. **Please note that we are prohibited from reimbursing you for any activities performed prior to the date specified in the Notice to Proceed!**

We will hold the CDBG Application Workshop each March. At the workshop, you will be briefed in everything that you will need to know to access and be reimbursed with CDBG funding. We strongly recommend that you attend this workshop. Even if you have received CDBG funding in past years, some requirements have changed and new editions of the CDBG Operating Manual will be available for you to retain a copy.

Because contracting can be time consuming, we like to begin this process immediately upon sending the Notice of Award letter to your agency. The first step in contracting is for you to review and/or complete the documents that are included with your Notice of Award letter (further described below). The following items must be returned to our office upon the specified date in that letter in order to prepare the contract with your agency:

Exhibit A, "Project Description, Scope of Activities and Anticipated Accomplishments"	Prepared by OCD - You will only be reimbursed for activities that are included in this project description, so be sure that the scope of work and corresponding budget are an accurate reflection of your project. If you feel the description is inaccurate, please contact staff so that we may revise it as needed.
Exhibit B – Authorization Signature Card	It is recommended that you have at least three signers for all voucher requests designated, in case a back-up is needed. You may also access the form and instructions on how to complete it here: http://www.co.washington.or.us/CommunityDevelopment/BlockGrant/forms.cfm
Exhibit C – Budget Summary	The Budget Summary is available in MS Excel format and will be emailed to you by staff. Please complete the budget summary and <i>email</i> it back to Lauren_sechrist@co.washington.or.us for review prior to signing and submitting the approved contract version. This helps us identify early on any errors that may need correcting.
Insurance Requirements	Provide your agency’s most recent Certificate of Liability insurance showing that “ Washington County, its officers, agents, elected officials and employees ” is listed as an additional insured on the policy. Please instruct your insurance agent to send us a certificate as described above, <i>and be sure to ask them to include the additional insured endorsement with the certificate</i> . Refer to the section, “Insurance Requirements” at the end of this section for further instructions on the types and amounts of insurance that is required.
FFATA Checklist	Refer to the checklist at the end of this section for further instructions.
Faith-Based Checklist	Refer to the checklist at the end of this section for further instructions.
Section 504 Checklist	Refer to the checklist at the end of this section for further instructions.
Matching Funds letter	According to program policy, you have until 90 days after the Notice of Award to verify the availability of matching funds for the project as proposed in your application. Please note this requirement and submit the letter to this office by that date designated in your Notice of Award letter verifying that all proposed funds are in place for the project.

Following receipt and review of the completed contract exhibits and all other requested items, we will prepare three agreements, which will include the enclosures, and send them to your agency for endorsement along with the Promissory Note. After we receive the signed agreements, they will be entered into the County's contract review process. We will then send you back an original copy of the fully executed agreement along with the Notice to Proceed.

**PROJECT DESCRIPTION, SCOPE OF ACTIVITIES
AND ANTICIPATED ACCOMPLISHMENTS**

I. Project Number and Title:

CDBG Project #XXXX—Action Non-Profit Northwest – group home upgrades

II. Description of: Project, Activities, Anticipated Accomplishments, Low and Moderate or Other Target Group Beneficiaries.

A. Nature and Purpose of the Project:

Rehabilitate one group home located in the Tigard area. The group home, which serves adult persons with developmental disabilities, is older and in need of repairs. Rehabilitation activities will include such critically needed repairs as creation of a secondary fire exit; HVAC system; and the remodeling of bathrooms. CDBG funds will also provide for a Construction Project Manager Position to oversee the project.

B. Proposed Location or Impact Area(s):

XXXX SW Tigard St, Tigard, OR

C. Duration/Timing of the Project:

July 1, 20XX thru June 30, 20XX

D. Number of Low and Moderate Income or Target Group Beneficiaries:

4 developmentally disabled adults

E. Component Activities (CDBG vs. Others):

CDBG = \$45,000.00 Agency = \$55,000.00

F. Quantitative Projections for CDBG Component Activities (in units, linear feet, square feet, etc.) for all acquisitions, construction, reconstruction, rehabilitation, etc.: CDBG funds will be used to fund one staff salary and benefits, as well as operating costs that include office supplies, professional services, and construction costs for one group home upgrade.

EXHIBIT A

Project No XXXX
Project Year (funded) 20XX

AUTHORIZATION SIGNATURE CARD

Project Name Group home upgrades
Applicant's Name Action Non-Profit Northwest
Address xxxx SW Tigard Street
City, State, Zip Tigard, OR 97223
Telephone Number 503-555-8465

SIGNATURE OF INDIVIDUALS AUTHORIZED TO SIGN FINANCIAL DOCUMENTS:

Any TWO signatures required to sign any financial document

NAME (Type or Print)	SIGNATURE
<u>Mary Smith</u>	<u>Mary Smith</u>
<u>Gloria Ruben</u>	<u>Gloria Ruben</u>
<u>John Cage</u>	<u>John Cage</u>

I certify that the signatures above are of the individuals authorized to execute financial documents.

February 12, 20XX
Date

Mary Smith
Signature of Authorized Official

Executive Director
Title of Authorized Official

**Budget Summary (2 page form – see Excel Tabs)
Community Development Block Grant**

		Project Number:	XXXX
		Project Year (funded):	20XX
Budget Summary (2 page form)			
Community Development Block Grant			
Project Title: Group home upgrades			
Legal Name of Entity: Action Non-Profit Northwest			
Address: XXXX SW Tigard Street		City: Tigard	State: OR Zip: 97223
I. BUDGET LINE ITEMS			
A. Personnel Services			
1. No. of Employees	2. Job Title	3. Total Salary	4. Portion Chargeable to CDBG
1	Project Coordinator	\$ 54,950.00	\$ 23,450.00
5. Subtotal		\$ 54,950.00	\$ 23,450.00
6. Extra Help/Overtime			
7. Fringe Benefits		\$ 23,550.00	\$ 10,050.00
8. TOTAL PERSONNEL COSTS		\$ 78,500.00	\$ 33,500.00
		Materials and Services	Portion Chargeable to CDBG
I.B. Materials and Supplies			
9. Office Supplies		\$ 500.00	\$ 500.00
10. Operating Supplies			
11. Communications			
12. Travel and Training		\$ 1,000.00	\$ 1,000.00
13. Legal & Public Notices			
14. Professional Services		\$ 20,000.00	\$ 10,000.00
15. Construction Contracts			
16. Other: Specify			
17. TOTAL MATERIALS AND SERVICES		\$ 21,500.00	\$ 11,500.00

