



CONNECTICUT

Grant Management Manual



Connecticut Department of Housing Small Cities CDBG



Governor Ned Lamont
Commissioner Seila Mosquera-Bruno

Prepared for the Department of Housing by KW Consultants, LLC

Introduction

The Connecticut CDBG Small Cities Program

The Connecticut [Community Development Block Grant \(CDBG\) Program](#) is designed to provide assistance to units of local government by improving economic opportunities and meeting community revitalization needs. All cities and towns in Connecticut are eligible for participation with the exception of the following entitlement jurisdictions, which receive CDBG funds directly from the U.S. Department of Housing and Urban Development (HUD):

- Bridgeport
- Bristol
- Danbury
- East Hartford
- Fairfield
- Greenwich
- Hamden Town
- Hartford
- Manchester
- Meriden
- Middletown
- Milford Town
- New Britain
- New Haven
- New London
- Norwalk
- Norwich
- Stamford
- Stratford
- Waterbury
- West Hartford
- West Haven

Funding for the CDBG Program is provided to the State of Connecticut by HUD under Title I of the Housing and Community Development Act of 1974, as amended. HUD has established the following three National Objectives for the CDBG Program:

- ***Benefit to low- and moderate-income persons.*** This objective requires that 51% of the people benefiting from the CDBG-funded activity are [low- and moderate-income](#), based on area median income calculations.
- ***Aid in prevention or elimination of slums or blight.*** This objective requires that activities meet a definition of slum area, blighted area, deteriorated or deteriorating under a municipally adopted ordinance pursuant to Connecticut General Statutes (CGS 7-148(c)(7)(H)(xv) and the definitions at 24 CFR 570.483(c) and that the area contains a substantial number of deteriorating or dilapidated buildings throughout; and that the activity is designed to address one or more of the conditions that contributed to the deterioration of the area; or the activity addresses an individual structure, which would otherwise meet the definition of slum or blight.
- ***Meet community development needs having a particular urgency.*** An activity meets this objective if it addresses needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community; is of recent origin (within 18 months) or which recently became urgent; and has no other available source to complete the funding package and the community cannot finance the activity on its own.

The State of Connecticut, Department of Housing (DOH) is assigned the primary responsibility for the administration of the CDBG Program at the state level. The goals of the CDBG program are as follows:

Goal 1: Promote and enhance [Fair Housing](#) and Fair Housing Choice

- Within available resources, fund the activities of the Fair Housing Center related to outreach and education with an emphasis on preventing discrimination and increasing housing choice opportunities.
- Improve availability/accessibility and affordability by promoting and funding inter-municipal or regional partnership for a housing and/or community development project that benefits low- and moderate-income persons/households to increase housing choice.
- Support the upgrading of existing infrastructure within areas where the majority of residents are of low-and-moderate-income to increase housing choice.
- Support infrastructure projects to include reconstruction of streets, sidewalks, water lines, and drainage problems in predominately low-and-moderate-income areas.
- Improve availability/accessibility by supporting the construction and/or rehabilitation and/or expansion of existing public facilities that primarily serve low-and-moderate income persons, including but not limited to: transitional housing, battered women shelters, daycare centers, and efforts to meet the needs of the physically handicapped population by supporting projects designed to make current facilities accessible or to provide new-handicapped accessible facilities.

Goal 2: Expand and preserve decent affordable housing

- Rehabilitate rental units that serve low- and moderate-income [households](#).
- Rehabilitate homeowner units that serve low-and moderate-income households.
- Preserve rental units that serve low- and moderate-income households.
- Preserve residential units through the adaptive re-use of historic structures
- Support energy conservation/efficiency activities that would primarily serve low- and moderate-income persons by funding energy efficiency or weatherization programs.

Goal 3: Promote and enhance suitable living environments

- Rehabilitate existing public infrastructure in low-to-moderate income communities.
- Rehabilitate community facilities for necessary public services and activities.

Grant Administrators' Manual

The purposes of this manual are to:

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

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

1. Project Administration
2. Environmental Review
3. Financial Management
4. Procurement
5. Acquisition
6. Relocation
7. Housing Rehabilitation
8. Fair Housing and Equal Access
9. Labor Standards
10. Contracts and Modifications
11. Reporting and Recordkeeping
12. Monitoring and Closeout
13. Glossary and Attachments

Note, however, that this manual is intended as a guide and reference, not as a substitute for thorough knowledge of State and Federal laws and regulations referenced in the manual.

Though not all inclusive, this manual covers the major areas of CDBG administration, provides required and suggested forms and instructions, and provides references for applicable State and Federal laws and regulations.

As necessary, revisions or additions to this Manual will be issued via Bulletins to current administrators of CDBG projects and all eligible municipalities. This Manual should be retained and kept up-to-date to ensure effective administration of CDBG grants. Latest versions of the Manual and Small Cities Bulletins can be found on the DOH website.

[CDBG Small Cities Bulletins](#)

CDBG Program Staff

If you have any questions regarding the content of this manual, contact a member of the DOH CDBG Small Cities staff.

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Chapter 1: Project Administration

Introduction

Administering Connecticut Community Development Block Grant grants requires regular attention to grant requirements and deadlines. This chapter provides [grantees](#) with general information on how to administer a CDBG grant from the Department of Housing. The chapter details requirements for grant contract procedures, release of grant funds, citizen participation and grievances, conflicts of interest, and record maintenance.

Section 1.1 Overview of Application Process

The Department of Housing (DOH) Small Cities Program has established an annual competitive round application process. Generally, applications are due in early spring and will be rated and ranked according to current DOH policy. This process is subject to change annually and will be communicated by DOH. The most recent evaluation criteria can be found in the most recent evaluation criteria can be found in the [Small Cities Application Materials](#) on the DOH website.

Although subject to change, the general application steps are outlined below:

1. Attend the Application Workshop
 - a. Grantees attend application workshop
 - b. Receive application forms
2. Hold Public Hearing
 - a. Notice to be published at least twice (on different days) in a daily newspaper of general circulation in the municipality.
 - b. The first notice must be published at least 14 days prior to the date of the public hearing, and the second notice must be published no less than 3 days prior to the date of the public hearing.
 - c. Submit copies of notices along with newspaper Affidavit of Publication.
 - d. Submit copies of meeting minutes.
3. Conduct an [Environmental Review](#)
 - a. Establish Environmental Review Record
 - b. Determine type of activity and environmental impact
 - c. Publish Request for Release of Funds
 - d. Request Release from DOH
4. Prepare the Application
 - a. Select eligible activity
 - b. Determine National Objective
 - c. Prepare application
 - d. Submit to DOH

5. Rate and Rank
 - a. DOH receives and reviews applications
 - b. DOH rates & ranks applications
6. Award
 - a. DOH submits ratings & rankings to Commissioner for award approval
 - b. Governor's Office announces awards
7. Contract Documents
 - a. DOH prepares contract document
 - b. DOH sends contract documents to grantee
 - c. Grantee returns signed documents to DOH
 - d. Commissioner executes contract documents
8. Construction Period
 - a. Grantees begin construction phase
9. Closeout
 - a. DOH conducts monitoring and closeout

NOTE: The [Small Cities Application Handbook](#) is updated each year and will provide the most up to date information and will supersede this Manual.

Section 1.2 Grant Award and Agreement

Background Information

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

Project Expenditures Account/Agreement

First a Project Expenditures Account (PEA) must be opened. The PEA must be used solely for the Small Cities Grant and must not earn interest.

The purpose of the Project Expenditure Account is to provide a mechanism for expending funds. Therefore, this account should have check-writing privileges. All Small Cities funds must pass through this account to provide an accurate accounting of all CDBG funds.

The Project Expenditure Account Agreement is the document used to open the Project Expenditure Account. This Agreement sets forth the rights and responsibilities of the three parties involved: The Department of Housing, the Municipality, and the Bank.

One (1) original must be signed and sealed by the bank and the municipality and submitted to DOH for final approval. By completing Appendix "A" of the (PEA) Agreement (Attachment 1-2), the Bank determines whether signature cards will be required. If the signature card is required, then the municipality should submit one (1) signature card to DOH.

Once DOH has signed the Agreement, you will be emailed a PDF document; you must provide an executed copy to the bank.

Steps in the Process

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

1. DOH will email the approval letter, including the Assistance Agreement, Project Expenditures Account Agreement, and the Authorized Signatures Form to the grantee that announces the award, the amount of the grant, and instructions on how the grantee needs to respond (the process may differ depending on type of grant, i.e., housing, infrastructure, etc.).
2. The Chief Elected Official or Town Manager will print and sign the Agreement.
3. Executed copies of the following documents are generally due to DOH within 30 days from the date of the letter.

<ol style="list-style-type: none"> a. Signed Assistance Agreement 	<div style="border: 1px dashed black; padding: 5px;"> Attachment 1-1 Sample Assistance Agreement </div>
<ol style="list-style-type: none"> b. Executed Project Expenditures Account Agreement (PEA) 	<div style="border: 1px dashed black; padding: 5px;"> Attachment 1-2 Sample Project Expenditures Agreement </div>
<ol style="list-style-type: none"> c. Updated Financing Plan and Budget 	<div style="border: 1px dashed black; padding: 5px;"> Attachment 10-2 Financing Plan and Budget </div>
<ol style="list-style-type: none"> d. Updated Projected Timeline 	<div style="border: 1px dashed black; padding: 5px;"> Attachment 10-2 Financing Plan and Budget </div>
<ol style="list-style-type: none"> e. Updated Local Assurances 	<div style="border: 1px dashed black; padding: 5px;"> Attachment 1-3 Sample Legal Opinion </div>
<ol style="list-style-type: none"> f. Legal Opinion 	<div style="border: 1px dashed black; padding: 5px;"> Attachment 1-3 Sample Legal Opinion </div>
<ol style="list-style-type: none"> g. Authorized Signatures Form 	<div style="border: 1px dashed black; padding: 5px;"> Attachment 1-4 Authorized Signatures Form </div>
<ol style="list-style-type: none"> h. Updated HUD Disclosure Form 	<div style="border: 1px dashed black; padding: 5px;"> Attachment 1-4 Authorized Signatures Form </div>
<ol style="list-style-type: none"> i. Updated Adopted Local Resolution 	<div style="border: 1px dashed black; padding: 5px;"> Attachment 1-4 Authorized Signatures Form </div>
4. Grantee must complete and submit the Project Information Form to chro.awardnotification@ct.gov within 30 days from award letter.

	<div style="border: 1px dashed black; padding: 5px;"> Attachment 1-11 CHRO Project Information Form </div>
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5. An executed [ACH Form](#) (when applicable) shall be sent to the [Office of the Comptroller](#).

**Office of the State Comptroller
Accounts Payable Division, ACH/VSS Unit
55 Elm Street, 6th Floor
Hartford, CT 06106-1775**

6. DOH processes and executes the assistance agreement through the State approval system and defines all effective dates.

7. DOH retains the original copy of the Assistance Agreement and sends one fully executed copy back to the grantee, via email, for its records.

NOTE: The grantee should NOT submit an incomplete Agreement package.

Application Budget Limits

The following are maximum reimbursable amounts when paid with CDBG funds (including locally held Program Income):

- Application Development \$3,000 maximum
- Environmental Review \$3,000 maximum
- Total Administration \$33,000 or 8% of the grant, whichever is less.

Section 1.3 Citizen Participation Requirements

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

Citizen Participation Plan

All local governments receiving CDBG funds from the State of Connecticut must adhere to the Citizen Participation Requirements set forth in the State's Citizen Participation plan. Each local government must meet the following requirements:

[24 CFR Part 91.115\(e\)](#)

1. Solicit input on local community development needs and proposed activities;
2. Promote public comment on the proposed application and community development activities;
3. Provide special technical assistance to groups representative of LMI persons and minorities;
4. Identify the needs of non-English speaking residents;
5. Provide for a timely appropriate and effective written answer to complaints and grievances;
6. Provide citizens with reasonable and timely access to information, including the amount of funds available, and the eligible activities.

A written citizen participation plan that contains all of these components is required in your application.

[Attachment 1-5 Sample Citizen Participation Plan](#)

Also note that the required certifications are included in the "Local Assurances" which are submitted with your application.

Required Public Hearings

Grantees should pay particular attention to the Public Hearing Component of the Grant Process. No application will be reviewed if the Grantee has not complied with the procedures established and outlined below for public hearing notices and meetings. Two (2) public hearings are required at separate phases of the project.

1. Notice of public hearings must be published at least twice (on different dates) in a newspaper of general circulation in the municipality. Notice must be published in a daily newspaper of general circulation.

[Attachment 1-6
Newspaper List](#)

- a. Enclosed is a required format for the public hearing advertisements (Attachment 1-7).
- b. Weekly papers can be used as an additional notice (not a primary notice).

[Attachment 1-7
Sample Public Hearing
Advertisements](#)

2. The first notice must be published no less than 14 days prior to the date of the public hearing. The second notice must be published no less than 3 days prior to the date of the public hearing.
3. When counting the 14-day period, you may NOT count the day the advertisement runs. You may count the date of the hearing, provided that the hearing is held after 6pm local time. If a hearing is held before 6pm that day cannot be counted as one of the 14 days.

Example: Advertisement runs on 2/1/2018. The Public Hearing may be held:

- 2/15/2018 = after 6pm
- 2/16/2018 = before 6pm

4. Hold at least one public hearing prior to application to obtain a comment on the proposal and any community development needs. Hearings must be scheduled during a time when citizens are generally available to attend. Morning, early afternoon, or weekend sessions are unacceptable. The Town must provide adequate information about the CDBG program (process, qualifications, requirements, contact information, etc.) and the purpose of the public hearing.

When a Grantee is planning to conduct a 2nd hearing from one grant in conjunction with the 1st hearing for a new grant, the advertisement language must be clear in the purpose of the hearing. The 2nd hearing must provide status of the program (number of homes rehabbed, fund balance remaining, approximate applications that can be funded, etc.).

1. The second required public hearing must be conducted no earlier than 1 year from the date of fully executed Assistance Agreement and prior to submission of the Pre-Closeout Certificate.

[Attachment 1-7
Sample Public Hearing
Advertisements](#)

2. Towns planning on earning Program Income (PI) must include a discussion on the use and approval of the Program Income Reuse Plan as part of the Public Hearing. The Town must provide adequate information about this PI Reuse Plan at this hearing (amount of funds available, number of applicants that can be funded, etc.). More information on Program Income can be found in [Chapter 3: Financial Management](#).

Chapter 1: Project Administration

3. Notice of the Public Hearing must include a contact person/ADA coordinator's name and telephone number. Citizens should be advised to contact that individual, so the Town can provide accommodations for any handicapped persons and provide assistance if a significant number of non-English speaking persons are expected.
4. Copies of the Original Notices for the first public hearing must be included as part of the application submitted to DOH, along with an Original Affidavit of Publication from the newspaper.

In addition to the required notices, applicants must also make every effort to inform those who might not be reached through the newspaper notice that the public hearing is to be held. Such efforts might include the distribution of leaflets, post notices on bulletin boards at town hall, notices to local organizations, clubs, and churches, and/or personal contact. These efforts should especially be conducted in the neighborhoods affected by the proposed project.

The citizen participation requirements include that the grantee must identify how the needs of non-English speaking residents will be met in the case of a public hearing where a significant number of non-English speaking residents can be reasonably expected to participate. Requirements to address Limited English Proficiency (LEP) are discussed in further detail in [Chapter 8: Fair Housing and Equal Access](#).

Virtual Public Hearings

Grantees may hold virtual hearings, in addition to or in lieu of, in-person public hearings to fulfill public hearing requirements imposed by the regulations at 24 CFR part 91 and 24 CFR part 570. Grantees may use online platforms such as Zoom, Slack, Facebook Live, Google Meet, and Microsoft Teams to hold virtual hearings that facilitate public access to all questions and responses and provide timely responses from local officials, so long as such platforms ensure equal access and opportunity for all residents to participate in the process. Grantees should be aware of the difference in functionality with respect to the various types of technology available in order to ensure that any online hearings comply with fair housing and civil rights requirements. Grantees should also consider other practices and protocols that expand upon the procedures set forth in the citizen participation plan, which may be necessary to ensure access to the citizen participation process. Such practices include the preparation and distribution of accessible and appropriate language versions of any prepared materials in advance of a virtual hearing.

[24 CFR Part 91.115\(e\)](#)

[24 CFR 570.486](#)

Public Hearing Content

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

1. Goals and objectives of the CDBG program,
2. Total amount of CDBG funds available,
3. Community development and housing needs of the applicant,
4. Proposed activities for the project and the amount to be requested; approximate number of homes to be rehabbed, qualification requirements, how the program is managed, role of grantee and consultant, if any; if a housing modernization project – number of units affected, type of improvements proposed, timeframe to complete the project,

5. Proposed amount of funds to be used to benefit low- and moderate- income people,
6. Amount and source of local funds to be expended on the project, and
7. Notification of any displacement resulting from the proposed activities or Notification of No Displacement.

Complaints and Grievances

Occasionally Grantees receive complaints regarding their projects and activities. Therefore, it is a requirement that Grantees develop a procedure for responding to complaints and grievances. Grantees must provide citizens with the name, address and phone number of a contact person who can receive and respond to complaints. Complaints related to the scope and work of the project should be addressed by the Grantee.

Where practical, the Grantee should respond to any complaints within 15 working days of its receipt. Each complaint and the resolution of the complaint should be well documented in the Grantee's files. Because complaints and grievances are best handled at the local level, DOH will forward any complaints it receives about a project to the Grantee. A copy of the DOH Grievance Policy can be found on the DOH website. It is the responsibility of the grantee to address the complaints (regardless if they have hired a consultant to manage the program). A detailed grievance process can be found in [Chapter 7: Housing Rehabilitation](#).

[DOH Grievance Policy](#)

Section 1.4 Meeting a National Objective

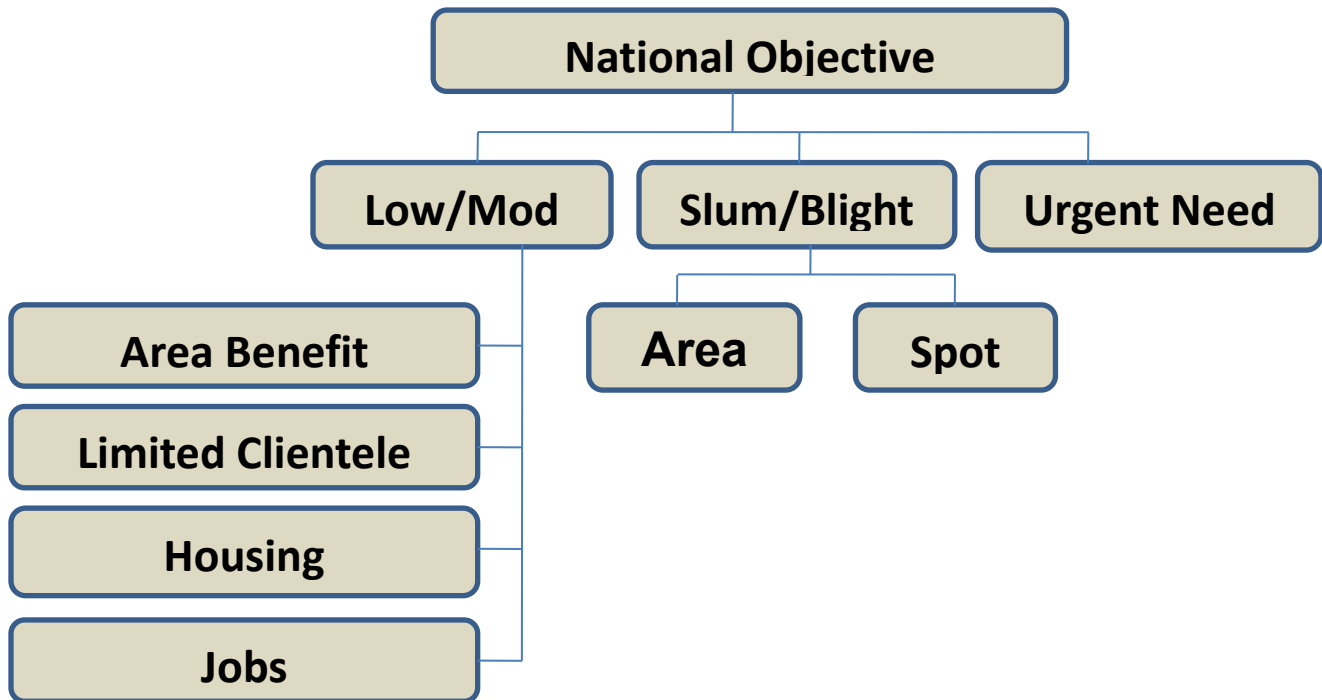
The primary objective of the CDBG program is to develop viable communities by helping to provide decent housing and suitable living environments, and expanding economic opportunities principally for persons of low- and moderate- income.