EXHIBIT C

C. CAPITAL OUTLAY			Total Capital Outlay	
18. Capital Outlay	Quantity	Item		
19. Real Property Acquisition				
20. TOTAL CAPITAL OUTLAY			\$ -	
			21. Total Project Cost	
			\$ 100,000.00	
II. SOURCES OF PROJECT FUNDING				
1. Federal				
2. State			\$ 30,000.00	
3. Local Cash			\$ 15,000.00	
4. County				
5. In-Kind Service and Supply				
6. Other (detail)			\$ 10,000.00	
7. Subtotal			\$ 55,000.00	
8. CDGB			\$ 45,000.00	
9. TOTAL PROJECT COST			\$ 100,000.00	
III. AUTHORIZATION				

Date		<i>Mary Smith</i>		
		Authorized Signature for Project		

Date		<i>John Cage</i>		
		Authorized Signature for Project		
COUNTY USE ONLY				
Reviewed and approved by Washington County Office of Community Development on				
4/16/20XX		by Jennie H. Proctor		<i>Jennie H. Proctor</i>
				Signature

INSURANCE REQUIREMENTS

(Taken from the CDBG Boilerplate Grant Agreement for Public Facility Projects Sponsored by Non-profits)

- A. Agency shall provide insurance coverage and limits as described below. All insurance carried by Agency must be primary to and non-contributory with any insurance, including any self-insurance or retentions carried by the County.
- B. **Workers' Compensation Insurance.** Agency shall comply with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers. No Workers' Compensation Insurance has been or will be obtained by the County for Agency or Agency's employees and subcontractors. Agency shall provide and maintain workers' compensation coverage for its employees, officers, agents or partners as required by applicable workers' compensation laws including employers' liability with limits not less than \$500,000/ \$500,000/ \$500,000.
- C. **Commercial General Liability Insurance.** Agency shall at all times carry a Commercial General Liability insurance policy for at least \$1,000,000 per occurrence and at least \$2,000,000 in the aggregate per project, for Bodily Injury, Property Damage, and Personal Injury. This insurance shall include contractual liability coverage for the indemnity provided under this Agreement.
- D. **Automobile Liability Insurance.** Agency shall at all times carry Automobile Liability Insurance in the amount of \$1,000,000 combined single limit per accident for Bodily Injury and property damage for Agency's vehicles, whether owned, hired, or non-owned, which coverage is for Washington County, its agents, officers, elected officials and employees.
- E. **Professional Liability/Errors and Omissions Insurance.** Agency shall at all times carry a Professional Liability/Errors and Omissions type insurance policy with limits of not less than \$1,000,000 each occurrence (or each claim if coverage is afforded on a claims made basis) and \$2,000,000 in the annual aggregate. If this policy is a "claims made" type policy, the policy type and company shall be approved by Washington County prior to commencement of the Work.
- F. **Extended Reporting Coverage ("Tail Coverage").** For Professional Liability/Errors & Omissions Insurance written on a "claims made" basis and for any other required liability insurance provided on a "claims made" basis, Agency shall provide "tail" coverage at the completion of the contract for a duration of thirty-six (36) months or continuous "claims made" liability coverage provided for thirty-six (36) months following contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage provided the retroactive date of the coverage is on or before the effective date of this Agreement.
- G. **Bonding.** The Agency shall ensure that every director, officer or employee who is authorized to act on behalf of the Agency for the purpose of receiving or depositing funds into Agency project accounts or issuing financial documents, checks, or other instruments of payment for projects be bonded or covered under a commercial crime policy to provide for protection against loss. The bond or commercial crime policy must be endorsed to add "Client Coverage". The amount of the coverage must be \$100,000 or the total amount received by Agency pursuant to this Agreement, which ever is greater, and must be secured until the entire amount is repaid in accordance

with the terms of the Promissory Note and Trust Deed. The Agency shall provide the County with a copy of the bonding instrument or a certification of coverage from the bonding company or commercial crime policy issuer.

- H. **Maximum Deductible/Retention.** Any deductible or retention must be disclosed on the certificate of insurance and no deductible or retention may exceed \$25,000 without the prior written consent of the County.
- I. **Additional Insureds.** The County, its agents, officers, elected officials and employees all while acting in their official capacity as such, must be named as additional insureds on all insurance, other than worker's compensation insurance and professional liability insurance, required under this Agreement. The additional insured status must include both ongoing and completed operations and must be continued for at least 24 months after the project is completed and accepted. Such insurance shall include "cross-liability" coverage as provided under the standard ISO forms "Separation of Insured" clause.
- J. **Proof of Insurance.** Agency shall deliver to the County, prior to the commencement of the work, a certificate of insurance evidencing all policies required by this Agreement including additional insured provisions afforded by the policy. This requirement can be satisfied by providing a copy of the coverage form and/or the endorsement(s).

Further, it shall be an affirmative obligation of the Agency to notify the County within two (2) business days of the cancellation or substantive change of any insurance policy or endorsement required herein, and failure to do so shall constitute a breach of this Agreement.

- K. **Subcontractor/ Subgrantee Insurance.** Agency shall require and verify that all of its subcontractors or subgrantees of any tier provide insurance coverage and limits identical to the insurance required of the Agency under this Agreement, unless this requirement is expressly modified or waived by the County.
- L. **Self Insurance.** If the Agency is self insured, for any of its insurance requirements herein, it shall submit satisfactory evidence to the County of the terms and conditions of its own insurance coverage. A certification of self insurance shall constitute compliance with the section.
- M. **Acceptability of Insurers.** All insurance required pursuant to this section shall be issued by an insurance company or companies doing business in the state of Oregon. Insurance is to be placed with a carrier(s) having a Best's rating of no less than A:VII. Any exception must be approved by the County.
- N. **Builders Risk Insurance.** In addition to the requirements above, if this Agreement is for a capital project, the following will also be required:

(1) During the term of this Agreement, for new construction, the Agency shall or shall require the Owner to maintain in force, at its own expense, Builders Risk insurance on an all risk form, including earthquake and flood, for an amount equal to the full amount of this Agreement. Such insurance shall be maintained until the facility has reached substantial completion. The Agency shall or shall require Owner to name Washington County as Additional Insured and Mortgagee under the Builder's Risk insurance policy and any loss shall be adjusted by the Agency, Owner and County, as their interests may appear. The property insurance

deductibles will be no more than \$25,000 per occurrence. The Agency shall or shall require the Owner to pay costs not covered because of such deductibles.

(2) Insurance - Reconstruction Following Casualty

i. Maintenance of Insurance – At its sole cost and expense, the Agency shall or shall require Owner to keep the building and all other improvements on the premises insured throughout the term of this Agreement and the Trust Deed required therein, against loss or damage by fire and such other risks, including earthquake and flood, written on an “all risk” form on a replacement cost basis, including coverage for loss or damage due to leakage of sprinkler systems and coverage for loss or damage due to explosion of steam boilers, pressure vessels, oil or gasoline storage tanks or similar apparatus.

ii. Insurance Casualties – Insurance Proceeds – In the event of any loss, damage or casualty which is covered by the insurance described in paragraphs (1) and (2) of this subsection M, the parties to this Agreement shall proceed cooperatively to settle the loss and collect the proceeds of such insurance, which proceeds shall be held in trust by the County (including interest earned by County on such proceeds) for use in accordance with the terms of this Agreement. The parties recognize that insurance proceeds shall be used for the purpose of repairing and restoring the improvements damaged by the casualty to their former condition or replacement of the same with equivalent or more suitable improvements.

iii. Insured casualties – Reconstruction – using such insurance proceeds (set forth in paragraph (ii) above, the parties shall proceed with reasonable diligence as soon as sufficient funds are available to prepare plans and specifications for, and thereafter carry out, all work necessary: (a) to repair and restore the building and/or improvements on the premises damaged by the casualty to their former condition, or (b) to replace said building and/or improvements on the premises to a quality and usefulness for the Project described in the application submitted by the Agency for the CDBG funding and the plans associated therewith, at least equivalent to, or more suitable than, the building and/or improvements which were damaged.

O. The County, in its sole discretion, may waive or modify some or all of the insurance required in Section 11 of this Agreement. Any such waiver or modification must be approved in writing by the County’s Risk Manager.

FFATA Checklist (contracts \$25,000 and over)

The Federal Funding Accountability and Transparency act (FFATA) requires the Office of Management and Budget (OMB) to maintain a single, searchable website that contains information on all Federal spending awards. As part of this, Washington County OCD is requiring all agencies that have been awarded funding to complete this form.

To Be Filled Out By OCD Staff	
Program source	
CFDA program number for grant	
Name of agency receiving award	
Amount of award	
Project number	
Award title descriptive of the funding action	
To Be Filled Out By Agency	
Address of the entity including: (Zip + 4)	
Place of performance including: (Zip + 4)	
Congressional district	
Total compensation and names of top five executives*	1.
	2.
	3.
	4.
	5.
DUNS number	
Central Contractors Registration (CCR) number**	

*Must give total compensation and names of top five executives if:

1. More than 80% of annual gross revenues from the federal government, and those revenues are greater than \$25M annually and
2. Compensation information is not already available through reporting to the SEC.

**Note: Because CCR registration expires annually, grantees are required to update their CCR information annually.

How do you get a DUNS number?

The unique identifier used in reporting to FFATA is the entity's Dun & Bradstreet (D&B) Data Universal Numbering System (DUNS) Number. For subawardees, OMB has issued interim final guidance requiring such recipients to obtain a valid DUNS number. DUNS number may be requested via the web at:

<http://fedgov.dnb.com/webform>

Staff use only

CFDA #	Program
14.218	CDBG
14.239	HOME
14.231	ESG
14.218	NSP

What is a CCR and how do you register?

CCR stands for Central Contractor Registration, which is the primary registrant data Federal Government. CCR collects, validates, stores and disseminates data in support of agency acquisition missions. Here is the link to information needed to register and become familiar with CCR:

- Registration information: <https://www.sam.gov/portal/public/SAM/>

Please sign below certifying that the above information is correct:

Signature

Print Name

Date

Washington County
Office of Community Development
Checklist Relating to Faith-Based Organizations
Seeking CDBG or HOME Funds

In September 2003, the US Department of Housing and Urban Development (HUD) provided new guidelines that expanded the ways in which Faith-Based Organizations may participate in HUD programs. (24 CFR Part 92 et al.) To ensure that Washington County is up-to-date in complying with these new regulations, the Office of Community Development is requiring ALL APPLICANTS for CDBG or HOME funds to complete this checklist, whether or not your organization is a Faith-Based Organization. Organizations that are not faith-based may simply complete Section A, answer the first question in Section B in the negative, and complete Section C and return the application to the Office of Community Development. Please complete one of these for each application that you submit, as some of the answers might be different for various programs.

If you have any questions or would like assistance, please contact 503-846-8814.

Please complete this form and return it to:
Washington County
Office of Community Development
328 W. Main St., Suite 100
Hillsboro, OR

A. General Information

Name of Organization: _____

Name and Title of Contact Person: _____

Project: _____

Contact Phone Number: _____

B. Questions About Your Agency and Project:

Please answer all required questions.

1. Does your organization provide inherently religious activities, such as worship, religious instruction or proselytization? _____

If yes, please complete the remainder of Section B. If no, proceed to Section C.

2a. When and where does your organization offer religious activities? Please be specific.

2b. When and where does your organization offer the services to be funded with HUD funds? Please be specific.

- 2c. Are these religious activities offered separately in time from the assistance to be funded with HUD funds? ____ Please explain.
- 2d. Are these religious activities offered in a separate location from the assistance to be funded with HUD funds? ____ Please explain.
3. Is participation in the religious activities voluntary for the beneficiaries of the HUD-funded assistance? ____ Please explain.
4. Is the HUD-funded assistance that your organization offers open to all, without respect to religion or religious belief? ____ Please explain.
5. Does your organization take religion into consideration in the employment of individuals to perform work for your organization? ____ If yes, please explain.
- 6a. Are you planning to use HUD funds for the acquisition, construction or rehabilitation of a structure or site? ____ If yes, please proceed to 6b. If no, please proceed to Section C.
- 6b. Will a part of that structure or site be used to inherently religious activities? ____
If yes, please answer 6c-f below. If no, please proceed to Section C.
- 6c. What part of the structure or site will be used for inherently religious activities?
- 6d. What part of the structure or site will be paid for with HUD funds?
- 6e. Can the portion of the structure or site funded with HUD funds be clearly distinguished from the portion where religious activities will occur? ____
If yes, please describe how this can be accomplished.
- 6f. Please complete the chart below:

	Total Structure	HUD-Funded Portion of Structure	Portion Where Religious Activities Will Occur
Square feet			
Cost (\$)			

C. Assurances and Signature

I am an authorized representative of the organization described in Section A. I affirm that all of the statements on this form are true and accurate.