[24 CFR 570.483](#)

To achieve these goals, the CDBG regulations define eligible activities and the National Objectives that each activity must meet. As the recipient of CDBG funds, DOH is charged with ensuring that each project it funds meets one of the National Objectives listed below and that the project is an eligible activity. The three National Objectives are:

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

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



Benefit to Low-to-moderate Income (LMI) Persons Public facilities activities such as water, sewer and storm water projects, generally qualify under the first National Objective; providing area-wide benefits to LMI persons. The ‘benefit to LMI persons’ test is met by documenting that 51% or more of the persons who live in the project area may be defined as being low- and moderate- income. This documentation is accomplished by using census data or by conducting an income survey. Other possible area wide projects include library projects, fire stations and community centers.

Applicants should refer to the processes in the booklet, "DOH Survey Methodology" for more information on process and recertification.

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

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

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

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

Urgent Need Projects If the improvement corrects a CDBG-defined urgent situation, the Urgent Need National Objective may be met. DOH seldom funds Urgent Need projects. In cases where Urgent Need projects have been funded, they typically addressed disaster relief or recovery. The HUD National Objective category must be identified in the grant application prior to the award of funding. However, the National Objective is not met until the Grant Recipient carries out the activity, and the closeout reports documenting how the National Objective was met, have been accepted.

Primary Beneficiaries By HUD guidelines, 70% of the projects funded through the CDBG program must meet the National Objective of Benefit to LMI Persons. LMI persons are defined as those who have total household income equal to or less than 80 percent of the median family income, for the county in which the project is located. Income parameters are defined by the U.S. Department of Housing and Urban Development (HUD).

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

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

The defined area could be as small as a single neighborhood within a town or as large as multiple counties depending on the type of project. The LMI population of an area can be determined in one of two ways: By using the most recent [HUD Low-to-Moderate Income Summary Data \(LMISD\)](#), or by conducting an Income Survey. Documentation of the percentage of LMI beneficiaries must be provided with the grant application. For LMI limits in your area, please review the most recent Income Limits document. On the HUD CDBG income limits webpage, please click on the appropriate year to gain access to the most current data.

[CDBG Income Limits](#)

Income Surveys

Income Surveys may be used to ascertain whether or not a CDBG funded activity which is designed to benefit a particular area qualifies as primarily benefitting LMI persons. Detailed information on properly conducting Income Surveys can be found on DOH's website.

[DOH Income Survey
Methodology Handbook](#)

All survey methodology must be approved by DOH prior to the start of the survey to ensure that the methodology is sound. More information on Income Surveys can be found in the DOH Survey Methodology Handbook.

Eligible Activities

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

1. Public facilities improvements
2. Public services
3. Infrastructure improvements
4. Housing Rehabilitation
5. Public Housing Modernization
6. Handicap accessibility projects

This is not meant to be an all-inclusive list. DOH priorities will be set each year in the [Consolidated Plan](#) and/or Action Plan Update.

Ineligible Activities

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

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

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

Section 1.5 Conflicts of Interest

DOH policy requires that conflicts of interest on CDBG projects be disclosed. These requirements apply to the procurement of supplies, equipment, construction services and professional services, and the acquisition and disposition of real property. Federal and state guidelines stipulate that no person who performs any CDBG function or who has any CDBG responsibility, who is in a decision-making position, or who has inside information may obtain a financial interest or benefit from an activity funded in whole or in part with CDBG funds.

[Attachment 1-8:
Sample Request for
Exception to Conflict of
Interest](#)

[HUD Conflict of Interest
Integrity Bulletin](#)

In general, a conflict of interest would exist if any town employee or a person in a program decision-making capacity signs a contract with any portion of the CDBG Small Cities Program – including rehabilitation and consulting. This follows from the municipality’s signed assistance agreement and from the Code of Federal Regulations at 24 CFR Part 570.611.

In certain circumstances, DOH may waive conflict of interest if specific criteria are met:

1. A disclosure of the nature of the conflict, including an [assurance](#) that there has been public disclosure of the conflict and a description of how the public disclosure was made.
2. A legal opinion (from local Counsel) is submitted that the potential for conflict of interest is minimal and that the situation does not violate either local or state conflict statutes or rulings.
3. The person applying for the waiver meets other program requirements. For example, low/moderate income guidelines for housing rehabilitation.
4. The person applying for the waiver is not in a decision-making position in the CDBG Small Cities Program.
5. The municipality must certify to all of the above, and also demonstrate that a system has been established to guarantee that no preferential treatment to the applicant has occurred. This might require a numbered and dated system for accepting and processing applications, for example.
6. Finally, the municipality must submit a letter to the Commissioner of the Department of Housing requesting a waiver of conflict-of-interest guidelines based on the above criteria.

After review of the supporting documentation, if DOH agrees that the potential for conflict of interest is minimal and if the applicant meets the above criteria for a waiver, staff will recommend approval.

Section 1.6 Project Signage

Nonresidential construction projects funded by the CDBG Program are required to have signage at the project site. The signage informs citizens that the project is being funded by DOH's CDBG Program, as well as listing the sponsor, architect and/or engineer and contractor. DOH must be listed **first** when a project is co-funded with other entities. The sign must include the U.S. Department of Housing and Urban Development logo and the equal opportunity logo. Specific requirements can be found in the CDBG Project Signage Guidelines. Photographic evidence of the signage must be made available at monitoring.

[Attachment 1-9
CDBG Project Signage
Guidelines](#)

[Attachment 1-10:
DOH Logo](#)

Section 1.7 Other Resources and Information

It is very important to note that the applicable regulations and requirements are subject to change.

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

Small Cities CDBG Program Update Bulletins:

<https://portal.ct.gov/DOH/DOH/Additional-program-pages/Small-Cities-Bulletins>

Connecticut Small Cities CDBG Program:

<https://portal.ct.gov/DOH/DOH/Programs/Small-Cities-Program>

Small Cities CDBG Program Brochure:

<https://portal.ct.gov/-/media/DOH/CDBGSCBrochurepdf5820.pdf>

State of Connecticut Consolidated Plan (under Housing Plans):

<https://portal.ct.gov/DOH/DOH/Housing/Notices-and-Publications>

Guide to National Objectives and Eligible Activities for State CDBG Programs:

<https://www.hudexchange.info/resource/2179/guide-national-objectives-eligible-activities-state-cdbg-programs/>

CPD Income Calculator

<https://www.hudexchange.info/incomecalculator/>

HUD Office of Community Planning and Development Training:

<https://www.hudexchange.info/training-events/>

HUD Office of Healthy Homes and Lead Hazard Control:

https://www.hud.gov/program_offices/healthy_homes

HUD Office of Davis Bacon and Labor Standards:

https://www.hud.gov/program_offices/davis_bacon_and_labor_standards

HUD Office of Environment and Energy (OEE):

<https://www.hudexchange.info/programs/environmental-review/>

Chapter 2: Environmental Review

Introduction

All Small Cities grantees are required to comply with federal environment laws and regulations. These laws and regulations are contained in the National Environmental Policy Act (NEPA) of 1969 and 24 CFR Part 58 (rev. October 29, 2003). The executed grant agreement requires an [environmental review](#) to be completed prior to the obligation, expenditure, or draw down of program funds. The environmental review, and applicable public notification, becomes part of a written [environmental review record \(ERR\)](#) to be maintained by grantees. This record documents that CDBG funded and related activities are in compliance with NEPA, and other applicable federal laws, regulations, and executive orders. The goal of these federal laws is to ensure that federally assisted projects are compatible with environmental conditions, that projects do not adversely impact environmental conditions, and that the users of the project will be given a safe, healthy, and enjoyable environment.

In basic terms, grantees are required to determine the impact of the project on the environment as well as the impact of the environment on the project. A number of environmental review procedures and checklists have been developed to assist grantees in meeting this objective.

Section 2.1 Roles and Responsibilities

Grantee Responsibilities

- Develop Environmental Review Record
- Determine project scope
- Determine if project is exempt, categorically excluded or whether an [environmental assessment](#) or [environmental impact statement](#) is needed
- Publish findings in newspaper
- Hold public comment period
- Request [release of funds \(RROF\)](#)

State's Responsibilities

- Receive RROF
- Review for compliance with 24 CFR PT 58
- Hold for public comment period
- Release Funds as required
- Monitor ERR

Flow Chart

Enclosed is a flow chart (Attachment 2-1) to assist Grantees in determining project status, what documents to submit and how far their environmental analysis should proceed. This document should help determine the level of review, the notification requirements for different projects and the files required to document your decisions.

[Attachment 2-1:
ER Flowchart](#)

Applicable Regulations

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

The Responsible Entity

Under 24 CFR Part 58, the term “[responsible entity](#)” (RE) means the grantee under the state CDBG Program. Therefore, these terms are used interchangeably with grantee throughout this chapter and the attachments. (The term “funding agency” is used in place of DOH, but can be interpreted to include any agency that provides funds to a project and has environmental oversight responsibilities.) The responsible entity must complete the environmental review process. Environmental review responsibilities have both legal and financial ramifications. As part of the assurances and agreements signed by the responsible entity, the Chief Executive Officer (CEO) of the responsible entity agrees to assume the role of “responsible federal official” under the provisions of the National Environmental Policy Act (NEPA). This means that if someone brings suit against the responsible entity in federal court on environmental grounds, the CEO will be named as the defendant. There may be financial implications associated with any lawsuit and, of course, any fines, judgments or settlements that may result. The State of Connecticut accepts no responsibility or liability for the quality or accuracy of the local environmental review process. DOH’s responsibility is to inform the grantee of the proper procedural requirements of various environmental statutes, regulations, and executive orders and review that process.

Environmental Certifying Officer

Under Part 58, the local chief elected, or appointed official must assume the role of the Environmental Certifying Officer (ECO) or formally designate another person to do so. If the CEO does designate a staff person to serve as the ECO, this designation must be made by ordinance or resolution and placed in the Environmental Review Record. The ECO accepts full responsibility for the completeness and accuracy of the review and compliance with applicable laws and regulations. Local officials should review the municipal liability and indemnification statutes as well as the status and coverage of local liability insurance policies when accepting responsibility under environmental laws. The responsibilities of the ECO include making findings and signing required certifications.

Other key points regarding the ECO designation include:

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

Section 2.2 Triggers & Advice to Start Environmental Review

Actions Triggering Environmental Review and Limitations Pending Clearance

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

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

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

Limitations Pending Environmental Clearance

According to the NEPA and Part 58, the RE is required to ensure that environmental information is available before decisions are made and before actions are taken. In order to achieve this objective, Part 58 prohibits the commitment or expenditure of CDBG funds until the environmental review process has been completed and, if required, the grantee receives a release of funds from the state. This means that the grantee may not spend either public or private funds (CDBG, other federal or non-federal funds), or execute a legally binding agreement for property acquisition, rehabilitation, conversion, repair or construction pertaining to a specific site until environmental clearance has been achieved. In other words, grantees must avoid any and all actions that would preclude the selection of alternative choices before a final decision is made, that decision being based upon an understanding of the

[40 CFR 1500-1508](#)

[24 CFR Part 58](#)

environmental consequences and actions that can protect, restore and enhance the human environment (i.e., the natural, physical, social, and economic environment).

DOH considers once a project is publicly announced and federal funds will be sought (date the public hearing for the application is advertised), your project is subject to NEPA/CEPA.

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

Moreover, until the grantee has completed the environmental review process (and received a release of funds), these same restrictions apply to project participants as well. It is the responsibility of the grantee to ensure project participants are apprised of these restrictions.

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

- Execution of a legally binding agreement (such as a property purchase or construction contract);
- Expenditure of CDBG funds (e.g., hiring a consultant to prepare a preliminary design and engineering specifications or a Phase I Environmental Site Assessment);
- Use of any non-CDBG funds on actions that would have an adverse impact—e.g., demolition, dredging, filling, excavating; and
- Use of non-CDBG funds on actions that would be “choice limiting”—e.g., acquisition of real property; leasing property; rehabilitation, demolition, construction of buildings or structures; relocating buildings or structures, conversion of land or buildings/structures.

It is acceptable for grantees to execute non-legally binding agreements prior to completion of the environmental review process and receiving DOH approval. A non-legally binding agreement contains stipulations that ensure the project participant does not have a legal claim to any amount of CDBG funds to be used for the specific project or site until the environmental review process is satisfactorily completed. It is also acceptable to execute an option agreement for the acquisition of property when the following requirements are met:

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

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

[HUD Memo: Conditional Contracts and Environmental Review](#)

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

Secondly, for single family properties (one to four units), the purchase contract must include the appropriate language for a conditional contract; and

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

Finally, for multi-family properties:

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

Section 2.3 Classifying Activities and Conducting the Review

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

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

[HUD Level of
Environmental Review and
Documentation Chart](#)

This section discusses the types of classifications and the steps required for each classification to ensure compliance with the applicable requirements. The environmental regulations at 24 CFR Part 58.32 require the responsible entity to "...group together and evaluate as a single project all individual activities which are related geographically or functionally," whether or not HUD- assistance will be used to fund all the project

activities or just some of the project activities. Once this has been done, the responsible entity must decide if the project is exempt, categorically excluded, or the project requires an environmental assessment or an environmental impact statement. The level of environmental review will be dictated by whichever project activity that requires the higher level of review. For example, if one activity in a project requires an environmental assessment then the entire project must be assessed at this level of review.

2.3.1. Exempt Activities

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

- Environmental and other studies;
- Information and financial services;
- Administrative and management activities;
- Engineering and design costs;
- Interim assistance (emergency) activities if the assisted activities do not alter environmental conditions and are for temporary or permanent improvements limited to protection, repair or restoration actions necessary only to control or arrest the effects of disasters, or imminent threats to public safety, or those resulting from physical deterioration;
- Public service activities that will not have a physical impact or result in any physical changes;
- Inspections and testing of properties for hazards or defects;
- Purchase of tools or insurance;
- Technical assistance or training;
- Payment of principal and interest on loans made or guaranteed by HUD; and
- Any of the categorically excluded activities subject to Part 58.5 (as listed in 58.35(a)) provided there are no circumstances which require compliance with any other federal laws and authorities listed at Part 58.5 of the regulations. Refer to the section below on categorically excluded activities subject to Part 58.5.

If a project is determined to be exempt, the responsible entity is required to document in writing that the project is exempt and meets the conditions for exemption. The responsible entity must complete both Appendix 2-2: “Environmental Review for Activity/Project that is Exempt or Categorically Excluded Not Subject to Section 58.5,” **and** Appendix 2-18: Exempt Activity Determination Checklist. The forms must be signed by the certifying official, and copies sent to DOH for review.

[Attachment 2-2:
Environmental Review
for Exempt/CENST
Activity](#)
[Attachment 2-18:
Exempt Activity
Determination Checklist](#)

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

2.3.2. Categorically Excluded Not Subject to Part 58.5 Activities

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

[24 CFR 58.35\(b\)](#)

- Tenant based rental assistance;
- Supportive services including but not limited to health care, housing services, permanent housing placement, short term payments for rent/mortgage/utility costs, and assistance in gaining access to local, state, and federal government services and services;
- Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training, recruitment, and other incidental costs;
- Economic development activities including but not limited to equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations;
- Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction such as closing costs, down payment assistance, interest buy downs and similar activities that result in the transfer of title to a property; and
- Affordable housing predevelopment costs with NO physical impact such as legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact.
- Approval of supplemental assistance to a project previously approved under Part 58, if the approval was made by the same RE that conducted the environmental review on the original project AND re-evaluation of the findings is not required under Part 58.47. See the section later in the chapter on re-evaluation of previously cleared projects for further guidance.

To complete environmental requirements for Categorically Excluded projects not Subject to 24 CFR Part 58.5, the responsible entity must make a finding of Categorical Exclusion Not Subject to 58.5 for activities that qualify under that category using Attachment 2-19. The responsible entity must complete **both** Appendix 2-2: Environmental Review for Activity/Project that is Exempt or Categorically Excluded Not Subject to Section 58.5 and Appendix 2-19: CENST Activity Determination Checklist. The forms must be signed by the certifying official, and copies sent to DOH for review.

[Attachment 2-2:
Environmental Review
for Exempt/CENST
Activity](#)
[Attachment 2-19:
CENST Activity
Determination Checklist](#)

Finally, the RE must submit the completed Environmental Review for Activity/Project that is Exempt or Categorically Excluded Not Subject to Section 58.5 form (Attachment 2-2) to DOH.

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

2.3.3. Categorically Excluded Subject to Part 58.5 Activities

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

[24 CFR 58.35\(a\)](#)

The following are categorically excluded activities subject to 58.5:

- Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size, or capacity of more than 20 percent.
- Special projects directed toward the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and disabled persons.
- Rehabilitation of buildings and improvements when the following conditions are met:
 1. For residential properties with one to four units:
 - The density is not increased beyond four units, and
 - The land use is not changed.
 2. For multi-family residential buildings (with more than four units):
 - Unit density is not changed more than 20 percent;
 - The project does not involve changes in land use from residential to non-residential; and
 - The estimated cost of rehabilitation is less than 75 percent of the total estimated replacement cost after rehabilitation.
 3. For non-residential structures including commercial, industrial and public buildings:
 - The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
 - The activity does not involve a change in land use, e.g. from commercial to industrial, from non-residential to residential, or from one industrial use to another.
- An individual action on up to four-family dwelling where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between;
- An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site;
- Acquisition (including leasing) or disposition of or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.
- Combinations of the above activities.

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

1. Determine whether or not the project is located in or will have an impact on floodplains and/or wetlands.
 - It is highly desirable to avoid floodplains and wetlands when undertaking project activities. However, when this cannot be avoided, specific review procedures contained in 24 CFR Part 55 (Floodplain Management and Wetlands Protection) must be completed. Since development in these areas is clearly an environmental issue, the effects of these actions must be clearly articulated in one of the decision processes described in §§ 55.12(a)(3) and 55.20, whichever process is applicable.
 - If the project is located in the floodplain or proposes construction in a wetland, the RE must provide written documentation of the decision process in the ERR. See the section, “Projects in Floodplains and Wetlands” later in this chapter for more information.
2. Complete the Environmental Review for Activity/Project that is Categorically Excluded Subject (CEST) to Section 58.5 (NOTE Attachment 2-3 is a new HUD-prescribed form that includes the statutory checklist). The checklist helps to comply with the other (non-NEPA) federal laws.
 - Send a letter describing the activities and the reviewer’s determination if the activity (or activities) have an effect on historic preservation or not, to the [State Historic Preservation Office \(SHPO\)](#) allowing 30 days for comments. Respond to these comments as required and file all correspondence and evidence of response in your ERR. Be sure reliable sources are cited on each line of the checklist. All historic property reviews must be done prior to the responsible entity making a final determination of environmental status.
 - Consultation with tribal entities is also required. Refer to HUD Notice 12-006, Attachment 2-4, for more guidance.
 - If a Phase I ESA was completed more than 365 days prior to completion of the HUD environmental review record, the ESA must be updated.
3. For those projects that cannot convert to exempt, publish and distribute the Notice of Intent to Request a Release of Funds (NOI/RROF). The Notice informs the public that the grantee will accept written comments on the findings of its ERR and of the grantee’s intention to request release of funds from the state. At least seven (7) calendar days after the date of publication must be allowed for public comment. The notice also says that DOH will receive objections for at least 15 days following receipt of the grantee’s request for release of funds (Attachment 2-5).
4. The NOI/RROF must be published in a daily newspaper of general circulation (see Chapter 1, Attachment 1-6). The grantee must obtain a “publishers’ affidavit” from the newspaper evidencing that the notice was published and on what date.

[Attachment 2-3:
Environmental Review
for CEST](#)

[Attachment 2-4:
Sample Tribal
Consultation Letter](#)

[CPD Notice 12-006](#)

[Attachment 2-5:
Notice of Intent to
Request Release of
Funds](#)

[Attachment 1-6:
Newspaper List](#)

Chapter 2: Environmental Review

5. The grantee must also send a copy of the notice (NOI/RROF) to interested parties (i.e., persons and entities that have commented on the environmental process or that have requested to be notified of environmental activities), local news media, appropriate local, state, and federal agencies, the regional Environmental Protection Agency (EPA) and the regional HUD Field Office.
6. The grantee **may** also post the notice in prominent public locations (e.g., library, courthouse, etc.); however, publication is still required.

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

7. After the seven-day comment period has elapsed, the responsible entity must prepare and submit the actual Certification of Categorical Exclusion (Attachment 2-3); a Publishers Affidavit of the Notice of Intent to Request Release of Funds (NOI/RROF), and the Request for Release of Funds (Attachment 2-6) to DOH.

[Attachment 2-6:
Request for Release
of Funds](#)

2.3.4. Considering Radon in the Environmental Review

It is HUD's policy that all properties that are being proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property.

[HUD CPD Notice
CPD-23-103](#)

[24 CFR Part 58.5\(i\)](#)

As radon is a radioactive substance, the grantee must consider it as part of the site contamination analysis for projects that:

- Require an environmental review at the level of Categorical Excluded Subject to 50.4 or 58.5 ("CEST"), Environmental Assessment, or Environmental Impact Statement; and
- Involve structures that are occupied or are intended to be occupied at least four (4) hours a day.

NOTE: HUD's contamination policy does not apply to projects that are Exempt or Categorical Excluded Not Subject to 50.4 or 58.5 ("CENST").

Exemptions from having to consider radon in the contamination analysis:

- Buildings with no enclosed areas having ground contact.
 - Buildings containing crawlspaces, utility tunnels, or parking garages would not be exempt, however buildings built on piers would be exempt, provided that there is open air between the lowest floor of the building and the ground.
- Buildings that are not residential and will not be occupied for more than 4 hours per day.
- Buildings with existing radon mitigation systems - document radon levels are below 4 pCi/L with test results dated within two years of submitting the application to DOH and document the system includes an ongoing maintenance plan that includes periodic testing to ensure the system continues to meet the current EPA recommended levels.

- Buildings tested within five years of the submission of application to DOH: test results document indoor radon levels are below current the EPA's recommended action levels of 4.0 pCi/L. For buildings with test data older than five years, any new environmental review must include a consideration of radon using one of the methods below.

How to consider Radon in the Environmental Review

This section details how environmental review preparers may consider radon in the environmental review. This section provides a recommended "best practice" method; however, preparers may utilize one of the alternate options if they choose not to implement the best practice.

Recommended Best Practice

When considering radon in the contamination analysis, HUD strongly recommends using the American National Standards Institute/American Association of Radon Scientists and Technologists (ANSI/AARST) radon testing standards for single- and multi- family buildings, schools, and large buildings, including those constructed using radon-resistant construction techniques. The ANSI/AARST standard describes how to conduct testing, interpret test results, and draft a Radon Test Report to document the process for the building owner (and to use as documentation for the ERR). The ANSI/AARST standards can be viewed online for free and are intended to be implemented by licensed radon professionals.

[ANSI/AARST Radon Testing Standards](#)

To find a licensed radon professional in your area contact the Connecticut radon program office at (860)509-7300 or DPH.RadonReports@ct.gov, the National Radon Proficiency Program (NRPP), or the National Radon Safety Board (NRSB).

Alternative Options

Using the ANSI/AARST radon testing standards is not the only option available for considering the risk that occupants may be exposed to high radon levels. If the environmental review preparer chooses not to conduct radon testing per the ANSI/AARST standards, one of the following alternative strategies must be used to consider radon in the contamination analysis. Review the HUD program office guidance in Section IV to ensure the strategy used to consider radon in the contamination analysis complies with specific program office requirements for the project.

1. Do-it-yourself (DIY) radon test kits may be used to measure radon levels in single-family dwelling units. In CDBG assisted single-family buildings with multiple units, one DIY test kit must be used for each dwelling unit. DIY radon test kits may be available for low or no cost through local health department offices and are available to purchase through the National Radon Program Services website. When using a DIY test kit, there can be quality control issues that affect the quality of the test results. To ensure the DIY test results are as accurate as possible, it is important to read the entire test kit instructions before activating the test device and to follow them fully. The EPA's Citizen's Guide to Radon and the ANSI/AARST standard for testing single-family housing are excellent resources for detailed instructions about conducting the radon test, including where to place the test device(s), how to prepare the home (whether to close the windows, turn off fans, the length of time to test), how to document the test process, and interpret the results. HUD encourages that test devices be approved by either the NRPP or NRSB. Contact the Connecticut Radon Program office at (860)509-7300 or DPH.RadonReports@ct.gov, the National Radon Program Services helpline, or the local health department for assistance.

[National Radon Program Services Test Kits](#)

Chapter 2: Environmental Review

2. In remote or other areas where there are no licensed/certified radon professionals and/or DIY test kits cannot be shipped to a lab in sufficient time, the local government, such as a local health department or environmental department, may decide to purchase radon monitoring equipment and train staff to use it. Monitoring equipment, such as continuous radon monitors, should be used in accordance with the manufacturer's instructions and intended use and staff should ensure proper quality control and quality assurance practices are adhered to.

Mitigating Radon

When radon testing determines indoor air radon levels are at or above 4 pCi/L or the scientific data review determines the project site is located in an area that has documented radon levels at or above 4 pCi/L, the Environmental Review Record (ERR) must include a mitigation plan.

When the determination is based on a scientific data review, if feasible, HUD recommends conducting radon testing (using one of the testing strategies described in the previous sections) to confirm radon levels in the building(s) proposed for CDBG funding. If testing then demonstrates that radon levels within the building are below 4 pCi/L, mitigation would not be required; environmental review preparers can simply document the test results in the ERR. The mitigation plan must identify the radon level; consider the risk to occupants' health; describe the radon reduction system that will be installed; whenever possible, establish an ongoing maintenance plan to ensure the system is operating as intended; establish a reasonable timeframe for implementation; and require post-installation testing. Where feasible, post-installation testing should be conducted by a licensed radon professional. In an area where there are no licensed radon professionals, there may be other personnel, such as trained staff, other professionals (i.e., engineers, geologist, scientists, public health staff) who have experience conducting radon testing or have the relevant skills and knowledge to follow the device instructions or ANSI/AARST test protocols and mitigation standards. For assistance Contact the Connecticut Radon Program office at (860)509-7300 or DPH.RadonReports@ct.gov, the EPA's local radon program office, the National Radon Program Services, or refer to the applicable ANSI/AARST standard for guidance. If using the ANSI/AARST mitigation standard to install the radon reduction system, follow the guidance in the standard to draft the mitigation and the operation, maintenance, and monitoring plans.

[ANSI/AARST Radon Testing Standards](#)

Documenting the Environmental Review Record

Under HUD's regulations, 24 CFR 58.38(a)(3) the Grantee is required to document the radon evaluation as part of the contamination analysis in the ERR. Radon documentation information should be included under "compliance determinations" in the Contamination and Toxic Substances section of the environmental format for CEST and EA projects. If testing is not conducted, the documentation will need to provide evidence of average documented radon test results covering the project site or its county, other science-based information suggesting radon levels at the project site, or evidence of a lack thereof.

In instances where radon testing will be conducted but cannot be conducted until after the environmental review record is certified (i.e., new construction or certain rehabilitation projects) then the initial documentation would not include a radon evaluation but must include a condition for post-construction radon testing followed by mitigation if needed.

The environmental preparer must update the environmental review record with the radon evaluation and proof of any required mitigation when complete. Acceptable methods to document radon consideration in the ERR include:

- ANSI/AARST standard: Include a copy of the test report and mitigation plan (if applicable) as described in the standard in the ERR. For Office of Housing programs, follow program guidance requirements on timing and documentation.
- DIY and other radon test strategies: Document the test device, time period of test, test conditions (HVAC system off windows closed, outside temperature), test results, and other conditions relevant to test conditions. Refer to the applicable ANSI/AARST standard as guidance.
- Review of CDC radon testing data, geologic studies/maps, other scientific data: Describe and cite the maps and data used to determine the area wide radon levels and include copies of all supporting documentation (maps/studies) in the ERR.
- In instances where Grantees are unable to obtain science-based data, environmental review preparers must consider the feasibility of radon testing if they have not already. If the Grantee determines that testing is infeasible or impracticable, the environmental review must document the basis for this determination. Acceptable documentation in these scenarios where testing is infeasible and science-based data is not available includes but is not limited to:
 - correspondence with state and local radon control agencies indicating a lack of scientific data evidencing radon levels at the project site, a copy of CDC Environmental Health Tracking Network information showing the project site is located in a county with a lack of scientific data, and a basis for the conclusion that testing would be infeasible or impracticable. The RE, grantee, applicant, or recipient is not required to submit additional documentation substantiating their decision that testing is infeasible or impracticable.
- When all this is documented in the ERR, no further consideration of radon is needed and no further action with respect to radon is needed for the environmental review.

Resources for Implementation of Radon Compliance

Costs for radon testing and mitigation are considered eligible program costs in the DOH Small Cities program. As such, costs for radon testing and mitigation can be included in the total project costs funded by DOH. However, costs for ongoing operation and/or maintenance of installed mitigation systems are **not** eligible under the DOH Small Cities program.

2.3.5. Projects in Floodplains and Wetlands (24 CFR Part 55)

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

[24 CFR Part 55](#)

- The project is in a Federal Flood Risk Management Standard (FFRMS) floodplain ;
- The project is a “critical action” in the 0.2 percent-annual-chance (500-year) floodplain. A “critical action” means any activity for which even a slight chance of flooding would be too great because such flooding might result in loss of life, injury to persons, or damage to property. Critical actions include activities that create, maintain or extend the useful life of those structures or facilities that (1) produce, use or store highly volatile, flammable, explosive, toxic or water-reactive materials; (2) provide essential and irreplaceable records or utility or emergency services that may become lost or inoperative during flood and storm events (e.g., community stormwater management infrastructure, water treatment plants, data storage centers, principal utility lines, police and fire stations, and roads providing egress from flood prone areas; or (3) are likely to contain occupants who may not be sufficiently mobile to avoid loss of life or injury during flood or storm events (e.g.,

[24 CFR 55.2\(b\)\(3\)](#)

hospitals, nursing homes, etc.). Housing for independent living for the elderly is not considered a critical action.; or

- The project proposes construction in a wetland.

There are two decision-making processes identified in Part 55 concerning floodplains and wetlands. They are the 8- step process (sec. 55.20) and the 5-step process (sec. 55.12(a)(3)). The 8-step process will apply unless a project falls under the allowed criteria for using the 5-step decision making process, which are:

- Disposition of multifamily and single family (1-4 unit) properties [sec. 55.12(a)(1)].
- Repair, rehabilitation, modernization, weatherization, or improvement of existing residential properties (multifamily, single family, assisted living, etc.) [Sec. 55.12.(a)(3)]
 1. Number of units is not increased more than 20%;
 2. Does not involve conversion from non-residential to residential; and
 3. Does not meet definition of “substantial improvement” [sec. 55.2(b)(10)(i)(A)(2)].
- Repair, rehabilitation, modernization, weatherization, or improvement of nonresidential properties (i.e., public facilities, commercial/retail, and industrial) [sec. 55.12(a)(4)]
 1. Does not meet the threshold of “substantial improvement” (i.e., the cost equals or exceeds 50% of the market value before damage occurred; and
 2. The structure footprint and paved area is not increased more than 10%.
- Repair, rehabilitation, modernization, weatherization, or improvement of a structure listed on the National Register of Historic Places or on a State Inventory of Historic Places. [“Substantial improvement” does not apply to historic properties, Sec. 55.2(b)(10)(ii)(B)].

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

NOTE: When a project is located in a floodplain AND also proposes construction in a wetland, the 8-Step decision process must be completed (Sec. 55.20(a)(3)). Below is an overview of each of the steps in the 8-Step decision process. When the 5-Step decision process is permissible for floodplains, only Steps 1, 4 through 6, and 8 are applicable. All steps must be documented in writing.

[Attachment 2-7:
8-Step Floodplain
Process](#)

[Attachment 2-8:
5-Step Floodplain
Process](#)

Step One: Floodplain Determination. Determine if the project is located in a Federal Flood Risk Management Standard (FFRMS) floodplain or a wetland.

The Final Rule published on April 23, 2024, establishes HUD’s preference for a Climate Informed Science Approach (CISA) to determine the floodplain of concern for HUD funded projects.

- Check the following maps to determine if the project is located in the FFRMS floodplain or results in new construction that directly impacts an onsite wetland:

1. Determine if CISA data is available for the project area on the Federal Flood Standard Support Tool (FFSST) Status Map: <https://floodstandard.climate.gov/pages/status-map>.
2. Use the FFSST to determine if the project is located in a floodplain: <https://floodstandard.climate.gov/tool/>.
3. If the project area does not have CISA data in the FFSST, Grantees may use the Federal Emergency Management Agency (FEMA) Flood Map Service Center: <https://msc.fema.gov/portal/home>.
4. If there is no data on the FFSST and FEMA maps are not available, a determination of whether the project is located in a floodplain may be made by consulting other sources, such as:
 - U. S. Army Corps of Engineers - Hydrology, Hydraulics, and Coastal Team;
 - Local Soil Conservation Service District;
 - Floodplain Information Reports;
 - USGS Flood-prone Area;
 - Topographic Quadrangle maps; or
 - State and local maps and records of flooding.
5. Determine if the project is in a wetland: <https://www.fws.gov/program/national-wetlands-inventory/wetlands-mapper>.
6. Use all available maps and data to make a determination if the project is located in a floodplain or wetland and document in the ERR. If the project activity does not occur in the FFRMS floodplain or include new construction directly impacting an onsite wetland, then no further compliance with this section is required.

Step Two: Early Public Review. Executive Order (E.O.) 11988 includes requirements that the public be provided adequate information, opportunity for review and comment, and an accounting of the rationale for the proposed action affecting the floodplain. Involve the public in the decision-making process as follows:

- Publish the Floodplains and Wetlands Early Public Notice in a newspaper of general circulation or on an appropriate Government website that is accessible to individuals with disabilities and provides meaningful access for individuals with Limited English Proficiency. Refer to 24 CFR 55.20(a) for the minimum information that must be given in the notice. See also the sample in Attachment 2-9: Sample Floodplains and Wetlands Early Public Notice. The Floodplains and Wetlands Early Public Notice must be published (it cannot be posted).
- The notice must provide a complete description of the proposed action.
- The notice must allow at least a 15-day comment period for public comments.

[Attachment 2-9:
Sample Floodplains and
Wetlands Early Notice](#)

Step Three: Identify and Evaluate Alternate Locations. Determine if there is a practical alternative. This determination requires the responsible entity to consider whether the base floodplain can be avoided:

- Through alternative siting;
- Through alternative action that performs the intended function but would minimize harm to/within the floodplain; or
- By taking no action.

Step Four: Identify Impacts of Proposed Project. Regardless of whether the location is located within a floodplain or outside a floodplain, both the direct and indirect potential impacts must be identified and reviewed.

If negative impacts are identified, methods must be developed to prevent potential harm as discussed in Step 5. The term harm, as used in this context, applies to lives, property, natural and beneficial floodplain values.

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

- The concept of minimization applies to harm.
- The concept of restoration and preservation applies only in floodplain values.

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

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

- If the proposed project is determined to be no longer feasible, you should consider limiting the project to make non-floodplain sites practicable.
- If the proposed project is outside the floodplain but has impacts that cannot be minimized, the recipient should consider whether the project can be modified or relocated in order to eliminate or reduce the identified impacts or, again, take no action.
- If neither is acceptable, the alternative is no action.

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

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

[Attachment 2-10:
Sample Floodplains
Notice of Explanation](#)

- The Floodplains and Wetlands Notice of Explanation (described previously) may *not* be posted.
- It should be noted that when a project triggers the E.O. 11988 “Eight Step Process,” the Notice of Early Public Review should be published first and the minimum 15-day comment period elapsed *before* the grantee can publish the Floodplains and Wetlands Notice of Explanation.
- The Floodplains and Wetlands Notice of Explanation can be published simultaneously with the 24 CFR Part 58 required Combined/Concurrent Notice of Finding of No Significant Impact (FONSI) and Notice of Intent to Request Release of Funds (NOI/RROF) (Attachment 2-14).
- Any written comments received in response to the above required notice must be addressed and filed in the ERR.
- Document compliance with E.O. 11988/11990 by using the sample documentation memorandum provided (See Attachment 2-11: Sample Documentation of Eight Step Process.)
- File all documentation and responses relating to the above-described procedures in the ERR.

[Attachment 2-11:
Sample Documentation
of 8-Step Process](#)

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

NOTE: If directional boring or drilling beneath a wetland is anticipated, please consult with DOH prior to undertaking the Eight-Step Process. HUD issued guidance in 2011 that exempts directional boring/drilling beneath wetlands from the Eight-Step Process *provided that* certain conditions are met. As stated previously, when the 5-Step decision process is required, only Steps 1, 4 through 6, and 8 are applicable.

2.3.6. Activities Requiring an Environmental Assessment

Activities which are neither exempt nor categorically excluded (under either category) will require an environmental assessment documenting compliance with NEPA and with the environmental requirements of other federal laws.

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

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

- Follow the instructions for categorically excluded projects subject to 24 CFR Part 58.5 to complete the [statutory checklist](#), including historic preservation and floodplain requirements.

Chapter 2: Environmental Review

- The floodplain requirements do not apply if the project is not located within a floodplain.
- Complete the Environmental Assessment form. The responsible entity must ensure that reliable documentation sources are cited for every item on this assessment checklist (Attachment 2-12).

[Attachment 2-12:
Environmental
Assessment Format](#)
- If a Phase I ESA was completed more than 365 days prior to completion of the HUD environmental review record, the ESA must be updated.
- The final step in the process involves making a determination as to whether the project will or will not have a significant impact on the environment. This can be done once the review has been completed and all comments have been addressed appropriately. The Responsible Entity must select one of the following two findings/determinations:
 1. The project is not an action that significantly affects the quality of the human environment and, therefore, does not require the preparation of an environmental impact statement; or
 2. The project is an action that significantly affects the quality of the human environment and, therefore, requires the preparation of an environmental impact statement. Both the finding and the environmental assessment must be signed by your environmental certifying officer and included in the ERR. A sample checklist for completing the environmental assessment is included as Attachment 2-13.

[Attachment 2-13:
Environmental
Assessment Checklist](#)

2.3.7. “No Environmental Impact” Statement Required

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

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

[Attachment 2-14:
Sample Combined
Notice](#)
- 1. The FONSI and NOI/RROF must be published in a newspaper of daily general circulation.
- 2. The grantee must retain “publishers’ affidavit” from the newspaper evidencing that the notice was published and on what date.
 - The notice must also be distributed to interested parties, local news media, appropriate local/ state/federal agencies, regional EPA, and Connecticut DEEP.
 - The notice must also be posted in public buildings within the project area.
- It is very important to remember this requires two separate 15-day review periods. A 15-day period for comment to the local government and, after that period, a 15-day period for comment to the DOH. The DOH 15-day comment period does not commence until the date the DOH receives the notice, or the date specified in the published notice, whichever is later. Call or email the DOH to verify dates on the combined/concurrent notice before publishing.