Signature Date

Name: _____

Title: _____

Instructions for the Section 504 Checklist

This checklist is designed to assess your organization's compliance with requirements under Section 504 of the Rehabilitation Act of 1973.

These requirements are based on the regulations governing Section 504 of the Rehabilitation Act of 1973 (24 CFR 8), the Fair Housing Act (24 CFR 100), and the Uniform Federal Accessibility Standards (UFAS) (24 CFR 8.32 and Appendix A to 24 CFR 40).

Regarding compliance with Section 504 communications provisions, 24 CFR 8.6 requires that your organization take appropriate steps to ensure effective communication with applicants, beneficiaries, and members of the public. In effect, this means that, "to the maximum extent possible," persons with disabilities receive the benefits and services of the CDBG funded program or activity. You are not, however, required to take actions that can be demonstrated to result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens.

With respect to the accessibility of non-housing facilities, 24 CFR 8.21 and 8.32(a) requires the design and construction of all new non-housing facilities to be readily accessible to, and usable by, persons with disabilities. The regulations also require alterations to existing non-housing facilities to make such facilities accessible to, and usable by, persons with disabilities, unless such alterations result in a fundamental change to the nature of the program or an undue financial and administrative burden.

Program accessibility requirements under Section 504, at 24 CFR 8.4 and 8.20, call for your organization to operate its non-housing programs or activities in ways that makes them readily accessible to, and usable by, persons with disabilities, unless it can be demonstrated that the actions taken to make these programs accessible would fundamentally change the nature of the program or impose undue financial or administrative burdens.

Please note that Section 504 record keeping requirements (at 24 CFR 8.55) will be reviewed at your CDBG monitoring visit. OCD staff will examine applicable records maintained by your organization to determine that, not only are such records available, but that they correspond to information contained in performance and other reports submitted to OCD. While a lack of documentation may not imply discrimination, your organization's data serves as a basis for further investigation of compliance with nondiscrimination requirements.

Section 504 Checklist

A. General Information:

Name of Organization: _____

Name and Title of Contact Person: _____

Project: _____

Contact Phone Number: _____

Questions About Your Agency and Project:

Please answer all required questions.

ACCESSIBILITY PROCEDURES

1.

If your organization has 15 or more employees, does it have a formal, written grievance procedure for resolution of complaints alleging discrimination based on disability? (If yes, obtain copy for FHEO review of due process standards.) [24 CFR 8.53(b)]	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> Yes No N/A
Describe Basis for Conclusion: 	

ACCESSIBILITY OF NON-HOUSING FACILITIES

2.

Does your organization maintain documentation (e.g., blueprints and construction specifications) that all new non-housing facilities assisted with CDBG program funds are being designed and constructed to be readily accessible to, and usable by, persons with disabilities in conformance with accessibility requirements?	<input type="checkbox"/> <input type="checkbox"/> Yes No
Describe Basis for Conclusion: 	

3.

Do your organization's records indicate that, if any alterations have been made to existing non-housing facilities, that such alterations have made these facilities usable by, and accessible to, persons with disabilities?	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> Yes No N/A
Describe Basis for Conclusion: 	

ACCESSIBILITY OF HOUSING PROGRAMS

4.

Do records indicate that programs or activities are readily accessible to, and usable by, persons with disabilities? [24 CFR 8.4, 24 CFR 8.20, 24 CFR 8.21(c)(2)]	<input type="checkbox"/> <input type="checkbox"/> Yes No
Describe Basis for Conclusion: 	

COMMUNICATIONS

5.

a. Has your organization taken steps to ensure effective communication with applicants, beneficiaries, and members of the public who have hearing, vision, or speech impairments using: i. Qualified sign language and oral interpreters? ii. Readers? iii. Use of tapes? iv. Braille materials? v. TTY? vi. Other (describe below)? [24 CFR 8.6]	<input type="checkbox"/> <input type="checkbox"/> Yes No
Describe Basis for Conclusion: 	

b. If the answer to "a" above is "no," describe the method(s) used by your organization to facilitate effective communication.
Describe Basis for Conclusion:

6.

Has your organization adopted and implemented procedures to ensure that interested persons (including those with impaired vision or hearing) can obtain information concerning the existence and location of accessible services, activities and facilities? [24 CFR 8.6(b)]	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No
Describe Basis for Conclusion:		

7.

Is there documentation to show steps that your organization has undertaken to attract persons with disabilities, such as: making buildings more accessible to persons with physical disabilities; home visits to assist applicants for program benefits in filling out applications; supplying sign language interpreters for public meetings on issues relating to your programs? [24 CFR 8.54(b) and (c)]	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No
Describe Basis for Conclusion:		

RECORD KEEPING

8.

Does your organization maintain data for compliance purposes showing the extent to which persons with disabilities are beneficiaries of the program(s) being reviewed? [24 CFR 8.55 (b) and 24 CFR 8.121]	<input type="checkbox"/> <input type="checkbox"/> Yes No
Describe Basis for Conclusion:	

9.

Are copies of your organization's Reasonable Accommodation Policy, Section 504 Self-Evaluation Form and Transition Plan available for review?	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> Yes No N/A
Describe Basis for Conclusion:	

Section VIII: Finance/Accounting Overview

FINANCE/ACCOUNTING

The following procedures are guidelines that should be adhered to in financial transactions in order to meet federal requirements under Washington County Office of Community Development's Community Development Block Grant (CDBG) Program. For PDF copies of the financial forms mentioned in this section, go to:

<http://www.co.washington.or.us/CommunityDevelopment/BlockGrant/forms.cfm>

The Voucher Request form and other forms can also be obtained in Microsoft Excel. Please contact the Senior Community Development Specialist or the Grants Technician to request these forms in MS Excel.

FINANCIAL PROCEDURES

To assist sponsors in meeting the financial guidelines, OCD has developed standard policies and procedures under the following sections for:

1. Authorizations
2. Budgeting/Budget Summary
3. Budget Revisions
4. Contingency Funds
5. Surplus Project Funds
6. Program Income
7. How to Submit a Voucher Request for Reimbursement

Limited technical assistance in setting up proper internal controls and record keeping can be obtained through OCD. However, sponsors will be ultimately held responsible for management of their project and budget.