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

[Attachment 2-15:
Environmental Review
Record Checklist](#)

2.3.8. Environmental Impact Statement

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

Section 2.4 Other Environmental Review Approaches

Tiered Reviews

Due to the nature of housing rehabilitation programs, grantees will not know the specific structures to be rehabilitated until the program has been publicized and applications received. In such instances, grantees are allowed to complete an up-front programmatic Broad Level Tier Review (Attachment 2-16) that identifies potential applicable compliance areas. For many rehabilitation programs, applicable Broad Level Review compliance will be limited to historic preservation, floodplain protection, and wetlands protection. Using this process, grantees can publish a public notice and receive a Release of Funds based on the programmatic information. The Release of Funds for such situations will be conditional on the grantee completing an individual review for each specific rehabilitation project. This site-specific review for each individual rehabilitation project must then be completed prior to incurring hard costs for that project.

[HUD Guidance on
Tiered Reviews](#)

[Attachment 2-16:
Broad Level Tier
Review Form](#)

Make sure that you carefully review the Environmental Review for CEST (see Attachment 2-3) to assure that you are properly meeting program requirements.

[Attachment 2-3:
Environmental
Review for CEST](#)

Re-Evaluation of Previously Cleared Projects

Sometimes, projects are revised, delayed or otherwise changed such that a re-evaluation of the environmental review is necessary. The purpose of the responsible entity's re-evaluation is to determine if the original findings are still valid. If the original findings are still valid, but the data and conditions upon which they were based have changed, the responsible entity must amend the original findings and update their ERR by including this re-evaluation and its determination based on its findings. A sample determination is provided as Attachment 2-17. It must document the following:

[Revisiting an
Environmental
Review](#)

[Attachment 2-17:
Reevaluation of
Previously Cleared
Project](#)

Chapter 2: Environmental Review

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

Place the written statement in the ERR and send a copy to the DOH with the Request for Release of Funds (RROF). If the responsible entity determines that the original findings are no longer valid, it must prepare an EA or an EIS if the evaluation indicates potentially significant impacts.

Section 2.5 Connecticut Environmental Protection Act (CEPA)

The purpose of the Connecticut Environmental Policy Act (CEPA) is to identify and evaluate the impacts of proposed state actions which may significantly affect the environment. The Connecticut Environmental Policy (CEPA) Intake Form provides information necessary for deciding whether or not further actions are needed which may include opportunities for public review and comment.

Grantees must submit all of the following to DOH.CEPA@ct.gov at the earlier of a) 40% completion of Drawings & Specifications, or b) 120 days prior to application submission (New Construction), or c) 60 days prior to application submission (Rehabilitation).

1. Completed CEPA Intake form
2. CEPA Environmental Review Checklist (ERC)
3. Location map with site and/or building flagged
4. FEMA Flood Map with outline of site boundary and an existing and proposed site plan

[Connecticut
Environmental
Policy \(CEPA\)
Intake Form](#)

[Environmental
Review Checklist
\(ERC\)](#)

Forms submitted after 120 days (New Construction) or 60 days (Rehabilitation) of application submittal or at time of application may delay review and funding consideration.

DOH, as the sponsoring agency will utilize the Environmental Classification Document (ECD) to determine if a proposed action requires further evaluation under CEPA, and if so, to determine the appropriate level of analysis proportionate to the scale of the proposed action's potential impacts. The ECD is a list of typical agency actions that may have significant environmental impacts and is used by state agencies in determining if a proposed action warrants further evaluation and to what extent.

[Environmental
Classification
Document \(ECD\)](#)

In determining the need for public scoping, DOH must first consider the thresholds identified in the ECD, as well as other relevant factors, such as any direct, indirect, and cumulative impacts that may have significant environmental impacts if the proposed action were implemented. DOH will proceed with public scoping in situations where it has determined that:

- a) the ECD specifically requires public scoping for the proposed action,
- b) the proposed action includes other factors with the potential for significant environmental impacts, or
- c) the agency's review is indeterminate.

DOH will document its decision and its rationale as a matter of public record.

If DOH determines that the action has the potential to significantly affect the environment, it will conduct public scoping. If, after public scoping, DOH determines that a more in-depth Environmental Impact Evaluation (EIE) is not warranted, it will complete its CEPA responsibilities by publishing a post-scoping notice.

DOH will publish scoping notices in the Environmental Monitor and have a minimum 30-day public comment period. DOH may opt to hold a public hearing or may be required to hold one if requested in accordance with statutes and regulations. The post-scoping notice shall include a completed Environmental Review Checklist (ERC), and the agency's discussion and analysis of all factors listed in section [22a-1a-3 of the RCSA](#).

[Environmental
Monitor](#)

Chapter 3: Financial Management

Introduction

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

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

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

Specific topics include the following:

- Applicable Requirements
- Establishing a Financial Management System
- Line of Credit Establishment
- Required Financial Records
- Drawdown of Funds
- Grant Administration Costs

Section 3.1 Applicable Requirements

The CDBG regulations require grantees that are governmental entities and other public agencies to adhere to certain administrative and financial management requirements. Following is a list of the key Federal regulations governing financial management.

- 24 CFR Part 570, Subpart I – State Community Development Block Grant Program (CDBG)

[24 CFR 570.489](#)

[24 CFR 570.511](#)

[2 CFR Part 200](#)

Chapter 3: Financial Management

- Section 570.489 details program administration requirements.
- 24 CFR Part 570.511 refers to the administration of escrow accounts. (The CDBG Entitlement Program regulations on this topic are considered a "safe harbor" for use in the State CDBG Program.)
- 2 CFR Part 200 - Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, (Cost Principles and Audit Requirements).
 - This regulation, which applies to government agencies, sets forth uniform requirements for financial management systems, fiscal controls, cost principles, allowable costs, audit requirements, reports and records, grant close-outs for recipients of Federal grant funding, etc.

Section 3.2 Establishing a Financial Management System

Overview

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

Specifically, grantees must ensure that:

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

Requirements

In establishing a financial management system, grantees are to follow 2 CFR Part 200 "Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally Recognized Indian Tribal Governments" (also known as the Common Rule). Both 24 CFR Part 570 and 2 CFR Part 200 govern CDBG grantee financial management systems. Failure to account for and manage CDBG funds accordingly may result in sanctions imposed by DOH and/or HUD.

[2 CFR 200.302](#)

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

- Accurate, current, and complete disclosure of financial results;
- Records that identify adequately the source and application of grant funds;
- Comparison of actual outlays with amounts budgeted for the grant;
- Procedures to minimize the amount of time elapsed between the transfer of funds from the US Treasury and the disbursements by the grantee;
- Procedures for determining reasonableness and allowable costs;

- Accounting records that are supported by appropriate source documentation; and
- A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

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

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

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

[Attachment 3-1:
Sample Financial Management
Checklist](#)

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

Internal Controls

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

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

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

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

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

Chapter 3: Financial Management

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

[2 CFR 200.303](#)

Accounting Records

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

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

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

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

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

Budget Controls

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

Source Documentation

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

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

Source documentation should tell the story of the basis of the costs incurred and the actual dates of the expenditure. For example, source documentation on payments to contractors would include a request for payment, proof of inspection to verify work and materials, and cancelled checks. DOH encourages the use

of purchase orders or payment vouchers when preparing expenditures for payment of any cost associated with the project. These documents are prepared in accordance with local policies and procedures as well as those required by federal regulations.

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

Allowable Costs

Any cost incurred must be allowed as per 2 CFR 200.402 - 202.475. It is a grantee's responsibility to ensure that CDBG funds are spent only on those costs which are approved in the Finance and Budget Plan in the Assistance Agreement.

[2 CFR 200.402 - .475](#)

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

Administrative Costs

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

[CPD Notice 13-07](#)

[Attachment 3-2:
Cost Categories for GACs
and PACs](#)

In charging administrative costs, grantees should note:

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

Matching Funds

Grant records should account for all matching funds committed to the project. The receipt and expenditure of the matching funds should be carefully documented. If matching funds are derived from a source outside the local government, project records should identify the source and amount.

Asset Management

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

[24 CFR 570.489\(j\) and \(k\)](#)
and
[2 CFR 200.310-316](#)

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

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

Grantees must maintain records that properly document the disposition of any CDBG-funded property. It should be noted that real property purchased with CDBG funds in excess of \$35,000 must continue to meet the CDBG national objective approved for the project for at least fifteen years after close-out of the grant that funded the property purchase or improvement. Should the recipient choose to change the use of property they must contact DOH to ensure that proper procedures are followed. Failure to do so can result in payback of the grant award.

Section 3.3 Requests for Payment Procedures

Funds for approved CDBG activities should be requested as close to the time of disbursement as is possible. To ensure continued public awareness and fiscal oversight of the project, the grant administrator should report project information to the local elected officials monthly. This report should include project progress, anticipated completion date, and the use and availability of funding.

[Attachment 3-3: Payment Requisition Form](#)

Submit all requests for payment of CDBG funds to DOH on the Request for Payment Form. Grantees may only submit one (1) Request for Payment per grant per month.

The request should outline the:

- Amount of federal funds previously requested;
- Amount of federal funds disbursed;
- Amount of program income;

- Activities associated with this payment request; and
- Balance of federal funds on hand.

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

Program income will be disbursed by the grantee before additional funds are requested. See more about Program Income later in this chapter.

Funds drawn down will be deposited directly into the ACH Account. Grantees must transfer funds to the PEA Account and all funds must be expended within 15 days of receipt.

Section 3.4 Housing Rehab Requests for Payment Procedures

In addition to the requirements of this Chapter, DOH has implemented special payment procedures for Housing Rehabilitation projects.

A municipality running a housing rehabilitation program can handle CDBG funds in one of three ways:

1. They can draw down funds on an "as-needed" basis,
2. Establish an escrow account, or
3. Utilize a Lump Sum Account.

NOTE: Draw Down as Reimbursement is the DOH preferred method. Any other method will need prior authorization by DOH.

Draw Down as Reimbursement

If the grantee chooses to drawdown funds on a reimbursement basis, the town/city will have to keep abreast of contract activity in order to estimate date of completion to coordinate payment requisition. The Grantee may ONLY request payment on work that has been completed.

Escrow Accounts: Prior DOH authorization is required.

DOH may allow the use of Escrow Accounts when regulations 24 CFR 570.511 are strictly followed as detailed below: (DOH has a "zero tolerance" policy on the use of these accounts and findings will be made during monitoring).

[24 CFR 570.511](#)

1. Escrow accounts may only be used for the rehabilitation of primarily residential properties containing no more than four (4) housing units.

Chapter 3: Financial Management

2. In addition, housing rehabilitation funds may only be drawn and deposited into an escrow account if the construction contract between the property owner and the rehabilitation contractor specifically provides that payment to the contractor shall be made through an escrow account. No deposits to the escrow account shall be made until after the contract between the two parties has been executed.
3. A single, interest-bearing account with a financial institution must be used.
4. Funds deposited into the escrow account must be disbursed within 10 working days from the date of deposit.
5. Only costs incurred by the contractor for the required rehabilitation work can be paid from the escrow account. Other allowable costs such as administrative or program costs are not permissible uses of escrowed funds.
6. Interest earned on Escrow Accounts must be returned to HUD.

Upon completion of all rehabilitation activities, any unspent funds must be returned to the Project Expenditures Account (PE) as these funds are **not** to be treated as program income.

NOTE: If the Town maintains an escrow account that does not meet the requirements as specified above, it must immediately discontinue its use and transfer all funds back to its Project Expenditures (PE) Account.

Lump Sum Accounts: Prior DOH authorization is required.

Communities may draw down funds in one lump sum to establish a rehabilitation fund for housing rehabilitation (24 CFR 570.513). The Lump Sum Account may only be used to finance the rehabilitation of privately owned properties. The fund may be used in conjunction with various rehabilitation financing techniques including loans, interest subsidies, loan guarantees and loan reserves. The Lump Sum Account may not be used to fund administration or program cost; only rehabilitation costs.

[24 CFR 570.513](#)

Standards for Lump Sum Accounts follow:

1. The community must execute a written agreement with a bank outlining obligations/responsibilities, terms/conditions, and rate of interest and other benefits to be provided by the financial institution the agreement must be approved by DOH;
2. The lump sum account may only be used for rehabilitation for a period of two years;
3. The first disbursement from the account must occur within 45 days of the deposit and substantial disbursements (25%) from the accounts must occur within 180 days.
4. The deposit of CDBG funds into a lump sum account must result in benefits to the community. Minimum benefits require:
 - Interest to be earned on the lump sum account; and

- Commitment of private funds by the financial institution for rehabilitation loans at or below market interest rates, at higher than normal risk or with longer repayment periods; or
- Provision of administrative services at no cost; or
- Commitment of private funds for rehabilitation in excess of the amount of the Lump Sum Account.

5. All Lump Sum Agreements must be reviewed and approved by DOH.

Section 3.5 Timely Expenditure

Grantees must minimize the time lapsing between the receipt of CDBG dollars and their disbursement per 2 CFR 200.305(b), which states that grantees must adhere to Treasury Regulations at 31 CFR Part 205.

[2 CFR 200.305\(b\)](#)
and
[31 CFR Part 205](#)

NOTE: Funds must be disbursed within 15 days of receipt in the ACH account.

It will take approximately 3-4 weeks from the time the DOH receives the request, to the time the municipality receives the funds. CEOs are required to certify that the funds requested are necessary to meet current project obligations and will be expended within a maximum of 15 days after receipt.

Keep a copy of each payment request in chronological order. The amounts entered in each column should be capable of being verified against your financial and project records. All budget revisions and related correspondence should be maintained with these records.

Common Mistakes that Delay Payment:

- Unsigned, undated, or improperly signed Requests for Payment
- All approved activities not shown on each Request for Payment.
- All invoices and supporting documents missing from request package.
- Disbursements to date are not correct.
- Mathematical errors.
- Budget Amendments have not been approved.

Section 3.6 Budget Revisions

From time to time, grantees may need to revise budget line items to meet actual costs. These revisions must be accomplished prior to submitting a payment request from DOH. Information regarding the Budget Revision process can be found in [Chapter 10: Contract Development and Modifications](#).

[Attachment 10-2:
Financing Plan and
Budget](#)

Section 3.7 Program Income

Overview

Any repayment of funds or proceeds generated from a CDBG activity will fall into one of two categories; 1) [program income](#), or 2) [miscellaneous revenue](#). Different rules apply for each of these categories. The following section defines each of these types of funds and the rules that will apply.

Under the CDBG Program, funds received back to the community as a result of a CDBG-funded activity are generally referred to as program income. Program income funds retain their federal identity and are subject to all CDBG and other federal requirements. Program income is defined in detail below. Funds not considered program income will be covered in the next section.

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

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

What Is Program Income?

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

[24 CFR Part 570.489\(e\)\(1\)](#)

- Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds;
- Proceeds from the disposition of equipment purchased with CDBG funds;
- Gross income from the use or rental of real or personal property acquired by the unit of general local government or a subrecipient of a unit of general local government with CDBG funds, less the costs incidental to the generation of the income;
- Gross income from the use or rental of real property owned by the unit of general local government or a subrecipient of a unit of general local government, that was constructed or improved with CDBG funds, less the costs incidental to the generation of the income;
- Payments of principal and interest on loans made using CDBG funds;
- Proceeds from the sale of loans made with CDBG funds;
- Proceeds from the sale of obligations secured by loans made with CDBG funds;
- Interest earned on funds held in a [Revolving Loan Fund \(RLF\)](#) account (including all Housing Rehab Programs);

- Interest earned on program income pending disposition of the income;
- Funds collected through special assessments made against nonresidential properties and properties owned and occupied by households that are not low and moderate income if the special assessments are used to recover all or part of the CDBG portion of public improvements; and
- Gross income paid to a unit of general local government or subrecipient from the ownership interest in a for-profit entity acquired in return for the provision of CDBG assistance.

Program income **does not** include the following:

- The total amount of funds which does not exceed \$35,000 received in a single year from activities other than Revolving Loan Funds that is retained by the unit of local government and its subrecipients; these funds are considered miscellaneous revenue;
- Amounts generated by activities eligible under Section 105(a)(15) of the Act and carried out by an entity under the authority of Section 105(a)(15) of the Act (non-profit organizations and local development organizations, when undertaking community economic development, neighborhood revitalization, or energy conservation projects); Payments of principal and interest made by a subrecipient carrying out an activity on behalf of the unit of local government towards a loan from the local government to the subrecipient to the extent that program income is used for the repayment;
- Certain types of interest income as outlined in 24 CFR [24 CFR Part 570.489\(e\)\(2\)\(iv\)](#);
- Proceeds from the sale of real property purchased or improved with CDBG funds if the proceeds are received more than five years after expiration of the grant agreement between the state and the unit of local government.

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

Pro-Rating Program Income

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

Program Income Funds and Close-Out

The State CDBG regulations as revised in April 2012 stipulate that program income received by the grantee or a subrecipient both before *and* after close-out of the grant that generated such income is treated as additional CDBG funds and is subject to all applicable Title I and other federal regulations and state policies

Chapter 3: Financial Management

governing the state CDBG program. Any program income received before full programmatic close-out must be substantially expended, to the extent practical, before drawing additional CDBG funds from the state for *any* activity in *any* CDBG project that the grantee has open. The only exception is when program income is placed in a Revolving Loan Fund (RLF) in accordance with the requirements outlined later in this chapter, in which case it is not required to be expended for non-Revolving Loan Fund activities.

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

Use of Program Income

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

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

Program Income Reuse Plan

A PI Reuse Plan governs the jurisdiction's ongoing use of PI. The PI Reuse Plan identifies all proposed uses of the PI and commits the jurisdiction to comply with all CDBG program requirements. The PI Reuse Plan substitutes for an ongoing contract with the Department. The Department closes out its grants to local governments upon satisfactory completion of the terms and conditions of the grant agreement. However, Federal statute requires the Department to track PI beyond the closeout of the grant that generated the PI. To that end, the PI Reuse Plan satisfies the Federal requirement that local governments obtain advance State approval of a local plan governing PI.

[Attachment 3-5:
Sample PI Reuse Plan](#)

The proposed reuses of the PI are disclosed in the PI Reuse Plan and a public hearing is held to allow for meaningful local citizen comments about the plan, prior to its adoption by the local governing body.

For each identified RLF the PI Reuse Plan must specify all revolving and non-revolving uses of funds, e.g., general administration, any grants, or any activity delivery costs. Only such costs that are associated with the specific activity of the RLF may be charged to the RLF.

If you choose to retain Program Income (PI) locally (instead of sending it to the State), then you must prepare and submit with your application for a CDBG grant a PI Reuse Plan for local and Department approval. The PI Reuse Plan may be amended at any time.

The Components of a PI Reuse Plan

Please refer to the Sample PI Reuse Plan in this section above for the PI Reuse Plan components.

Approval for Use of Program Income and Miscellaneous Revenue

Program Income (PI) retained by the jurisdiction must be substantially expended by the end of the Program Year (PY). A jurisdiction cannot accumulate excessive amounts of PI, accordingly, this department will consider a PI balance of \$35,000 or less at the end of the PY to be substantially expended. The jurisdiction has the option of retaining the PI and expending it in any of the following four ways or returning the PI to this department.

1. PI Expended on Activities Approved in the PI Reuse Plan

If you have an open CDBG grant, you may spend Program Income (PI) to continue the activity or activities which generated the program income. DOH's approval of the expenditure of CDBG funds would not be required. Program Income expended on an open grant activity or activities must be spent first (i.e. substantially disbursed- the balance must be **reduced to zero (\$0.00)**, before drawing down the open grant funds. Submission of a PI application and DOH approval is required prior to expending PI on activities which are different than the activities which generated the PI.

The PI Reuse Plan must be submitted and approved as part of your application for funding. Consequently, the jurisdiction is required to allow for meaningful local citizen comments about the plan, prior to submitting it with the application to the Department for approval. The minutes of the public hearing must disclose the intended use of any potential PI, which may be earned on the grant activity or activities.

Once the PI Reuse Plan has been approved as part of the grant application and the grantee has obtained DOH approval (required if different from the activity which generated the PI) of any post-application PI commitment, it may proceed to spend PI on the grant activity.

2. PI Expended on activities NOT approved in the PI Reuse Plan

The second method of expending program income is on an activity, which has not been identified in the Program Income Reuse Plan. The municipality would be required to identify the specific project, provide DOH with documentation that the project has been approved by the Chief Elected Official and the appropriate public notice procedures as identified below has been followed. In addition, the use of program income for an activity that is different than the original activity that generated it constitutes the addition of that activity to the unit of general local government's (i.e., the grantee's) application to the state for the original activity. The grantee may spend PI on the activity without requesting DOH's approval, if the activity was specified in the Program Income Reuse Plan for the grant, which generated the PI. However, for activities that have not been specified in the PI Reuse Plan, the grantee must provide its citizens with reasonable advance notice of, and opportunity to comment on, the proposed addition of that activity to the application.

The public notice that is used to comply with these requirements must meet the following guidelines:

- The notice must be published in at least one (1) newspaper of daily general circulation in the grantee's jurisdiction.
- The notice must specify that the grantee is providing its citizens with the opportunity to comment on its proposed use of PI for the additional activity.

Chapter 3: Financial Management

- The notice must specify that citizens may submit questions and/or verbal/written comments to the grantee about its proposed use PI for the additional activity.
- The notice must specify that the questions and/or verbal/written comments must be submitted within fifteen (15) days of the date that the notice is published.
- The notice must specify the name, mailing address, telephone/fax numbers, and e-mail address of the municipal official who will accept the questions and/or verbal/written comments.

A sample public notice that meets these guidelines is attached.

A grantee must take the following actions if it plans to request DOH's approval to use program income for an activity that is different than the one that generated it and has not been specified in the PI Reuse Plan:

- The grantee must adopt the attached "Resolution for the Use of Program Income" before it submits the request.
- The grantee must comply with the environmental review requirements at 24 CFR Part 58 before it submits the request.
- A written request must be addressed to DOH as follows:

Housing and Community Development Director
CDBG Small Cities Unit
Connecticut Department of Housing
505 Hudson Street
Hartford, CT 06106

[Attachment 1-7:
Sample Public
Hearing Notice](#)

[Attachment 3-6:
Sample Resolution
for the Use of PI](#)

[24 CFR Part 58](#)

The written request must include all of the following items:

- A CDBG Small Cities Application for the use of PI on the activity unless it is also being funded by an open CDBG grant.
- A certified copy of the "Resolution for the Use of Program Income."
- A copy of the public notice and the affidavit of publication for it.
- A "Request for [Release of Funds](#)" (with a copy of the public notice that is required for it) unless the activity is an "exempt activity" as defined at 24 CFR 58.34. A "Statement of Exemption" must be submitted if the activity is an "exempt activity." A RROF/Statement of Exemption does not need to be submitted if it has already been submitted, or will be submitted, to DOH because the activity is also being funded by an open CDBG grant.
- A short cover letter that explains why the grantee is requesting DOH approval to use program income for a different activity than the one that generated the program income. The letter and all supporting documents must reference the Town, Grant Number, Year and Project Name.

[Attachment 3-7: CDBG
Small Cities Application](#)

[Attachment 3-8:
PI Reuse Application
Guidelines](#)

[Attachment 3-8a
Sample Public Notice for
Program Reuse](#)

[24 CFR 58.34](#)

In addition, activities that are funded from program income must meet all applicable federal overlay requirements. These requirements include, but are not limited to, procurement, labor standards, civil rights, acquisition, relocation, and change-of-use requirements. The PI earned must be substantially expended by the end of program year. An exception may be granted for Grantees that earn a substantial amount of PI within three (3) months of the end of the program year. A request for exception must be submitted to DOH along with supporting documentation. That PI must be substantially expended by the end of the next program year.

The grantee can expend up to 8% of the total program income received for administration with approval from DOH. Program delivery costs are capped at 12% of total program income received.

3. Expending Program Income on a Future Grant

The third method of complying with the requirement of substantially disbursing program income by the end of the Program Year is to apply the program income to a future grant request. The Municipality may obtain the approval of DOH to combine the program income with a future grant request. For example, the municipality receives \$100,000 in program income during the program year (July 1 – June 30) and the municipality has identified a project, which it intends to submit an application for funding in the amount of \$500,000. The municipality may obtain the approval of DOH to apply \$100,000 of program income to the future grant request. Accordingly, the municipality would request \$400,000 in new funding from DOH and not the \$500,000 in future funding. Program Income expended on the future grant activity or activities must be spent before drawing down the open grant funds.

4. Return the funds to DOH

The final option is to return the program income to DOH. The municipality may choose this option if it cannot comply with the requirement to substantially disburse program income by the end of the program year.

Administrative Expenses and Program Soft Costs

Up to 8 percent of the total PI expended during a Program Year (PY) may be used for CDBG general administration (GA) expenses. Total administration and program soft costs cannot exceed 20 percent.

Reporting

The grantee is required to report on the Program Income (PI) activities in the Semi-Annual Grantee Progress Report (GPR). The GPR contains semi-annual and annual PI forms. Both forms must be completed and submitted by all grantees even if the amount of Program Revenue (PR) received during the Program Year (July 1 – June 30) was zero or less than \$35,000. In addition, the grantee is required to submit the Semi-Annual Grantee Progress Report (GPR) whether or not the grantee has an existing open grant from DOH.

At the end of each period, you will report on your CDBG Program Revenue (PR), PI actual expenditures, and PI account balances, regardless of whether or not your total PR exceeds the \$35,000 annual threshold.

If your jurisdiction has either: 1) made any loans that, when repaid, would be PR, or; 2) is receiving income

Chapter 3: Financial Management

that has been directly generated from the use of State CDBG funds, then it must submit Grantee Progress Reports.

More information can be found in the [Chapter 11: Recordkeeping and Reporting](#) of this manual.

Transfer of Program Income and Miscellaneous Revenue

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

Section 3.8 Revolving Loan Funds

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

[24 CFR Part 570.489\(f\)](#)

DOH may approve the use of CDBG program income for the purpose of capitalizing a RLF for specifically identified activities.

- RLFs are typically established to continue housing or economic development activities.
- The establishment of a RLF must be in the evidentiary materials and approved by DOH.

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

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

Revolving Loan Fund (“RLF”) as described in a Program Income Reuse Plan

A Revolving Loan Fund (RLF) is an account established to make loans, if the municipality will not be making any loans, then the account is simply called a program income account. A municipality will typically establish a RLF for program income earned on CDBG grant funds used to make loans. An RLF is established for carrying out only one specific activity (e.g., loans for housing rehabilitation, homeownership assistance, or business loans), which, in turn generates repayments to the fund for use in continuing to carry out that same activity. A jurisdiction may establish several RLFs, but each must be for a single,

CDBG-eligible, lending-type activity that meets a CDBG national objective. The name of the RLF should reflect this single activity name in order to avoid confusion on CDBG reports. Each RLF must also be "substantially revolving" (see next paragraph).

The most common use of PI is placement in an RLF

Each RLF must be "substantially revolving," meaning that at least 51 percent of the RLF expenditures must be for loans. Amounts up to the remaining 49 percent may be spent on non-revolving activities, such as general administration, activity delivery, and grants for the same activity as the RLF. Repayments to the RLF on loans made from the RLF is program income and cannot be recorded as Miscellaneous Revenue. For example a municipality makes a \$20,000 residential rehabilitation loan from the RLF and receives \$5,000 in principal and interest payments for the program year. The entire \$5,000 is considered program income and is not subjected to the \$35,000 exemption as miscellaneous revenue.

If the Revolving Loan Fund (RLF) funds are expended on the same type of activity as an existing open grant (e.g., both the RLF and the open grant are funding residential rehabilitation loans in the entire jurisdiction), then the RLF funds must be disbursed before drawing down additional funds from the open grant. This situation may be avoided by defining the activity of an RLF to be different than activities funded by the existing open grants, such as for a target area which is different from the open grant or the RLF may be for emergency repairs and the open grant for code enforcement and general repairs.

RLF Program Guidelines

Each RLF must have an approved set of program guidelines. A single set of guidelines may be used to administer the RLF and a grant-funded activity of the same type. However, if the RLF activity is different than an open grant activity then the program guidelines need to clearly reflect the differences between them.

What is the process for spending PI in this Way?

Your PI Reuse Plan must specify that you will spend the PI in the revolving loan fund in this manner. The PI Reuse Plan must be submitted and approved as part of your application for the revolving loan fund activity that generated the PI. Consequently, you must allow for meaningful local citizen comments about the proposed use of program income under the Plan during the public hearing that is held for the activity prior to submitting the Plan with the application to DOH for approval. The minutes of the public hearing must indicate that the proposed use of program income was discussed during the hearing. You must also demonstrate compliance with all applicable federal overlay requirements, e.g. NEPA environmental review.

Development of Revolving Loan Fund Guidelines

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

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

Chapter 3: Financial Management

Administration of a RLF involves three primary areas of responsibility:

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

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

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

Subrecipients and Revolving Loan Funds

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

Section 3.9 Audits

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

Audit Requirements

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

There are both Federal and state requirements for audits. [2 CFR Part 200 Subpart F](#) provides Federal requirements for audits of governmental entities and nonprofit organizations. The [Connecticut General Statutes at Sec 7-392](#) detail the state audit requirements for both cities and counties. As noted below, there are differences between both the CGS and Federal requirements; however, cities and counties are required to follow both laws.

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

Federal Requirements

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

Organizations that have expended more than \$750,000 in Federal funds within a fiscal year are required to have a [Single Annual Audit](#) conducted. (For fiscal years prior to 2015, the threshold is \$500,000 per fiscal year). A single audit is an audit that includes both an entity's financial statements and its federal awards (from all applicable Federal programs).

Organizations that have expended less than \$750,000 a year in federal funds are exempt from the audit requirement; however, financial records must be made available if requested.

The Audit Process

The Single Annual Audit must be performed by an independent public accountant in compliance with the Single Audit Act of 1997. The grantee is required to permit the independent auditor access to the records and financial statements of the jurisdiction as necessary.

In procuring audit services, grantees should follow the applicable procurement standards found in Chap 4: Procurement of this manual. The grantee should ensure that the auditor is knowledgeable about specific accounting requirements that apply to local government.

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

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

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

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

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

The Audit Report

Regulations at [2 CFR Part 200](#) require that audit reports issued upon completion of an audit include:

- An opinion as to whether financial statements are presented fairly in all material respects in accordance with GAGAS.
- An opinion as to whether the schedule of expenditures is presented fairly in all material respects

in relation to the financial statements taken as a whole.

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

Deadline and Submission

The submission of all audit information is the responsibility of the grantee. It is the administrator's responsibility to inform the grantee of all audit requirements and to ensure that completed audit reports are submitted to the State Office of Policy and Management (OPM) and the appropriate offices on a timely basis.

State Submission Requirements

Grantees must also forward one copy to the OPM website within six (6) months after the end of the audit period. In addition, audit reports must be filed electronically on OPM's audit reporting system by the auditor. Grantees are required to make the audit report available to the public no later than thirty days (30) after completion of the audit.

Chapter 3: Financial Management

State Statutes allow the Secretary of OPM to grant an extension for filing the audit report past the statutory due date. In order for an extension to be considered, the attached Extension Request Form must be submitted to OPM no later than 30 days prior to the required filing date.

[Attachment 3-9:
Audit Extension Request Form](#)

[Attachment 3-10:
OPM Guidance on Deadlines
and Extensions](#)

OPM will review the audit for compliance with the Single Audit Act of 1997 as required by [2 CFR 200.501](#). When the audit is accepted, the grantee will be notified. Should the audit not be acceptable, the grantee will be notified to correct and resolve the problems within six months (6) of receipt of the report by OPM.

[CT Electronic Audit Reporting
Systems \(EARS\)](#)

[EARS Help Website](#)

OPM will refer any contested audit findings to the Auditor of Public Accounts.

Federal Submission Requirements

Under OMB Circular A-133 and [2 CFR Part 200](#), audits must be completed within nine months from the end of the fiscal year. Grantees have no later than 30 days after receipt of the auditor's report or March 31st (whichever is earlier) to submit the final copies to the Federal Audit Clearinghouse (FAC).

All A-133/2 CFR Part 200 Audits
must be submitted to:

[Federal Audit Clearinghouse](#)

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

Chapter 4: Procurement

Introduction

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

Section 4.1 CDBG Procurement Requirements

All procurements funded in whole or in part with CDBG funds must comply with the applicable federal requirements found in 2 CFR Part 200. The goal in using these procurement procedures is to achieve maximum open and free competition.

[2 CFR Part 200.318](#)

Each grantee (and sub-recipient) shall adopt and abide by the CDBG Procurement requirements set forth in this chapter, which shall apply only to procurements funded with CDBG dollars, as authorized in 2 CFR 200.318. The CDBG Procurement requirements include:

- A code of conduct to govern the performance of the grantee's officers, employees or agents in contracting with CDBG funds and to ensure adherence to the conflict of interest and disclosure requirements (outlined in [Chapter 1: Project Administration](#)); and
- A requirement that positive efforts be made to use small, minority, female, and Section 3 businesses; and
- A requirement that contracts be awarded, to the greatest extent feasible, to businesses that provide economic opportunities for low and very low-income persons residing in the project area; and
- A requirement that cost reasonableness has been determined in advance of contract bidding, per 2 CFR 200.323(a).

[2 CFR Part 200.323](#)

Section 4.2 Overall Procurement Requirements

Environmental Review and Bidding

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

SAM Unique Entity Identifier

Each business that receives CDBG assistance must have a Unique Entity Identifier (UEI) generated by SAM.gov.

On **April 4, 2022**, the unique entity identifier used across the federal government changed from the DUNS Number to the Unique Entity ID.

- The Unique Entity ID is a 12-character alphanumeric ID assigned to an entity by SAM.gov.
- As part of this transition, the DUNS Number has been removed from SAM.gov.
- Entity registration, searching, and data entry in SAM.gov now require use of the new Unique Entity ID.
- Entities already registered in Sam.gov can find their Unique Entity ID by following the steps [here](#).
- Entities who are not registered in Sam.gov can get a Unique Entity ID [here](#).

Sub-recipients, Contractors and Sub-contractors

A sub-recipient, contractor or subcontractor who is registered in SAM.gov has a Unique Entity ID assigned already. No action is necessary to create a Unique Entity ID. The Unique Entity ID must be provided to the prime and Grantee as soon as possible.

A sub-recipient or subcontractor who is **not** a registered entity in SAM.gov, must request a Unique Entity ID as soon as possible. Even if the entity already have a DUNS Number, they will need to request a Unique Entity ID.

Refer to the [Guide to Getting a Unique Entity ID](#) to get a UEI. **Sub-recipients and sub-contractors do not need to complete a full SAM.gov entity registration. If you only conduct certain types of transactions, such as reporting as a sub-awardee, you may not need to complete an entity registration. Your entity may only need a Unique Entity ID (UEI). No SAM.gov entity registration will be required for you to get an ID.**

Excluded Parties

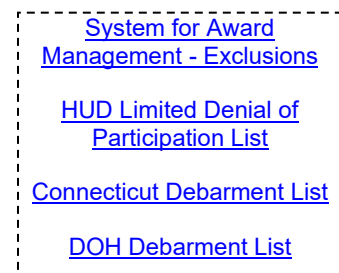
Grantees must not award any contract to any organization that is debarred or suspended or is otherwise excluded from or ineligible for participation in federally assisted programs. This applies to any CDBG-assisted contract at any tier in the process.

Prior to contract execution, the Grantee must check the organizations name against the following:

- The federal System for Award Management (SAM) Exclusions List
- The HUD Limited Denial of Participation List
- The Connecticut Department of Labor Debarment List

DOH Small Cities Debarment List

The Grantee must document that the organization (including all contractors and subcontractors) are not on this list with screenshots or other proof the organization is not debarred.



The General Services Administration has released a [YouTube video](#) with detailed instructions on searching Exclusions on SAM.gov.

Documentation proving verification of contractor eligibility, prior to contract execution, will be checked at monitoring.

Build America, Buy America Compliance

The Build America, Buy America Act (BABA) requires that all iron, steel, manufactured products, and construction materials used for federally funded infrastructure projects are produced in the United States, unless otherwise exempt or subject to an approved waiver. This requirement is known as the “Buy America Preference (BAP)” and the specific requirements are codified in 2 CFR § 184.

[2 CFR Part 184](#)

Products Covered Under the Baba Act

Iron and Steel: Items that consist completely or predominantly of iron, steel, or a combination of both. “Predominantly” means the cost of the iron and steel content exceeds 50% of the total cost of all the item’s components. All manufacturing processes, starting from the initial melting stage and continuing through the application of coatings, must occur in the United States.

Construction Materials: Articles, materials, or supplies used for construction activities that consist of only one of the items described below. For the purposes of the HUD Phased Implementation Waiver timeline described below, construction materials are divided into two categories: specifically listed construction materials and not listed construction materials. **Specifically Listed Construction Materials:** Items include (1) non-ferrous metals; (2) lumber; and (3) plastic- and polymer based composite building materials, pipe, and tube. **Not Listed Construction Materials:** Items include (1) all other plastic- and polymer-based materials (such as polymers used in fiber optic cables), (2) glass, (3) fiber optic cable, (4) optical fiber, (5) engineered wood, and (6) drywall. **Construction Material Standards (2 CFR 184.6)** All manufacturing processes for the construction material must occur in the United States.

Manufactured Products: Manufactured products include articles, materials, or supplies that have either been: 1. Processed into a specific form or shape, or 2. Combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies. A manufactured product may include components that are construction materials or iron and steel products unless the manufactured product also meets the definition of iron and steel or construction materials. In such instances, the product should be re-categorized in the appropriate category. Manufactured products must meet two production requirements. First, the final product must be manufactured in the United States. Second, at least 55% of the cost of the components making up the manufactured product must be associated with components that were mined, produced, or manufactured in the United States.

BABA Applicability on CDBG Projects

The Buy America Preference references that all infrastructure projects are included, an infrastructure project is defined broadly as any project that includes Construction, Maintenance, Alteration, or Repair (applies even if the primary purpose is not infrastructure).

Examples of CDBG-funded activities that may be subject to the BAP:

- Rehabilitation of buildings and real property
- Construction of public facilities and improvements, such as streets, sidewalks, neighborhood centers, and the conversion of buildings for eligible purposes
- Utility installation or improvements
- Water systems (drinking water and wastewater)

Examples of CDBG-funded activities that may NOT be subject to the BAP:

- Acquisition of real property
- Relocation and demolition

- Public services
- Shelter or public facility operating expenses

General Waivers

HUD issued a public interest waiver for exigent circumstances, “Public Interest Waiver of Build America, Buy America Provisions for Exigent Circumstances as Applied to Certain Recipients of HUD Federal Financial Assistance”. This waiver applies when there is an urgent need by a CPD grantee to immediately complete an infrastructure project because of a threat to life, safety, or property of residents and the community. (Effective until November 23, 2027, or such shorter time as HUD may announce via Notice.)

[Public Interest Waiver](#)

HUD also issued a public interest de minimis, small grants, and minor components waiver titled “Public Interest De Minimis and Small Grants Waiver of Build America, Buy America Provisions as Applied to Certain Recipients of HUD Federal Financial Assistance”. This waives the BAP for all infrastructure projects whose total cost (from all funding sources) is equal to or less than the simplified acquisition threshold at 2 CFR 200.1 which is currently \$250,000. This Notice also waives the application of the BAP for a de minimis portion of an infrastructure project, meaning a cumulative total of no more than five percent of the total cost of the iron, steel, manufactured products, and construction materials used in and incorporated into the infrastructure project, up to a maximum of \$1 million. (Effective until November 23, 2027, or such shorter time as HUD may announce via Notice.)

[HUD De Minimis and Small Grants Waiver](#)

To facilitate a smooth transition to the BAP requirements, HUD established a Phased Implementation Waiver for its programs based on the date when funds are obligated to the State. All CDBG Formula Grants and Recovery Housing Program Grants funded in FY 2024 that meet BABA requirements and involve the use of Iron and Steel and Construction materials listed (i.e.(1) non-ferrous metals; (2) lumber; and (3) plastic- and polymer based composite building materials, pipe, and tube). Starting in FY 2025, all projects that meet BABA requirements and involve construction materials not listed and manufactured products will be applicable to BAP.

[HUD Phased Implementation Waiver](#)

Certifications

The prime contractor and all subcontractors must comply with the requirements of the BABA Act, 41 USC 8301 note, and all applicable rules and notices, as may be amended, as applicable to the Community Development Block Grant (CDBG) and Recovery Housing Program (RHP) infrastructure projects. Pursuant to the U.S. Department of Housing and Urban Development’s (HUD’s) notice, “Public Interest Phased Implementation Waiver for FY2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance” (88 FR 17001), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver.