Authorizations

In order to assure that budgets, budget revisions and requests for payment are properly authorized, all forms will require the signature of at least two individuals designated by the sponsor to request reimbursement. The chief executive or certifying officer authorizes these designated signatories to sign budgets, budget revisions and requests for reimbursement by executing the OCD Authorization Signature Card form. It may be helpful to obtain three or four signatures to assure the availability of two authorized signers at any given time. If the authorized signers change for any reason, a new Authorization Signature Card is required. You may find the form at the web link indicated above.

Budgeting/Budget Summary

The Budget Summary form is used in conjunction with the Voucher Request and Program Accomplishments. It is designed to enable sponsors, program staff, County finance and federal auditors to identify and track the expenditure of program funds. The sponsor, prior to executing a standard contract with the County, must complete the Budget Summary form. Upon receipt of the Budget Summary and the Authorization Signature Card, OCD will prepare the standard project contract which incorporates the Project Description and Scope of Activities, Budget Summary and Signature Authorization Card as exhibits.

Budget Revisions

A request for a Budget Revision must be submitted to the Office of Community Development before a sponsor:

- (1) Overspends in one cost category and proposes to use the surplus remaining in another cost category to cover any shortfall; or
- (2) Allows costs for any category or the total unobligated balance of project funds to be reduced to a level that is inadequate to meet current or anticipated obligations.

Contingency Funds

Requests for the use of contingency funds may only be requested for a public facility or infrastructure project, as the amount of funding that is allowed to be spent on Public service activities is capped at 15% of the annual CDBG award received from HUD. Contingency funding requests must be made in writing in accordance with current program policies and prior to incurring costs. (See Program Policy Manual, policy number 4.) The request shall state the amount of funds requested and documentation of how that number was derived, as well as the circumstances that caused the need for additional funding. The sponsor must conclusively demonstrate that efforts have been made to contain cost overruns and to fund the additional expense from a source other than CDBG funds.

Surplus Project Funds

Surplus project funds that result from completing a project under budget shall be reported to OCD as soon as practicable. Sponsors must obtain written approval from OCD if they wish to use any surplus project funds. Such requests must be made in writing prior to incurring costs. Costs must be related to the project for which your agency originally received the CDBG funds. Unspent surplus income shall be returned to the program to be used as reprogrammable income. (See Program Policy Manual, policy number 3.) If a project's expiration date is approaching and you think you need more time to spend the remaining funds, you should contact the Senior Community Development Specialist as soon as possible.

Program Income

Program income is defined as any funds accruing to a sponsor as a result of using CDBG resources. Examples include rental fees from the use of a community facility, sale proceeds from purchased equipment or property, and fees charged for services funded by program resources.

Sponsors are required to keep records of the sources of program income, reporting unanticipated program income as soon as possible. The use of all program income must be documented. Program income may be used to support the operation of a CDBG program activity. Program income not used to continue or benefit the original CDBG activity shall be returned to the program.

How to Submit a Voucher Request for Reimbursement

This piece will give you specifics on how to submit a voucher for reimbursement including how best to prepare and submit your back-up documentation. Your reimbursement voucher is a four-page document that the Office of Community Development provides. ***If you do not have the Excel version of the Voucher Request, please email our office to request that it be emailed to you as this form is not available online!***

The first critical piece of information you need to know is how you are charging costs: will you be charging direct costs or will you be charging a combination of direct costs and indirect costs? Direct Costs are costs that only benefit one program or activity. Indirect costs are those costs that benefit more than one activity or program. **If you are going to be charging indirect costs, you MUST have a federally approved cost allocation plan with an established indirect cost rate.** This plan must be submitted to this office for approval. If you gave an internal allocation plan but it has not been approved by a federal agency, we can NOT pay for those indirect costs. This is a requirement.

Contact OCD if you have any questions about indirect cost rates. If there is a problem, the earlier we address it, the fewer delays there will be in processing vouchers.

When sponsors receive billings or incur costs for projects, the amount due can be paid and then reimbursement may be requested from the County, or the sponsor may request reimbursement from the County and then pay the amount due. The sponsor must disburse, within 72 hours, any reimbursement or combination of reimbursement made by the Washington County Office of Community Development that exceeds \$5,000.

Costs which are charged must be included in the approved Budget Summary and must be allowable under 2 CFR Part 200 Subpart E.

To request payment for projects, the voucher request form must be completed. The form is made up of two (2) parts: the financial component and the program accomplishments. The financial component (two pages in length) includes the amount requested, by line items, according to the budget for the project. The Program Accomplishments component (two pages in length) provides the format for reporting on activities completed and beneficiaries served, explanation of costs incurred, and reasons for any deviation from planned progress. Both components must be fully and accurately completed. Billings or invoices must be attached and coincide with the dates cited in the Voucher Request. Vouchers without back-up documentation will not be accepted.

When submitting a voucher request, only record the CDBG portion of your budget and expenses on this form. Recording the matching portion of the grant should be done under separate documentation and retained by the agency.

Certification is to be dated at time of signature. If prepared by one authorized signer, the form should be signed twice by that individual: once as the preparer, and once again as an authorized signer, but please remember that two authorized signers are required.

Retain a copy for your files. Send the completed form (four pages in length depending on project), along with documentation of the costs you are charging to the Block Grant (i.e., invoices, payroll time sheets, etc.) to OCD. When the form has been processed and payment authorized a copy of the form will be returned along with the payment. If receiving electronic payment, a copy of the form will be emailed to the recipients designated on the voucher request.

At present, the average time for the county to process a voucher is ten (10) working days. Please refer to the Step-by Step Instructions for completing a CDBG Voucher Request for answers to frequently asked questions.

Step-by-Step Instructions for completing the Voucher Request

VOUCHER PAGE 1

Project Year (located on page 1 and 2 of voucher) — On the voucher you will be asked to fill in Project Year. Even if your project is a three-year project, the funding year is the year the project was initially funded. If you have a project that came on-line July1, 20XX it will ALWAYS be a 20XX project. If you have a project beginning July 1, 20XX, your funding year will ALWAYS be 20XX.

The Environmental Release Date (located on page 1 of voucher) — For most projects, the environmental release date is July 1st of the year your project is funded. To be sure, check the letter you receive from this office that gives you your “Notice to Proceed.” This letter usually accompanies your fully executed copy of the contract. The date specified in the letter is the date you use on page 1. You cannot incur costs prior to the environmental release date (the start date of your project).

Column 1 of Voucher Page 1 — Approved CDBG budget. This reimbursement request is only for CDBG dollars, so you only show the CDBG budget. Check the budget (Exhibit C) in your contract to get the numbers for this column.

Column 2 of Voucher Page 1 — Expended this Period. This is the amount you are requesting for this voucher. Your back-up documentation should total what you have in this column.

Column 3 of Voucher Page 1 — Expended to Date. This is the amount you have expended INCLUDING this voucher.

Column 4 of Voucher Page 1 — Unobligated Balances. This is the amount of funds remaining after the expenditures from this voucher. As a way to check yourself, column 3 PLUS column 4 EQUALS column 1.

VOUCHER PAGE 2

- Item 5 = Total of Column 1 (from page 1)
- Item 6 = Total of Column 3 (from page 1)
- Item 7 = Total of Column 3 FROM THE PREVIOUS VOUCHER (unless you have a payment in transit – see item # 9).
- Item 8 = Cash on Had — This will always be “0” unless you have just received a check from our office which you have not disbursed. In that we require you to disburse the funds within 72 hours, there is rarely “cash on hand.” Cash on hand means CDBG funds. CDBG funds should never be deposited into an interest bearing account.
- Item 9 = Payments in Transit — This will happen occasionally when you have submitted a voucher but have not actually received the payment yet. Having a payment in transit is uncommon as we try to have a fairly quick turnaround.
- Item 10 = Cash Requested — Total on Column 2 (from page 1)

Preparers and Authorized Signers — Exhibit A of your contract is a Signature Authorization Card. This tells us who your agency has designated the authority to sign financial documents for this project. Check the Signature Authorization Card so you know who can sign documents.

A preparer is the person who fills out the voucher and compiles the back-up documentation. A preparer CAN ALSO BE an authorized signer but does not have to be.

There must always be original signatures for the preparer and the two authorized signers. Faxed/emailed copies are not accepted.

This section must be signed, name must be printed or typed, and the date must be filled in.

VOUCHER PAGES 3 & 4 (PROGRAM ACCOMPLISHMENTS)

Public Facilities and Infrastructure projects are required to fill out sections 1 – 5 of page three (3). Some Public Facility projects, for example group home acquisitions, will be required to include Program Accomplishments on pages three (3) and four (4) on its final voucher request.

Item 1 = PERSONNEL — In this section, you should list the names of the agency personnel that are funded with this grant. If employees are funded in whole or in part with block grant dollars, their names should be listed here.

Item 2 = TASK PERFORMED — In this section, you should put a short narrative describing the work accomplished with the funds for which you are requesting reimbursement.

If you are a public service or housing project, you may have on-going activities such as case management, provision of services like counseling, weatherization activities, after-school activities, etc. If you are a construction project, you may be in the design and engineering phase or you may be in the construction phase pouring concrete, laying pipe, installing equipment, etc. Describe what tasks were performed for which you are requesting reimbursement.

Item 3 = UNITS OF SERVICE COMPLETED — In this section, you will be providing information on accomplishments. Before you can fill this out, you need to know what the contract states you will accomplish overall. Look at **Exhibit A** of the contract under “Number of Low and Moderate Income or Target Group Beneficiaries (public service projects) or Quantitative Projections” (construction projects). This will tell you what will be accomplished with this contract.

Description – describes the unit of service being provided (low/mod income people, lineal feet of pipe/sidewalk/pavement, # of manhole covers, houses to be repaired etc.)

Proposed total (#) to be provided – take this number from Exhibit A.

Actual total provided this request – how many NEW (**beneficiaries can only be counted once**) low and moderate income persons did you serve this reporting period (public service projects) or how many feet of pipe/sidewalk/pavement was laid, sq. ft. of foundation poured, # of houses repaired or weatherized. Sometimes this isn't cut and dry for construction projects so you have to do the best you can with what you know.

Provided Cumulative to Date – how many units of service (as described above) you have completed in total.

- Item 4 = EXPLANATION — This section should indicate any unexpected and/or significant changes in project output. If you are halfway through a project, and you have served only 25% of the people to-date, you should let us know that. Indicate what the problem is and how you are handling it.
- Item 5 = PERFORMANCE MEASUREMENTS INDICATORS — Number of persons assisted (CHOOSE ONE INDICATOR ONLY).

What is the difference between new or improved access?

PUBLIC SERVICES

Where a service or facility did not exist, the assistance provided results in "new" access to that service or facility. Where a service/facility was limited in size or capacity, and the assistance expanded the existing service or facility, the result would be "improved" access.

New access to a service is when a service is offered for the first time. This indicator would be used in the instance when a public service has not previously been available to these households. For instance, the sponsor might elect to fund a new job transportation service for working mothers. No such program currently exists in the area and so this is access to a new service for these households.

Improved access to a service is when a service was offered, but the public service activity allowed the sponsor to expand the service, in terms of size, capacity, or location. For instance, assume that an existing meals on wheels program only provided lunch and the expanded service provides lunch and dinner service. For these elderly households, this would constitute improved access. If a sponsor is re-funding an ongoing program, the improved access indicator is generally used.

PUBLIC FACILITIES/INFRASTRUCTURE IMPROVEMENTS

New access to a public facility is when the facility did not previously exist and is provided for the first time. Examples are the construction of a new sewer line for a low-income neighborhood. Or rehabilitation of an abandoned building to be used as a center for training severely disabled persons to enable them to live independently provides new access to this type of facility for the targeted population.

Improved access to a public facility or infrastructure is when the facility or infrastructure is improved or expanded, enabling the grantee to expand the number of people or type of service the facility provides. For instance, the rehabilitation and expansion of a recreation center that enables the center to serve more people and provide a wider variety of recreational programs. Paving gravel streets and installing curbs, gutters, and sidewalks in a predominantly low-income neighborhood provides improved access to the intended beneficiaries.

QUALITY STANDARD/IMPROVED QUALITY

Where the public facility was used to meet a quality standard or measurably improved quality, the number of persons that no longer have access to only a substandard facility or infrastructure. For example, rehab of a dilapidated community center that had been closed improves the quality of the facility and the services provided.

Item 6 = **INCOME PROFILE OF PERSONS SERVED (PUBLIC SERVICE PROJECTS ONLY)**

Public Service projects must complete this section to receive payment. This section takes the number of people served and breaks it down by income.

There is a row for "current request" numbers and a row for "cumulative to-date" numbers.