A “**Buy America Certification Form**” (Attachment 4-16) **must be submitted with the bid package.** A “**Materials Certification**”, (Attachment 4-17) **must be completed by the prime contractor and submitted** to the Grantee prior to contract execution. The Materials Certification must be submitted to DOH with the winning bid package as explained in Step 13 below.

[Attachment 4-16: BABA Certification Form](#)

[Attachment 4-17: Materials Certification](#)

NOTE: If it is determined that the project meets the requirements for a General Waiver, the Grantee must submit written notification to DOH that justifies the decision for the Department’s review and approval.

HUD Project Specific Waivers

Project/product-specific waivers are available on a **limited, case-by-case basis**, after DOH and HUD's review, a public comment period, and final approval from the Office of Management and Budget's Made In America Office (MIAO). A waiver should **ONLY** be requested from DOH if an extenuating circumstance occurs that meets one of the following criteria: 1. Public interest: Adhering to the BAP would be inconsistent with the public interest. 2. Non-availability: Covered materials are not produced in the USA in sufficient and reasonably available quantities or of a satisfactory quality. 3. Unreasonable cost: Inclusion of domestically produced covered materials will increase the cost of the overall project by more than 25 percent. If more than one Federal agency is funding an infrastructure project, project-specific waivers will require coordination among those Federal agencies prior to a determination by the MIAO.

NOTE: DOH will only submit waiver requests to HUD with substantial documentation that meets one or more of the above-listed criteria.

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

Background

The regulations at 2 CFR Part 200.321 requires grantees to take affirmative action to contract with small and minority-owned firms and women business enterprises. DOH does not require set asides or participation quotas, but grantees are expected to make special efforts to award contracts to MBE and WBE firms.

[2 CFR 200.321](#)

Requirements

The grantee must make good faith efforts to see that Small and Minority Businesses and Women Business Enterprises are provided opportunities as a result of Small Cities funding. A separate file should be established and maintained with efforts clearly documented. In addition, grantees are required to notify the State Department of Administrative Services (DAS) of all procurements utilizing CDBG funds. The DAS directory of businesses can be found at: <http://www.biznet.ct.gov/SDSearch/SDSearch.aspx>.

Suggested Outreach

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

- Assuring that small businesses and MBE/WBEs are solicited whenever they are potential sources.
- Including MBE and WBE firms on solicitation lists and sending them an Invitation to Bid.
- When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum participation by small businesses and MBE/WBEs.
- Where the requirements permit, establishing delivery schedules which will encourage participation by small businesses and MBE/WBEs.

- If any subcontracts are to be let, requiring the prime contractor to take the above affirmative steps.
- Setting aside a percentage of CDBG funds to be awarded to MBE/WBEs.
- Including MBE/WBE criteria with additional points in selection criteria for professional services procurement.

REMINDER: Grantees are reminded that projects funded with state bond funds are subject to the requirements of the Commission on Human Rights and Opportunities (CHRO). Grantees with co-funded projects should contact Alvin Bingham at alvin.bingham@ct.gov to determine applicability.

Section 4.3 Economic Opportunities (Section 3)

Overview

The Section 3 program requires recipients of HUD funding to direct employment, training, and contracting opportunities to low-income individuals and the businesses that employ these persons within their community. Section 3 is a provision of the HUD Act of 1968 and is found at 12 U.S.C. 1701u. The regulations are found at 24 CFR Part 75.

[24 CFR Part 75](#)

All recipients of CDBG funds (Grantees, Subrecipients, Contractors, and Subcontractors) must ensure that “to the greatest extent feasible,” when CDBG and other Section 3 covered funds are used to assist housing and community development projects, preference for construction-related training, jobs, and contracting opportunities go to low- and very-low income people and to businesses that are owned by low- and very-low income persons or businesses that hire them. It is important to note that these opportunities are both gender and race neutral.

Applicability

Whenever any portion of CDBG funding is invested into projects involving housing construction, demolition or rehabilitation, commercial/private improvements for economic development, or other public construction (e.g., roads, sewers, community centers, and public facilities), the requirements of Section 3 may apply, based on the guidance provided below.

Section 3 requirements that apply to CDBG funded Projects:

Section 3 applies to all construction projects that receive \$200,000 or more in CDBG (or other HUD covered assistance), including projects that are financed in conjunction with state, local or private matching or leveraged funds, provided that the Section 3 monetary threshold requirements are met. In particular:

- Section 3 applies to recipients of CDBG funding, as well as its sub-recipients, contractors and sub-contractors; and

- Professional service contract labor hours (construction contract oversight, engineering, architectural, environmental and property evaluation, construction progress and construction draw inspection and prevailing wage labor compliance) are not required to be reported.
- If a contract covers both professional services and other work and the recipient or contractor or subcontractor chooses not to report labor hours from professional services, the labor hours under the contract that are not from professional services must still be reported.

The regulations should not be construed to mean that recipients are required to hire Section 3 Workers or award contracts to Section 3 Business Concerns other than what is needed to complete covered projects and activities. If the expenditure of funding for an otherwise covered project and activity does not result in new employment, contracting, or training opportunities, **reporting is still required.**

Responsibilities

A local government that receives CDBG funding has the responsibility to comply with Section 3 requirements. The grantee is also required to “ensure compliance” of their contractors and sub-contractors.

Grantee’s Section 3 responsibilities include:

- a. Notifying Section 3 Workers and business concerns about jobs and contracts generated by Section 3 covered assistance so that they may submit bids/proposals for available contracts and job openings with the grantee,
- b. Notify potential contractors of their responsibilities under Section 3,
- c. Include Section 3 language in all applicable contracts,
- d. Certification of receipt of the Grantee’s Section 3 Plan by contractors and sub-contractors. Grantees shall collect Attachment 4-1 from all contractors and subcontractors on the CDBG assisted project. [Attachment 4-1:
Certification of Section 3
Compliance](#)
- e. Require subrecipients, contractors, and subcontractors to meet the requirements of §75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.
- f. Assess the number of Section 3 workers for all contractors and subcontractors at the time of contract award. See Attachment 4-2 for collection report format. [Attachment 4-2:
Contractor Permanent
Workforce Report](#)
- g. Document action(s) taken to meet the HUD benchmarks,
- h. Respond to Section 3 complaints, and
- i. Complete and submit the required Section 3 Forms along with procurement documents to DOH,

Outreach Best Practices

Grantees must develop a Section 3 plan, including outreach to Section 3 Workers and Businesses within the municipality. Best practices include:

[HUD Section 3 Resources and Tools](#)

- Conduct a mandatory pre-bid meeting.
- Organize Section 3 Workshops for contractors.
- Publication of opportunities in newsletters or other local newspapers, including those targeted to Limited English Proficient populations.
- Use of signage at the project site and flyers posted in the project area.
- Notification of potential training or employment opportunities to neighborhood and non-profit groups, including Public Housing Authorities, servicing low- and very low-income persons.
- Communicate opportunities to employment agencies and career centers.
- Work with unions to identify Section 3 Workers.

It is important to document efforts made to comply with Section 3. Files should contain memoranda, correspondence, advertisements, etc., illustrating attempts to meet Section 3 benchmarks (e.g., to reach out to eligible persons regarding employment or training and/or business concerns). Documentation will show the steps taken to implement the plan, and will most likely cross-reference information in other files, such as procurement and construction contracting. The mere existence of a Section 3 Action Plan is not sufficient. Affirmative attempts to reach Section 3 benchmarks must be made.

Meeting Section 3 Benchmarks

DOH's subgrantees, developers and contractors will be required, to the greatest extent feasible, meet the Section 3 HUD benchmarks found at [24 CFR Part 75.30](#):

- Twenty-five (25) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers;

$$\frac{\text{Section 3 Labor Hours}}{\text{Total Labor Hours}} = 25\%$$

- Five (5) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers.

$$\frac{\text{Targeted Section 3 Labor Hours}}{\text{Total Labor Hours}} = 5\%$$

Definitions:

Section 3 Worker

- HUD defines a Section 3 worker as a worker that meets one of the following requirements: The worker's income is below the income limit established by HUD.
- The worker is employed by a Section 3 business concern.
- The worker is a YouthBuild participant

[Attachment 4-14:
Worker-Targeted Worker
Certification Form](#)

Targeted Section 3 Worker

A Targeted Section 3 worker includes any worker who is employed by a Section 3 business concern; or a Section 3 worker who is:

- Living within the service area or neighborhood of the project; or
- A YouthBuild participant.

Section 3 Business

To be considered a Section 3 Business Concern a business must meet one of the following criteria:

- At least 51% or more owned by Section 3 Workers, or
- Over Seventy-five percent (75%) of the labor hours performed by the business are performed by low- or very low-income persons, or
- It is a business at least 51 percent owned by current public housing residents or residents who currently live in Section 8-assisted housing.

[Attachment 4-15:
Section 3 Business
Certification Form](#)

Reporting Section 3 Achievements

Grantees are required to report Section 3 labor hours on the Attachment 11.1: Semi-Annual Report Form. Grantees who have not met the HUD benchmarks will be required to report on the nature of the agency's efforts to meet the benchmarks and provide documentation for monitoring.

[Attachment 11-1:
Semi-Annual Report
Form](#)

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

Section 4.4 Conflicts of Interest

Background

Nothing is more detrimental to a successful procurement operation than to have the relationship between the grantee and the contractor questioned regarding real or apparent conflicts of interest. Conflict of interest issues deal with the relationship between the parties and financial gain. Those that could be judged to have conflicts include local officials, employees, consultants, family members, and business partners. Also, see [Chapter 1: Project Administration](#) for information on conflict of interest.

[Attachment 1-8:
Request for Exception
Form](#)

Requirements

2 CFR Part 200, Connecticut General Statutes and the CDBG regulations all contain conflict of interest provisions; therefore, possible conflict of interest issues must be brought to the attention of DOH immediately. The sooner a real or apparent conflict of interest is identified the better. If a potential conflict is known at the time of application, it should be brought to the attention of DOH staff.

Section 4.5 Methods of Procurement

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

Micro Purchase Procedures

Procurement by micro-purchase is the acquisition of goods or supplies, the aggregate dollar amount of which does not exceed the current micro-purchase threshold of \$3,000. To the extent practicable, the local government must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the local government considers the price to be reasonable.

Small Purchase Procedures

Small purchase procedures entail a relatively simple and informal process that can be used when cost of goods or supplies, in the aggregate, are no more than \$10,000. Under this process, the grantee should:

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

Competitive Sealed Bid

The Competitive Sealed Bid method is the required method for procuring CDBG-funded construction work. (See [Chapter 9: Labor Standards](#) for detailed information on preparing construction bid documents.) The following requirements apply to the competitive sealed bid procurement process:

[Attachment 1-6:
Newspaper List](#)

- Competitive sealed bids are initiated by publishing an Invitation for Bids (IFB).
- The IFB must be advertised in the newspaper of daily general circulation in the jurisdiction at least one time not less than seven days before the date set for the opening of bids.
- The IFB must also be publicized by distributing the IFB to a list of qualified contractors.
- The grantee must provide a copy of the IFB to the DAS.
- The IFB must include Attachment 4-3: Commission on Human Rights, Notification to Bidders
- The grantee is strongly encouraged to advertise in a minority newspaper.
- The IFB will include specifications that define the services or items required in order for the bidder to properly respond.
- 2 CFR Part 200 requires a bid guarantee from each bidder equal to five percent of the bid price. This guarantee serves as an assurance that the chosen contractor will execute the contract within the time specified.
- All bids must be publicly opened at the time and place stated in the Invitation for Bids.
- The bids must be tabulated and reviewed.
- There must be at least two bids from qualified sources to permit reasonable competition. Receipt of less than 2 bids will require approval of DOH to move forward without rebidding.
- The contract is awarded to the lowest, responsible and responsive bidder.
- Preparation and signing of a contract formalizing a scope of work and the terms of compensation is required.
 - The contract must be a firm-fixed-price contract (lump sum or unit price with a maximum amount identified).
- If alternates (additives or deducts) will be taken, the bid documents must be clear as to what order those alternates will be applied.

[Attachment 4-3:
Notification to Bidders](#)

Competitive Negotiation

This method of procurement is used if the selection can be based on factors other than cost, such as

experience and capacity. Procurement of architectural, engineering, planning and administrative services fall under this category. Grantees shall seek permission from DOH prior to using competitive negotiation for contracts other than architectural, engineering, planning or administrative services. Only fixed-price contracts or hourly contracts with a not-to-exceed figure may be awarded.

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

Reminder: Consultants must not assist the grantee with procurement if they intend to respond to the solicitation for services.

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

The following requirements apply to the competitive negotiation procurement process:

- The RFP or RFQ must be advertised in a newspaper of daily general circulation in the area at least one time not less than seven days before the date set for the opening of proposals.
- The grantee must provide a copy of the IFB to the DAS.
- The grantee is strongly encouraged to advertise in a minority newspaper.
- The grantee must include MBE and WBE firms on solicitation lists and send them the RFP or RFQ.
- If an RFP is used, it should specify the scope of services to be provided and the type of contract to be used: fixed price, or an hourly rate with a not to exceed figure.
- An RFP should also:
 - Specify that cost and pricing data is required to support the proposed cost;
 - State anticipated start and completion dates; and
 - List evaluation criteria that will be used in ranking proposals.
- All proposals received must be reviewed and ranked according to the selection criteria, and the review must be documented in writing. [Attachment 4-8](#) provides a sample Professional Services Evaluation.
- For both RFPs and RFQs, selection is made on the basis of the most responsible offer or price with consideration given to the factors identified in the Request for Proposal or Qualifications.
- For RFQs, an invitation is then made to one or more respondents to negotiate a price or fee. Document the reason the firm is chosen and that the price established is reasonable.
- The grantee must maintain documentation of cost reasonableness for all services and reasons for selection.

- The grantee must send an award letter to the selected contractor and document the file with it.
- The grantee must prepare and sign a contract formalizing a scope of work and the terms of compensation.
- The grantee must promptly notify unsuccessful offerors in writing and document the file with the rejection letters.

Non-Competitive Negotiations

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

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

Caution: The use of the non-competitive negotiation procurement method must be authorized by DOH.

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

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

Section 4.6 Other Procurement Issues

Cost Reasonableness Estimates

2 CFR 200.323 requires grantees to perform a cost or price analysis in connection with every procurement action in excess of the Small Purchase Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the Grantee must make independent estimates before receiving bids or proposals. Documentation of a cost analysis will be checked at monitoring.

[2 CFR 200.323](#)

Pre-Qualified Lists

The use of pre-qualified lists is allowed by DOH in the Housing Rehabilitation program only. Information on the policies regarding pre-qualified lists can be found in [Chapter 7: Housing Rehabilitation](#).

Over Budget Bids

Despite careful cost analyses and safeguards, there are occasions when all bids will exceed available project funds. This section governs the process for dealing with such a situation.

Options

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

1. Obtaining additional funds from another source and continuing with the original IFB.
2. Rejecting all bids, revising project scope and bid specifications, and issuing a revised IFB (competitive sealed bid) open to the entire public.

Low Bids and Change Orders

To maintain the integrity of the bidding process, the change order process must only be used when (1) the change order work fits within the scope of the original project and (2) the reason for the change is something that was unanticipated or unforeseen at the time the original contract was awarded.

Change orders cannot be used for fundamental redesign of a project and cannot be used to “fix” problems in the project specifications if the local government was aware of the problems before awarding the contract. (If your specifications have problems, it’s better to issue an addendum—if the problems were discovered before bids are due—or to re-bid the contract.) Change orders also cannot be used to take advantage of a good deal on a construction project—in other words, if you’ve awarded a contract for 500 linear feet of street paving work, you can’t then use a change order to double the number of linear feet included in the contract just because the successful bidder gave you a really great price on the original contract.

NOTE: Total change orders must not exceed 15% of the original contract price.

Add/Deduct Alternates

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

For example, a project might involve the construction of a new community center that includes a portico and a small out-building to accommodate future expansion. The bidding instructions would indicate which items are to be bid as deductible alternates and the order of priority in which they are to be deducted. In this example, assume the portico and out-building are to be bid as deductible alternates, and the order of priority for deducting is first, the out-building, and second, the portico. The grantee would go back through each bid (not just the lowest one) and first subtract the amount each bidder estimated for the out-building from the total amount she/he bid for the project. The grantee would then check to see if any of the adjusted bids are within budget. If so, the grantee can award the bid to the bidder with the lowest adjusted bid. If not, the grantee would repeat the process, this time deducting the cost of the portico from the adjusted bid of each bidder. Depending on the number of deductible alternates specified, the process can be repeated until one of the adjusted bids is within budget.

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

Grant Administration Services

By Contractors/Consultants

Professional grant administrators are often procured by grantees to undertake CDBG projects. Note that any person contracted to perform grant administration services to be paid with grant funds, must be procured following CDBG procurement requirements.

By Grantee Staff

A grantee may instead choose to perform some or all of these services with their own staff member and can be reimbursed for the time an employee spends working on the CDBG project. It is important to note that time sheets must demonstrate the time spent solely on the CDBG project. This method requires source documentation of all costs at time of monitoring.

Section 4.7 Procurement of Professional Services

This section describes steps that are required to help ensure grantees comply with federal and state procurement requirements in the procurement of professional services. Professional services must be procured for each new CDBG grant awarded by DOH.

Step 1: Prepare the RFP/RFQ The Grantee must prepare an (RFP). An example of an RFP and RFQ are provided as Attachment 4-4 and Attachment 4-5.

[Attachment 4-4:
Sample Request for Proposals](#)

[Attachment 4-5:
Sample Request for Qualifications](#)

Step 2: Solicit Responses In order to meet the goals of MBE/WBE participation; the Grantee must submit the RFP/RFQ to the Connecticut Department of Administrative Services, Small and Minority Business Division (DAS) and/or publish in a minority newspaper.

Step 3: Publish RFP/RFQ The Grantee must advertise the RFP/RFQ at least once in a newspaper of daily circulation. A formal legal advertisement is required. An example of the advertisements are provided as Attachment 4-6 and Attachment 4-7. Proposals are due no sooner than 7 days following the date of publication of the legal advertisement. Evaluation criteria should include:

[Attachment 4-6:
Sample RFP Publication](#)

[Attachment 4-7:
Sample RFQ Publication](#)

- Specialized experience or technical expertise of the firm and its personnel in connection with the type of services to be provided and the complexity of the project.
- Past record of performance on contracts with the locality and other clients, including quality of work, timeliness, cost control, and citizen's complaint resolution in a timely manner.

- Capacity of firm to perform the work within time limitations, taking into consideration the current and planned workload of the firm.
- Familiarity of the firm with the type of problems applicable to the project.
- An evaluation consideration to small, local, minority or female owned firms. These firms may be awarded extra points in order to promote the employment of these firms.

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

Step 4: Establish Evaluation Committee Appoint an evaluation team of knowledgeable members (town council, board of public works members, etc.) and develop an evaluation plan to rank respondents and provide guidance during the selection process. Typically three to five people make up the Evaluation Committee. At least one of the committee members should be the Chief Elected Official (CEO) or designee. An example of a scoring criteria evaluation document is Attachment 4-8: Professional Services Evaluation.

[Attachment 4-8:
Professional Services
Evaluation](#)

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

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

Step 7: Conduct Interviews The Grantee is required to contact the firms selected, in writing with the time, date and location of the interview. A sample letter is provided as Attachment 4-9: Short List Letter. The Grantee must also notify those who will not be interviewed. A sample letter is provided as Attachment 4-10: Non Short List Letter. On occasion, a Grantee may receive only one proposal. That respondent must be interviewed before the scoring committee. The interview may be conducted via conference call. DOH will accept a letter of justification for not re-procuring services if the community has a history with the firm and feels comfortable accepting the proposal without re-soliciting the services.