In the row for "current request," your total # of households/persons served should equal the number in Item 3 "Provided this Request." Of that number, how many are in the moderate-low-income bracket, how many are in the low-income bracket, and how many are in the extremely low-income bracket? The three income categories should equal the total amount served (current request).

In addition, if your accomplishments are in housing units or households, you will need to collect this data if you are collecting by persons.

Item 7 = **RACIAL/ETHNIC PROFILE OF PERSONS SERVED**

HUD regulations have changed regarding how racial data is collected. There was a shift towards collecting race and ethnicity data similar to how the 2000 Census collected the data. HUD expanded the racial categories to include dual races. Under the new requirements, Hispanic is no longer a racial category. It is an ethnic category, which can overlay race. Ethnicity can be based on language, cultural affiliation, country or origin, customs, ancestry, etc. Clients need to identify their race and whether or not they are Hispanic/Latino. Your income and race totals (item 6 & 7) for both current request and cumulative-to-date should agree.

To obtain your cumulative-to date total, you will need to add the current request figure to the cumulative figure from the previous voucher.

Item 8 = **NUMBER OF DISABLED PERSONS SERVED**

HUD regulations require that CDBG entitlements must collect disability information on applicants receiving program benefits.

Item 9 = **NARRATIVE FOR OTHER MULTI-RACIAL**

Give brief narrative for racial profile (if applicable).

Item 10 = **CITY OF HILLSBORO RESIDENTS SERVED**

The City of Hillsboro has requested that Public Service projects collect data for services to Hillsboro residents.

BACK-UP DOCUMENTATION

Back-up documentation is a critical component of your request for reimbursement.

One of the areas that seem to cause the most problems is providing documentation for staff salaries (personnel line item) when staff work in multiple programs/projects. The reason for that is because you must track ACTUAL HOURS spent on the CDBG projects as opposed to an approximation or PERCENTAGE of hours.

For personnel charges, you need to provide timesheets that clearly show the hours you and/or your staff worked on this CDBG project. If you spent 5 hours on Monday, 3 hours on Tuesday, and 6 hours on Wednesday working on the CDBG, it should be reflected this way on your timesheet. Work with your agency's finance person to be sure that your timesheets can accommodate tracking your hours in such a way.

EXAMPLE: Employee A works 110 hours in one month on the CDBG project, and has an hourly wage of \$10.00. The timesheet would reflect the 110 hours spent on the CDBG project and would note the hourly wage for a total of \$1,100. If applicable (i.e., if taxes and fringe benefits are included in your budget) you would need to then calculate the appropriate amount for taxes and fringe benefits that are relevant to the \$1,100 and submit that amount along with the timesheet. The total of salary and taxes and benefits would be the amount shown under Personnel on page 1 of the voucher.

You CANNOT round off and say Employee A worked 64% of his/her time on the CDBG project. Percentages are ONLY allowed if you have a federally-approved indirect cost rate which OCD has reviewed and approved.

If you have multiple employees, you should provide some kind of summary sheet (in addition to the timesheets) that shows what you are requesting.

II. Office Supplies/Operating/Travel/Communications/Legal Notices

If you have multiple invoices/sales slips for reimbursement for any of the above line items, you should copy the bills legibly and highlight the amount on each invoice. For each line item category, it helps to attach a calculator tape or spread sheet to the first page showing the total for all receipts.

The amount on the calculator tape will equal the amount on page 1 on the voucher for that line item.

If you have funds budgeted in the professional service line item or the construction line item, provide the professional invoices that detail the work completed and the amount requested.

If you are using CDBG to pay a portion of a bill, mark on the bill "\$XXX charged to CDBG and \$XXX charged to _____ (name other program). Or another way to indicate this would be to write on the invoice "Charge only \$XXX to CDBG." Then highlight that amount.

The important thing to remember is to prepare your voucher with a clear connection between your invoices and your total request for payment.

Section IX: Monitoring

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) MONITORING PROCEDURE

The procedures outlined in this chapter are designed specifically to apply to monitoring of Community Development Block Grant (CDBG) funds from Washington County's CDBG program.

Through on-site and desk monitoring, the reviewer can determine whether the program participant's performance meets CDBG program requirements and improve program participant performance by providing guidance and making recommendations. The specific purposes of monitoring are to:

- Validate the accuracy of information presented by the program participants;
- Follow-up on problems identified during the monitoring visit;
- Determine compliance for those activities where there is sufficient information to make eligibility and/or national objective determinations;
- Evaluate the reasonableness of judgments made for those activities that necessarily involve high levels of program participant judgment;
- Ascertain the Sponsor's ability to ensure that activities carried out meet compliance requirements;
- Verify the accuracy of the program participant's records; and,
- Identify apparent causes of any problem(s) and offer recommendations for corrective actions.

ELIGIBILITY AND NATIONAL OBJECTIVE COMPLIANCE CRITERIA

The specific categories of eligible activities under which an activity may be carried out by a program participant using CDBG funds are found at 24 CFR 570.201 through 24 CFR 570.206. The criteria for determining whether an activity addresses one or more of the three national objectives are found at 24 CFR 570.208.

DOCUMENTATION

As described in the CDBG regulations at 24 CFR 570.200(a), each Sponsor is required to maintain records that fully describe the assisted activity, including related financial and eligibility information, typically to show that the project funded with CDBG funding is benefitting low and moderate income individuals. The required documentation that must be maintained by the program participant is described at 24 CFR 570.506(a) and (c) for eligibility and at 24 CFR 570.506(b) for national objectives.

APPROACH TO MONITORING

OCD staff views monitoring not as a once a year or periodic exercise, but as an ongoing process involving continuous communication and evaluation. Such a process involves frequent telephone/email contacts, written communications, analysis of reports and audits, and periodic meetings as needed. It is the responsibility of OCD staff to keep fully informed concerning Sponsor's compliance with program requirements and the extent to which technical assistance is needed.

The overriding goal of monitoring is to determine compliance, prevent/identify deficiencies and design corrective actions to improve or reinforce Sponsor performance. As part of this process, OCD staff must be alert for fraud, waste and mismanagement or situations with potential for such abuse. Where possible, any identified deficiencies in need of corrective action should be handled through discussion, negotiation, or technical assistance in a manner that maximizes local discretion. Monitoring also provides opportunities to identify program participant accomplishments

as well as successful management, implementation, and evaluation techniques that might be replicated by other Sponsors.