[Attachment 4-9:
Sample Short List Letter](#)
[Attachment 4-10:
Sample Non Short List Letter](#)

Step 8: Make Vendor Selection If interviews are conducted, each member of the Evaluation Committee must complete an Interview Evaluation and Score Sheet for each vendor short listed. See Attachment 4-11: Interview Evaluation Form. Each scorer must use the same scoring and weighting criteria making their best effort to score each proposal fairly and without bias. These documents will be required at monitoring. Following the Evaluation Committee's review, the vendor whose proposal is determined to be the most advantageous to the project, based upon qualifications, price and other factors may be selected.

[Attachment 4-11:
Sample Interview Evaluation
Form](#)

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

Step 9: Notify Successful and Unsuccessful Proposer(s) The Grantee must notify all successful and unsuccessful vendors, in writing.

Step 10: Execution of Contract(s) The Grantee may execute contracts with the successful vendor after they have received Release of Funds from DOH.

Step 11: Prepare a Contract: Once a firm is chosen and the basis of selection is documented along with the reasonability of cost, it is time to start the preparation of a contract with the successful individual or firm. See [Chapter 10: Contracts and Modifications](#) for information on contract requirements.

Section 4.8 Pre-Bidding Requirements

The first step in effective management of CDBG-funded construction projects is the preparation of a bid package. This requires the writing of the technical bid specification – usually by an architect or engineer on the basis of prepared plans or working drawings. These specifications must provide a clear and accurate description of technical requirements for materials and products and/or services to be provided in the contract. The contract must be consistent with applicable building codes. Additionally, the plans and specifications for non-residential construction must be stamped by an architect or engineer registered in Connecticut. While the engineer/architect prepares the technical specifications, the Grant Administrator must determine the applicability of Labor Standards and request the necessary wage decisions.

NOTE: The environmental review must be completed prior to publishing the bid advertisement. Please refer to [Chapter 2: Environmental Review](#) for more information.

Property Acquisition Issues

At this stage of the process, the grantee must have obtained all lands, rights-of-way, and easements necessary for carrying out the project. All property to be acquired for any activity, funded in whole or in part with CDBG funds, is subject to the Uniform Relocation Assistance and Real Property Acquisitions Policies for Federal and Federally Assisted Programs (42 U.S. Code Chapter 61), also referred to as the Uniform Act or URA. Included in the definition of property, among other things, are rights-of-way and easements. If the construction project involves real property acquisition, the grantee should contact its DOH Program Manager very early and make sure the acquisition is done according to the provisions of the Uniform Act. See [Chapter 5: Acquisition](#) for additional information.

Section 4.9 Procurement of Construction Services

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

Step 1: Obtain the Appropriate Wage Decision

The DOL has issued a directive that the Davis-Bacon Wage Determination that is in effect on the day of bid opening is the wage decision that must be used for all construction on federally funded projects. In order to comply with that requirement, DOH has assigned the responsibility of obtaining the appropriate wage decision(s) for a project to the Grantee or its designee. An initial wage decision should be obtained prior to issuing the IFB and provided to the Architect or Engineer to be included in the project bid specifications. The Grantee will need to access the DOL website in order to obtain the Davis-Bacon Wage Determination for the project. The printed copy of the effective wage decision will be required at monitoring. Please refer to [Chapter 9: Labor Standards](#) for more information.

Department of Labor Online Wage
Determinations
<https://wdolhome.sam.gov/>

Step 2: Prepare Invitation for Bid (IFB)

The grantee must develop an IFB that clearly identifies the services required including: all technical specifications required, any other requirements that apply to the contract, and instructions for preparing and submitting a bid. Bid specifications may not identify a specific name brand or provider except if required to identify a piece of equipment necessary for completion of the project. In this instance, the name brand or provider must be followed with the terminology, 'or approved equals.' It is the responsibility of the Grantee to provide the bid specifications preparer with the required contract provisions, as specified in the Assistance Agreement, and the Davis Bacon or State Prevailing Wage Decision applicable to the project. The bid specification must include [Attachment 4-16: Certification of BABA Requirements](#) and [4-17: BABA Materials Certification](#). The bid specifications must include a statement that the Wage Decision is subject to change and the one that is in effect on the date of the bid opening will be applicable to the total project if the contract is awarded within 90 days of bid opening. If not, the applicable Wage Decision becomes the one that is in effect on the date that contracts are signed.

Step 3: Submit Entire Invitation to Bid Package to Architectural and Technical Services (ATS) (excluding single-family housing projects)

The Grantee must submit the entire bid package for any construction project, excluding single-family housing, to DOH for review and approval prior to publishing the IFB. Bid packages must be sent to doh.constco@ct.gov, and copy your Small Cities Program Manager.

[Attachment 4-12:
Sample IFB Publication](#)

Step 4: Publish Invitation for Bid (IFB) Advertisement

The IFB must be advertised in the newspaper of daily general circulation in the jurisdiction at least one time not less than 7 days before the date set for the opening of bids. This 7-day minimum bidding period is accepted by DOH but it is advised that communities give bidders more time. The IFB must state the date, time and location for submission of bids. The legal advertisement must provide information pertaining to where the project plans and specifications may be obtained or reviewed. In order to obtain the highest level of free and open competition, publishing the IFB in well-known trade journals and/or sending a copy of the IFB to the area's local contractors may increase the number of responses received. An example of an IFB advertisement is provided as Attachment 4-12: Sample IFB Publication.

Step 5: Solicit MBE/WBE Responses

In order to achieve the State's 25% MBE/WBE goal, a copy of the IFB advertisement must be submitted to DAS, Small and Minority Business Division and/or published in a minority newspaper.

Step 6: Issue Addenda

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

Step 7: Confirm Wage Rates

Ten days before bid opening, the grantee must check DOL Online to determine if there have been any modifications or revisions to the Davis-Bacon wage rate decision. If it is determined during the "ten-day call" that there has been a modification, the grantee will then send it as an addendum to all contractors who received the original bid package no later than 72 hours prior to bid opening.

[Attachment 4-13:
Sample Bid Tabulation](#)

Step 8: Receive Bids

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

Step 9: Open Bids

Bids must be opened and read aloud at a public meeting, at the date, time and location stated in the legal advertisement. The bidder's name and amount of bid must be read and recorded in the minutes of the bid opening meeting. No action should be taken at the bid opening meeting except by order of the CEO to take the bids under advisement. Bid opening meeting minutes and a sign in sheet of all attendees must be maintained for the project records and will be required at Release of Funds. If all bids exceed the amount budgeted for construction costs, the Grantee has only two options. The local funds budget may be increased to cover the additional costs or all bids may be rejected and the CEO may instruct the Architect or Engineer to revise bid specifications and rebid the project in an attempt to bring construction costs to within the project budget. The project may not be altered or changed to eliminate any part of the original project scope.

Step 10: Review Bids and Make Vendor Selection

The Competitive Sealed Bid method of procurement requires that the construction contract be awarded to the lowest bidder, provided that the lowest bidder is found to be a responsive and responsible bidder. If the

bids received are within the project budget, the Architect or Engineer will review all bid packages to determine if each one is responsive and responsible and the Grantee's legal counsel will verify that the bonding and certification requirements outlined in the bid specifications have been included. Upon completion of these reviews, the Architect or Engineer will prepare a bid tabulation sheet, see Attachment 4-13: Sample Bid Tabulation, and a written statement to the Grantee making a recommendation of the lowest responsive and responsible bidder. The bid tabulation must be certified (stamped) by the project Architect or Engineer. If the low bidder is found to be unresponsive or irresponsible and is not recommended by the project Architect or Engineer, the Grantee's legal counsel must be consulted prior to making the determination to reject the lowest bid and consider the second lowest bidder. A written legal opinion must accompany all procurement documents where the low bidder was not selected in case of a formal bid protest or possible litigation.

[Attachment 4-13:
Sample Bid Tabulation](#)

Step 11: Award the Contract

After review of the bids, the grantee must award the contract to the lowest responsible and responsive bidder if his/her bid is within the budgeted amount, preferably within 30 days of the opening. (A contract is awarded by official action of the local governing body.)

Caution: Contracts are to be awarded within a 90-day period. If contracts are not awarded within 90 days of bid opening, any wage rate modifications that occurred within that 90-day period will apply to the contract. If bids are held longer than 90 days, the grantee must make a "90- Day Call" to DOH to determine if any modifications have occurred.

If the contract is awarded to a bidder other than the low bidder, the grantee must prepare a written statement explaining why each lower bidder was deemed non-responsive or non-responsive.

- To be responsive, the bidder must have submitted all required documentation. However, the responsiveness criteria must be uniformly applied to all bidders. If one bidder is rejected for failing to submit a particular document, for example, all bidders failing to submit that documentation must be rejected.
- The Grantee must document that the organization (including all contractors and subcontractors) are not on the lists detailed in the Excluded Parties section above with screenshots or other proof the organization is not debarred.
- The bidder may also be determined non-responsive if, in the grantee's judgment and the judgment of the consulting professional, the bid is so unreasonably low that the project cannot be constructed for the amount bid. This is often a problem with inexperienced contractors. The grantee should always contact its attorney and its DOH Program Manager if the grantee must award to other than the low bidder.

Step 12: Execute the Contract

Once the bidder is accepted and the reasonability of cost is established, the grantee may execute the contract (provided they have received Release of Funds from DOH) and schedule a Preconstruction

Conference.

Following award of the contract, the contract documents and applicable bonding and insurance must be completed and executed. Contract documents include all the items contained in the bid package as well as the executed contract, bid proposal, contractor certifications, and bond and insurance forms. See [Chapter 10: Contracts and Modifications](#) for information on contract requirements.

Step 13: Submit Selected Bid Package and Contract Documents to ATS

The Grantee must submit the entire bid package from the selected vendor to ATS including the Contract Award, Contract Documents, BABA Materials Certification, Notice to Proceed, Bid Tabulation, and explanation of selection bidder if not the lowest bidder. Documents are submitted to doh.constco@ct.gov copying the Small Cities Program Manager.

If there is a change or addition of products or materials that were listed on the original Materials Certification, an updated itemization must be submitted to ATS, copying the Small Cities Program Manager, with the Change Order to ensure BABA requirements are implemented as needed.

[Attachment 4-17:
Materials Certification](#)

Step 14: Submit Interim Monitoring Checklist

Once a contract has been executed and construction has started, the grantee must begin submitting the Interim Construction Monitoring Checklist to the DOH Construction Specialist. More information on monitoring is included in [Chapter 12: Monitoring and Closeout](#).

[Attachment 12-1
Interim Monitoring
Checklist](#)

Chapter 5: Acquisition

Introduction

This chapter describes the process required to acquire real property for any program-eligible activity funded wholly or partially with DOH funds. ("Real property" includes land with or without structures on it.) Acquisition assisted with DOH funds must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) and current regulations, effective February 2005. This chapter also includes the appeals and record keeping processes for the acquisition of real property.

The following requirements apply to HUD-funded projects, which include those with DOH funds.

There may be situations in which other federal agencies participate with DOH funds in a project (e.g., Rural Development). In this case, a lead agency must be designated and if it is an agency working with funds other than CDBG, that federal agency's policies and requirements must be followed.

Section 5.1 General Acquisition Requirements

For the purposes of this manual, "property to be acquired" refers to any kind of permanent interest such as fee simple title, land contracts, permanent easements, long-term leases (50 years or more), and rights-of-way. Temporary easements are also subject to all of the same rules as other forms of acquisition unless the temporary easement exclusively benefits the property owner. Grantees should also be aware that all methods of acquisition (e.g., purchase, donation, or partial donation) are covered by the URA.

[49 CFR 24.101](#)

Acquisition rules must be followed whenever:

- The grantee undertakes the purchase of property directly;
- The grantee hires an agent, private developer, etc. to act on their behalf; and
- The grantee provides a nonprofit, or for-profit entity organization with funds to purchase a property; or
- The grantee provides federal assistance to individuals who are acquiring their own home (i.e. homebuyer assistance program).

Tip: HUD Handbook 1378, Chapter 5, recently updated, is a resource available for acquisition information and is available at HUD's web site:

<https://www.hud.gov/sites/documents/1378C5CPDH.PDF>

The URA regulations can also be downloaded from the Federal Highway Administration's website:

<http://www.fhwa.dot.gov/legsregs/directives/fapg/cfr4924a.htm>

Note: The first step grantees should consider before undertaking any acquisition is a title search to determine the legal owner of the property.

Grantees must also adhere to environmental review requirements as they relate to acquisition including the requirements regarding options and conditional contracts. Refer to [Chapter 2: Environmental Review](#) for detailed guidance.

Section 5.2 Voluntary Acquisitions and Donations

Grantees must understand the critical difference between voluntary and involuntary sales to ensure compliance with all applicable rules. There are protections for sellers in both voluntary and involuntary sales. The key difference between the two types of acquisition is that when a voluntary sale occurs, there can be no threat of eminent domain. Regardless of the form of acquisition used, it is strongly recommended that the grantee maintain a log of contacts with the owner in the acquisition file.

NOTE: The use of federal funds may not be originally anticipated during the conceptual phase or at the beginning of a project. Therefore, grantees should proceed with caution if federal resources could be introduced later in the project.

Acquisition activities are subject to the URA if there is intent to acquire property for a federal or federally- assisted project at any point during the project.

[49 CFR 24.101](#)

The URA recognizes three general types of purchases as potentially voluntary. Generally, they are:

1. Purchases in which persons are acting on behalf of an agency with the power of eminent domain but the community states in writing it will not to use this power

- *Example:* The grantee has identified parcel(s), but it will not use its powers to obtain the property through condemnation. The buyer must inform the seller of this fact in writing and, if the offer is not accepted, be prepared to look for another property. The property will not be taken using the condemnation process.

[Handbook 1378,
Chapter 5, Paragraph 5-3 B](#)

2. **Purchases where the agency or person does not have the power of eminent domain**

- *Example:* A nonprofit organization without the power of eminent domain is looking for properties suitable for purchase, rehabilitation, and resale. All their negotiations must be conducted in accordance with the rules for voluntary acquisition.

3. **Purchases of property from government agencies (federal, state, or local) where the grantee does not have the power of eminent domain over the other entity.**

- *Example:* A nonprofit organization without the power of eminent domain selects a vacant lot that is owned by the Corps of Engineers. The nonprofit organization would never be able to purchase it if the Corps is not agreeable to their offer.

Sometimes there is confusion about what is actually considered "voluntary." A common misconception is that "willing seller" or "amicable agreement" means a transaction is "voluntary." This is not true under URA. The applicable requirements of the regulations at 49 CFR 24.101(b)(1)-(5) must be satisfied for a transaction to be considered voluntary.

[49 CFR 24.101\(b\)\(1\)-\(5\)](#)

Each type of voluntary acquisition, and the URA requirements pertaining to each, is described as follows:

- The public notice, advertisements and literature should include a description of what the grantee intends to purchase, its reasons, and any conditions of which a seller should be aware.
- The voluntary acquisition policy must state that if a mutually satisfactory agreement cannot be reached, the grantee will not buy or condemn the property for the same purpose.
- The grantee should indicate that owner-occupants are not eligible for relocation benefits in the public notice and the acknowledgement form should be attached to the purchase offer.

While owner-occupants of a property acquired through voluntary acquisition are not eligible for relocation benefits, all tenants in legal occupancy (including non-residential occupants) are protected by the URA and are eligible for relocation benefits under the URA. (See [Chapter 8: Fair Housing and Equal Access](#) for more information.)

Voluntary Acquisition by a Grantee or Persons Acting on Behalf of a Grantee with the Power of Eminent Domain

To be considered a voluntary acquisition by a purchaser with the power of eminent domain, the property may not be part of a planned or designated project area where substantially all the property in the area will be purchased within a specified time frame.

The search for alternative sites for the project or activity may be limited to one geographic area, but if none of the owners are willing to sell voluntarily, the grantee must be prepared to look in another area for a suitable site. Where an agency wishes to purchase more than one site within a general geographic area on this basis, all owners are to be treated in an equivalent or like manner.

If a grantee determines that a specific site is necessary for a program or activity it is planning to undertake, then the sale cannot be considered voluntary. It is assumed that, if negotiations fail, the grantee could ultimately acquire the property through condemnation. Thus, the acquisition is not considered voluntary.

[Handbook 1378,
Chapter 5, Paragraph 5-3 A](#)

Note: Temporary or permanent easements are only very rarely not part of a planned, designated project as defined above; therefore, easements are discussed under Section 5.3: Involuntary Acquisitions.

If someone else, such as a private developer or realtor, is authorized to act on the grantee's behalf in negotiating the purchase, and the grantee is prepared to intervene and use condemnation if the negotiations are unsuccessful, the acquisition is not considered voluntary.

In order to be voluntary, the grantee must meet all the requirements listed below and inform the property owner in writing that:

- Federal funds are involved in the transaction; however, the grantee will not use its power of eminent domain if negotiations fail to result in an amicable agreement; and

- The grantee's estimate of the market value for the property to be acquired as outlined below.

To estimate market value in a voluntary acquisition, grantees must follow specific procedures:

- A formal appraisal is *not* required by the URA in voluntary acquisitions. However, the purchase may involve a private lender requiring an appraisal.
- While an appraisal for voluntary transactions is **not required**, grantees may still decide that an appraisal is necessary to support their determination of market value. Grantees must have some reasonable basis for their determination of market value.
- If an appraisal is not obtained, someone with knowledge of the local real estate market must make this determination and document the file.

After a grantee has established a market value for the property and has notified the owner of this amount in writing, a grantee may negotiate freely with the owner in order to reach an agreement. Since these transactions are voluntary, negotiations may result in agreement for the amount of the original estimate, an amount exceeding it, or for a lesser amount.

Although not required by the regulations, it could be appropriate for grantees to apply the URA administrative settlement concept and procedures in the URA regulations to negotiate amounts that exceed the original estimate of market value (if they can demonstrate that the offer was reasonable and necessary to accomplish the project). If grantees anticipate they will offer an amount greater than market value, they must submit a request in writing and provide supporting documentation to DOH for a basis to pay an amount that is more than market value. DOH must provide approval prior to payment (cautionary note: this may establish a dangerous precedent).

[49 CFR 24.102\(i\)](#)

Grantees cannot take any coercive action in order to reach agreement on the price to be paid for the property.

Voluntary Acquisition by Organizations without the Power of Eminent Domain (Including Nonprofits and Individuals)

Nonprofit organizations and individual buyers generally do not have the power of eminent domain. Under such circumstances, the requirements for URA are limited. In these types of purchases, the buyer, who could be a private citizen, a developer, or an organization, must inform the seller of three things in writing:

[Handbook 1378, Chapter 5, Paragraph 5-3 B](#)

1. The buyer does not have the power of eminent domain,
2. Federal funds are involved in the acquisition of their real estate, and the owner will not be eligible for relocation benefits, and
3. An estimate of the fair market value of the property, provided by a licensed real estate agent.

After the buyer/grantee has determined the property's market value and has notified the owner of this amount in writing, the buyer may negotiate freely with the owner to establish the purchase price. If the seller refuses to accept the offer, the buyer/individual must look for another property to purchase.

The seller must be notified of the preceding information using Attachment 5-1 from HUD Handbook 1378—Disclosures to Seller with Voluntary, Arm's Length Purchase Offer. If, for any reason, the seller is not informed of these facts prior to closing, the seller should be immediately informed and allowed to agree without penalty.

[Attachment 5-1
Notice to Owner](#)

These notice requirements may appear to only protect the seller in a voluntary transaction; however, they also help to protect the grantee from after-the-fact claims by sellers. The notice assists the grantee/ buyer to document that the owner-occupant was fully advised that their purchase price was voluntarily negotiated, and they will not be eligible for relocation assistance. All organizations and individuals with DOH funds must comply with this requirement.

Tip: Homebuyers assisted with DOH funds to purchase a home fall under this type of acquisition. Homebuyers must provide the requisite information to the sellers of homes to be purchased.

Voluntary Acquisition of Government Property

Acquisition is considered voluntary when the property is owned by a government agency and the buyer does not have the power of eminent domain. Grantees and individual buyers do not possess the legal authority to condemn government-owned property.