OCD will conduct monitoring in the fall, with a few exceptions. OCD staff will revise the Monitoring Checklist annually to determine which are to be monitored. The Program Manager will be provided a copy of the monitoring schedule. Past practice has been to monitor all Sponsors who have spent funds since last year, but in years where there may be too many projects to monitor, staff will use their discretion to implement a method to calculate those projects that may be more vulnerable and require monitoring more than others.

MONITORING STANDARDS

Because it is not always possible that OCD staff will be able to monitor all of a program participant's activities, projects and/or functions, or even review activities in a specific area spanning a participant's entire program year, random sampling is generally expected to form the basis for drawing conclusions about the program participant's performance. Staff may choose to take a sufficient sample of projects to be monitored, based on a "risk" calculation to determine a sampling of units to be monitored. In certain instances, however, non-random sampling will be the more efficient method to use. Such cases include activities that have only a few projects to review, any activities with unresolved problems remaining from previous monitoring visits, any new types of activities being undertaken, and/or activities considered high risk. Note that any sample review or spot-check of program participant records that raises questions concerning the accuracy of the data indicates the need for further follow-up.

All new competitively funded CDBG projects contracted in a given fiscal year will be monitored at least once. Public service projects will be monitored sometime in the fall, although delays are acceptable in order to accommodate staff capacity issues.

Public Facility and infrastructure projects will be monitored towards/at completion of the project – one time only.

Multi-year public service projects will be monitored annually (after first year's monitoring) if any one of the following applies:

- Had findings/concerns in last year's OCD monitoring
- Had finding in last completed A-133 audit concerning CDBG funding
- Agency is less than 5 years old
- Agency is a 1st time Wash Co CDBG recipient
- Staff determines that the complexity of project necessitates annual monitoring.

OCD staff may make a determination to monitor a Sponsor more often as needed. OCD staff may also elect to monitor multi-year public service contracts every other year if all of the following apply:

- Sponsor had no findings/concerns in last year's OCD monitoring
- Had no findings in last completed A-133 audit concerning CDBG funding (ONLY if applicable – sometimes A-133 not required)
- Is an agency more than 5 years old
- Has received CDBG funding in consecutive funding years
- Project scope has not changed
- Desk audits of voucher requests reveal no concerns.

Housing Rehab set-aside projects can be monitored every 3rd year (is NOT applicable to public services set-aside projects):

Rebuilding Together Washington County
Community Action - Comprehensive Weatherization
Community Action - Self Help Weatherization

Public services set-aside projects will be monitored every other year unless one of the following applies:

- Had findings/concerns in last year's OCD monitoring
- Had finding in last completed A-133 audit concerning CDBG funding

Emergency Solutions Grant projects will be monitored each year.

On-Site Monitoring Procedure

OCD staff will call to set up an agreed upon time with Agency and follow-up with boilerplate letter and include the monitoring checklist to inform the agency being monitored about what staff will be looking at. This monitoring checklist will be filled out by OCD staff at the visit. In preparation for this visit, the agency should review the Monitoring Checklist to ensure records are ready for OCD staff's review. OCD staff will complete this form during the monitoring visit.

Prior to the monitoring visit, the agency should send a letter certifying that federal funding did or did not trigger the A-133 audit requirements. A sample template to be used to compose this letter is contained at the end of this section. This letter should be signed by their Chief Financial Officer or Executive Director and returned to OCD staff prior to or no later than at the monitoring visit. Staff will also request a copy of the most recent financial audit, if applicable.

Once a copy of an audit from an agency is obtained, OCD staff will review the audit for any findings and record it in a federal tracking database. When possible, where Beaverton and the County have the same project with an agency, it would be preferred to coordinate monitoring visits to lessen the burden on the agency, to share methods for monitoring, to communicate same messages, etc.

A-133 AUDIT RESPONSIBILITIES

All sponsors that expend \$750,000 or more in federal funds in a year must meet the audit requirements as specified in OMB Circular A-133. Additionally, all financial transactions with CDBG monies are subject to federal audit. Each sponsor is required to permit independent auditors access to the records and financial statements at least once a year, or not less frequently than every two (2) years. Sponsors must be prepared to explain how transactions were made, why, and be able to account for any funds expended.

During an audit, the auditor will examine records to ascertain if:

1. Funds are properly budgeted and approved;
2. Budget revisions have been documented and approved;
3. Personnel charges are properly allocated to the block grant and based on payroll documents such as time and attendance records;
4. All expenditures can be traced to source documents (i.e., purchase orders, invoices, canceled checks);
5. Drawdowns have been timely;
6. Only allowable activities have been claimed as costs toward the project;
7. The sponsor's accounting system reflects all assets, liabilities, etc.;
8. Property has been managed and inventoried properly;

9. In-kind costs and costs billed to other funds are clearly documented; and,
10. If there are billings for indirect costs, a federally approved indirect rate and allocation plan have been approved by HUD through OCD prior to the expenditure of any CDBG funds.

In addition, the auditor will ascertain if the sponsor's program has been accomplished in the manner set out in the application and/or the contract with the County.

Please note that in order for the Washington County CDBG Program to comply with Federal Regulations, OCD strongly encourages all grant recipients to pursue the timely expenditure of their awarded funds.

SAMPLE ONLY

[Insert Agency Name or print on letterhead]

Notification of Single Annual A-133 Audit

[Insert Date]

As a recipient of a federal grant from Washington County's Office of Community Development, this letter is intended to fulfill the requirement to provide assurance that as a sub-recipient of federal funds that our organization is in compliance with OMB Circular A-133: Audits of States, Local Governments and Non-profit Organizations. The certification below indicates the amount of federal expenditures from all sources for the fiscal year ended _____, 20__.

Please check one of the boxes below:

- Single A-133 audit NOT required (Total Federal Expenditures within the fiscal year identified above is less than \$750,000)
- Single Audit Required (Total Federal Expenditures within the fiscal year identified above is \$750,000 or more). A copy will be provided to Washington County Office of Community Development at its soonest availability.

The contact person responsible for the audit arrangement is [Contact person's name] and can be reached at [Contact person's phone #].

Certification by Chief Financial Officer or Executive Director:

Signature

Date

Title

Address

Note: If a single audit is required, the grantee must have it conducted in accordance with the Single Audit Act, OMB Circular A-133 and Generally Accepted Government Auditing Standards for the fiscal year noted above. The Single Audit must be submitted by agency to the Federal Audit Clearinghouse (<http://harvester.census.gov/sac/>) within the earlier of 30 days after the receipt of the auditor's report, or nine months after the end of the audit period.



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Para traducción en español marque 1-800-735-3896.