[49 CFR 24.101 \(b\)\(3\)](#)

Donations of Property

Voluntary acquisition includes donations of real property; however, the owner must be fully informed of his or her rights under the URA, including the right to receive a payment for the property. In addition, the owner must acknowledge his or her URA rights and release the grantee, in writing, from its obligation to appraise the property. The grantee must keep this acknowledgement in the project file. Attachment 5-2 provides a sample form entitled "Sample Acknowledgement of Acquisition and Relocation Rights and Benefits under the Uniform Relocation Act."

[Handbook 1378,
Chapter 5,
Paragraph 5-5](#)

[49 CFR 24.108](#)

[Attachment 5-2:
Sample Acknowledgement
of Rights](#)

Section 5.3 Involuntary Acquisitions

Use of CDBG Funds and Eminent Domain

No CDBG funds may be used to support any federal, state or local projects that seek to use the power of eminent domain unless eminent domain is employed for a public use.

The types of projects that meet the definition of public use include: mass transit, railroads, airports, seaports or highway projects, as well as utility projects which benefit or serve the general public or other structures designated for use by the general public or which have other common carrier or public utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of an immediate threat to public health and safety or brownfields as defined in the Small Business Liability Relief and Brownfield Revitalization Act. Public use cannot include economic development projects that primarily benefit private entities. Grantees contemplating the use of eminent domain for any use or project should contact DOH for further guidance prior to proceeding.

Easements

Temporary easements are subject to all of the same rules as other forms of acquisition with one exception. The exception is a situation where the easement is for the exclusive benefit of the property owner. For example, if a grantee obtained a temporary easement for parking construction equipment in the yard of the home that is being rehabilitated with CDBG funds, the easement would exclusively benefit the owner and would not be subject to the URA.

Otherwise, the URA applies. For example, if a grantee is installing a new water or sewer line and requires permanent easements from property owners along the path of the line to install the line and ensure access for maintenance and repairs over time, permanent easements will be required and subject to the URA. If a project involved building a water tower that would benefit a low- and moderate-income (LMI) area and a temporary right of way would be required for construction vehicles while it is being built, the purchase of the needed temporary easement would be covered by the URA.

Guidance on valuation/appraisals for easements may be found later in this section.

Involuntary Transaction Requirements

Involuntary transactions are those that do not meet the requirements previously described for voluntary transactions. In accordance with the requirements of the URA, for involuntary transactions, the grantee must:

[Handbook 1378,
Chapter 5, Paragraph 5-4](#)

- Notify the seller of the agency's interest to acquire their property;
- Obtain an appraisal in compliance with the URA and invite the seller to accompany the appraiser;
- Notify the owner and, if applicable, any tenants of their URA protections;
- Determine the fair market value of the property based on the appraised value (reviewed by a Review Appraiser)

- Offer the fair market value for the property being acquired; and
- Complete the sale as expeditiously as possible.

Notification Requirements

There are two key notices that grantees must issue when undertaking an involuntary acquisition:

- Notify the seller of the agency's interest to acquire their property by sending a Notice to Owner or a Notice of Intent to Acquire. Grantees should exercise caution if they choose to send a Notice of Intent to Acquire rather than a Notice to Owner as discussed in this section. (The Notice of Intent triggers relocation eligibility for owner-occupants and tenants.)
- After an appraisal is complete (and reviewed by a review appraiser), the grantee must determine the amount of the offer and send the owner a Notice of Just Compensation (the full amount of the determined value). This Notice establishes the definite date for relocation benefits eligibility for all persons with legal residency, including non-residential occupants.

[Handbook 1378,
Chapter 5 Paragraph 5-4\(A\)\(1\)](#)

Timing of URA Coverage

It is important for grantees to know that the timing of an acquisition can trigger URA requirements. Regardless of the source of funds, any acquisition of property made by a state agency, on or after the date of submission of the DOH application for financing of an activity using that property, is subject to the URA.

- If an acquisition took place prior to application submission, it can be subject to the URA if DOH finds clear evidence that the purchase was done in anticipation of obtaining DOH funds for an activity.
- The URA also applies if an agency has reimbursed itself for the acquisition with non-federal funds (i.e., general funds) if the project's end result is a federally-assisted project.

[Handbook 1378,
Chapter 2 Paragraph 2-3H](#)

[Handbook 1378,
Chapter 5 Paragraph 5-4A](#)

DOH considers once a project is publicly announced and federal funds will be sought (date the public hearing for the application is advertised), your project is subject to NEPA/CEPA.

Notice to Owner

The Notice to Owner should be sent as soon as feasible after a site is selected. See Attachment 5-3 for a Sample Notice to Owner of this Chapter.

This Notice:

- Expresses the agency's initial interest in acquiring the property.

[Attachment 5-3:
Sample Notice to Owner
\(Involuntary\)](#)

Chapter 5: Acquisition

- Informs the owner that the agency must conduct an appraisal of the property to establish fair market value, and that the owner has the right to accompany the appraiser.

[Handbook 1378,
Chapter 5, Paragraph 5-4 A](#)

- States that the owner will be offered fair market value (just compensation) and what costs will also be covered.

- Informs the owner about the protections provided by the URA.

[49 CFR 24.102\(b\)](#)

The grantee should also send HUD's brochure (HUD Form 1041- CPD) entitled, "When a Public Agency Acquires Your Property." Refer to Attachment 5-4 of this chapter or download it from the DOH web site. The booklet explains the basic protections afforded the property owner by law.

[Attachment 5-4:
"When a Public Agency
Acquires Your Property"
brochure](#)

To avoid triggering eligibility for relocation benefits at this time, the Notice to Owner should advise all occupants not to move. The Notice only informs the property owner of the grantee's initial interest in acquiring their property, but it is not a commitment to provide relocation benefits at this point. The following chapter deals with relocation and covers this Notice in detail.

Notice of Intent to Acquire

Some grantees choose to send a Notice of Intent to Acquire instead of a Notice to Owner. A Notice of Intent to Acquire (Attachment 5-5) must contain all the information included in a Notice to Owner, but would also state that the agency does intend to acquire the property, rather than expressing a preliminary statement of interest. The Notice should advise all occupants not to move.

[Attachment 5-5: Sample
Notice of Intent to Acquire](#)

NOTE: Grantees should be aware that this Notice triggers eligibility for relocation benefits by occupants and there is the risk that occupants might move prior to the establishment and written offer of just compensation. Therefore, grantees should exercise caution if they choose to send a Notice of Intent to Acquire.

Basis for the Determination of Just Compensation

The written offer to the owner contains the just compensation and summary statement and is sent after an appraisal is complete and the agency has determined just compensation.

Once this amount has been determined, this written offer should be delivered promptly. A sample is provided as Attachment 5-6.

- The delivery date of this written offer constitutes the date that triggers relocation eligibility related to the acquisition.

[Attachment 5-6:
Sample Statement of the
Basis for the Determination
of Just Compensation](#)

- This written offer must include an offer for the full amount of the just compensation.

[Handbook 1378,
Chapter 5, Paragraph 5-4 L\(4\)](#)

[49 CFR 24.102 \(d\)](#)

A summary statement must be included that summarizes the basis for the should provide:

- A statement of the amount offered as just compensation,
- A description and location of the property to be acquired, and
- Identification of the buildings, structures, equipment, and fixtures that are included in the offer.

[49 CFR 24.102\(e\)](#)

Notice of Intent Not to Acquire

If the grantee decides not to buy or condemn a property at any time after the Notice of Intent to Acquire or Notice to Owner has been sent to the property owner, the grantee must send written notification, "The Notice of Intent Not to Acquire" to the owner and any tenants occupying the property. This written notice must be sent within 10 days of the decision not to acquire. Sending this notice will assist in keeping all affected persons informed of the grantee's actions.

[49 CFR 24.5](#)

DOH provides a sample Notice of Intent Not to Acquire (See Attachment 5-7). The grantee should document the reason(s) for deciding against acquiring the property.

[Attachment 5-7
Sample Notice to Not
Acquire](#)

Administering Notices

Notices should be sent by certified or registered mail, return receipt requested, or hand delivered by agency staff. Grantees must document receipt of the notices by the owner or occupant. If the owner or occupant does not read or understand English, the grantee must provide translations and assistance. Each notice must give the name and telephone number of agency staff that may be contacted for further information.

Appraisals

For acquisitions requiring the estimation of fair market value, the URA requires only one appraisal and a review of this appraisal by a qualified person. The following sections describe the contents of an appraisal and appraiser qualifications.

Waiver Valuation

An appraisal is not required under two circumstances: (1) when a property is being donated and owner has waived his/her rights; or (2) when a property has a value estimated at \$10,000 or less.

[Handbook 1378, Chapter 5,
Paragraph 5-4 E](#)

Chapter 5: Acquisition

If an agency determines that a formal appraisal is not required, then the valuation process used is called a waiver valuation.

[49 CFR 24.102\(c\)\(2\)](#)

The determination that a property has a value less than \$10,000 must be based on a review of available data by someone who has sufficient understanding of the local real estate market. This decision must be documented in the project file.

[49 CFR 24.102\(2\)\(ii\)\(B\)](#)

[49 CFR 24.2\(a\)\(33\)](#)

A waiver valuation is not appropriate when the following situations arise:

- The use of eminent domain is anticipated;
- The anticipated value of the proposed acquisition is expected to exceed \$10,000;
- Possible damages to the remainder property exist;
- Questions on highest and best use exist;
- The valuation problem is complex; or
- Hazardous material/waste may be present.

[Handbook 1378, Chapter 5,
Paragraph 5-4 E \(1\)](#)

Note: If the agency acquiring a property offers the property owner the option of having the property appraised, and the owner chooses to have an appraisal, the agency shall obtain an appraisal and not use the waiver valuation method described above.

Easements

As outlined above, a grantee must obtain an appraisal for any property, including easements, estimated to be worth more than \$10,000. For easements worth less than \$10,000, the grantee can use the Easement Appraisal Form. This form, which is Attachment 5-8, summarizes the information that the appraiser grantee must have on file to document the estimated value of the property.

[Attachment 5-8:
Easement Appraisal Form](#)

If an owner chooses to donate the property for the easement, the grantee must document that the owner has acknowledged he/she has a right to the involuntary acquisition process, including appraisal, and that he/she is choosing to waive his/her rights under this process. Use Attachment 5-2 for this purpose.

[Attachment 5-2:
Sample Acknowledgement
of Rights](#)

Appraiser Qualifications

For properties estimated to be worth more than \$10,000, an appraisal must be conducted. There are several minimum requirements for appraisers, including:

[Connecticut General Statute
Sec 20-501](#)

- An appraiser must hold a Connecticut appraiser's license. A copy of the license must be included in the acquisition or procurement file.
- Grantees must select Connecticut licensed appraisers using proper procurement procedures.
- A fee appraiser must be state licensed or certified in accordance with Title XI of the Financial Institutions Reform Recover and Enforcement Act (FIRREA) of 1989. [49 CFR 24.103\(d\)\(2\)](#)
- Appraisers, or persons performing the waiver valuation, must not have any interest—either direct or indirect—with the owner or property they are to review. This would be a conflict of interest. [49 CFR 24.102\(n\)\(1\)](#)
- No person shall attempt to unduly influence or coerce an appraiser or waiver valuation preparer regarding any valuation or other aspect of an appraisal.
- Persons functioning as negotiators may not supervise nor formally evaluate the performance of any appraiser or waiver valuator. (49 CFR 24.102(n)(2)) [49 CFR 24.102\(n\)\(2\)](#)
- No appraiser may negotiate on the agency's behalf if he or she performed the appraisal, review or waiver valuation, on the property. There is an exception for properties valued at \$10,000 or less [49 CFR 24.102 \(n\)\(3\)](#)

Contracting for an Appraisal

In order to procure an appraiser, the grantee should request statements of qualifications from a number of local appraisers, review those qualifications, and employ only qualified appraisers. (See [Chapter 4: Procurement](#) for more information on procurement of professional services.)

[Handbook 1378, Chapter 5, Paragraph 5-4 J\(11\)](#)

The grantee must execute a professional services contract with an independent appraiser. The contract must include a detailed scope of services that the appraiser will perform. See Attachment 5-9 Guide for Preparing Appraisal Scope of Work. Payment for the appraiser's services, or waiver valuation, must not be based on the amount of the resulting property value.

[Attachment 5-9: Guide for Preparing Appraisal Scope of Work](#)

Appraisal Process & Criteria

Appraisals must meet nationally/state-recognized industry standards. The appraiser may not use race, color, religion, or the ethnic characteristics of a neighborhood in estimating the value of residential property. The contract must also specify the content requirements of the appraisal report.

Chapter 5: Acquisition

The grantee or the appraiser must invite the property owner in writing to accompany the appraiser during inspection of the property. This notice should be given before the appraisal is undertaken. A copy of the notice should be placed in the property acquisition file along with evidence of receipt by the owner.

At a minimum, all appraisals must contain the following:

- The purpose and function of the appraisal.
- A statement of the assumptions and limiting conditions affecting the appraisal.
- An adequate legal description of the property, any remnants not being acquired, and its physical characteristics.
 - This should also include key information such as title information, location, zoning, present use, highest and best use, and at least a five-year sales history of the property.
- An explanation of all relevant approaches to value.
 - If sales data are sufficient, the appraiser should rely solely on the market approach.
 - If more than one method is used, the text should reconcile the various approaches to value and support the conclusions.
- A description of comparable sales.
- A final statement of the value of the real property.
 - For partial acquisitions, the appraisal should also give a statement of the value of damages and benefits to the remaining property.
- The effective date of the valuation appraisal.
- A signature and certification of the appraiser.

Review of Appraisal

After the initial appraisal is conducted, a review must be made by a Connecticut licensed appraiser under written contract. The review must be written, signed and dated. (See Attachment 5-10 for a sample Review Appraisal document.)

[Attachment 5-10: Sample Review Appraisal](#)

The review appraiser must examine all appraisals to check that the appraisal meets all applicable requirements, and to evaluate the initial appraiser's documentation, analysis, and soundness of opinion.

[49 CFR 24.104](#)

If the review appraiser does not approve or accept an appraisal, it may be necessary to seek a second full appraisal. If the review appraiser does not agree with the original appraisal and it is not practical to do a second appraisal, the review appraiser may re-evaluate the original appraisal amount.

Establishing Just Compensation

After a review of the appraisal, the grantee must establish just compensation and present this in a written offer to the owner.

Just compensation cannot be less than the appraised market value. In determining this amount, the grantee (not the appraiser) may take into account the benefit or detriment that the upcoming project will have on any remaining property at the site.

[49 CFR 24.102\(d\)](#)

If the owner retains or removes any property improvements, (for example, permanent fencing) the salvage value of the improvement should be deducted from the offer of just compensation.

If an entire parcel is not being acquired, and the agency determines that the owner would be left with an uneconomic remnant, the agency must offer to purchase this remnant. An uneconomic remnant is defined as a parcel of real property with little or no value to the owner. An example of this might be a remnant not large enough for future use or without access to a street.

[49 CFR 24.102\(k\)](#)

The grantee must prepare a written Statement of the Basis for the Determination of Just Compensation to be provided to the property owner (see Attachment 5-6). In addition to the initial written purchase offer, this Statement must also include:

[Attachment 5-6:
Sample Statement of the
Basis for the Determination
of Just Compensation](#)

- A legal description and location identification of the property;
- Interest to be acquired (e.g., fee simple, easement, etc.);
- An inventory of the buildings, structures, fixtures, etc., that are considered to be a part of the real property;
- A statement of the amount offered as just compensation;
- If there are tenant-owned improvements, the amount determined to be just compensation for the improvements and the basis for the amount;
- If the owner keeps some of the property improvements, the amount determined to be just compensation for these improvements and the basis for the amount;
- Any purchase option agreement should be attached; and
- If only a part of the parcel is to be acquired, a statement apportioning just compensation between the actual piece to be acquired and an amount representing damages and benefits to the remaining portion.

A copy of this Statement should be placed in the property acquisition file.

Chapter 5: Acquisition

Negotiating the Purchase

As soon as feasible after establishing just compensation, the grantee must send the owner a Written Offer to Purchase which includes the Statement of the Basis for the Determination of Just Compensation (see the sample provided as Attachment 5-11). As with all notices, receipt must be documented. If the property is occupied by a tenant, owner or business, the grantee must issue a written Notice of Eligibility for Relocation Benefits as soon as possible after the written offer to purchase (also called the "Initiation of Negotiations") is made.

[Attachment 5-11:
Sample Written Offer to
Purchase](#)

The most recent URA regulations emphasize that the agency should make reasonable efforts to conduct face-to-face negotiations with the owner or the owner's representative. The owner may present relevant information that bears on the determination of value and may suggest modifications to the proposed terms and conditions of the purchase. The agency must give these suggestions full consideration.

[48 CFR 24.102\(f\)](#)

If the owner's information or suggestions would warrant it, the agency may ask the appraiser to update the current appraisal or order another appraisal. If this results in a change in just compensation, the agency must adjust the offer.

[Handbook 1378,
Chapter 5, Paragraph 5-4 M](#)

[49 CFR 24.106](#)

The owner must be paid for costs to transfer title to the agency. These costs may be advanced instead of reimbursed and they include recording fees, legal fees, prepayment penalties, and incidental costs.

Documentation of negotiation proceedings should be placed in the project acquisition file. Grantees should be sure to thoroughly document the justification for payment if it is more than the original offer of fair market value. *The grantee must get written pre-approval from DOH if the offer exceeds the amount determined to be fair market value.*

Closing the Sale or Condemnation

Before the agency takes possession of the property, the owner must be paid the agreed-upon purchase price. If the agency is taking the property through condemnation, the agency must deposit the full amount of just compensation with the court.

[49 CFR 24.106](#)

Willing Seller—No Condemnation Action Taken

If negotiations are successful in an involuntary acquisition, a contract for sale must be prepared and executed, and transfer documents secured. If payment exceeds the market value, and the grantee failed to obtain pre-approval of the amount from DOH the acquisition file must include a written justification of the amount paid. DOH will review these justifications carefully to ensure they are reasonable, and if the payment is determined to be unjustified, the payment will be disallowed.

[49 CFR 24.102\(j\)](#)

At the conclusion of settlement, the grantee must give the owner a Statement of Settlement Costs (see Attachment 5-12), which identifies all settlement costs regardless of whether they are paid at, before, or after closing, and must clearly separate charges paid by the owner. The Statement of Settlement Costs must be dated and certified as true and correct by the closing attorney or person handling the transaction. DOH requires that grantees must also obtain a copy of the cancelled check to document receipt for the purchase price,

[Attachment 5-12: Sample of Statement of Settlement Costs](#)

Condemnation Procedures

If negotiations are unsuccessful, condemnation proceedings may be initiated. Condemnation is a legal action and must be carried out by a city/county attorney and the city/county governing body should authorize the proceeding by resolution.

Copies of surveys and maps of the subject property must be filed and recorded in the applicable county office. Condemnation proceedings can then be initiated in the Circuit Court of the county in which the property is located. The grantee must deposit the amount determined to be just compensation in escrow with the court.

The petition filed in Circuit Court must include:

- Detailed project narrative sufficient to support the use of eminent domain.
- A legal description of the property being sought and its current and proposed use.
- An application to the court to appoint commissioners to award the amount of compensation the owner of the property is entitled to receive.

The court will appoint three qualified commissioners to visit the property and establish its fair market value. Within 15 days of their appointment, the commissioners will return a written report to the court establishing fair market value. At this time, the court will issue a summons to the owner, which states the amount the commissioners establish as the fair market value.

The owner has 20 days from the date he or she receives the summons to respond. If the owner does not respond during this period, the court will enter an interlocutory judgment that sets the amount of compensation and conveys title. The owner can file an exception to the interlocutory judgment within 30 days from the date the judgment was entered.

All exceptions relating to compensation will be determined by jury trial in the Circuit Court. The jury will set the amount of compensation. The owner can appeal the Circuit Court judgment to the Court of Appeals.

The city/county must pay the owner's court costs as well as its own court costs. If the process moves into appeal, the amount of compensation will be the amount established by the highest court.

Chapter 5: Acquisition

Appeals

Grantees must promptly review all appeals in accordance with the requirements of applicable laws and the URA. Grantees must develop written procedures to resolve disputes relating to their acquisition, relocation, and demolition activities. These written procedures must be communicated to all potentially affected parties prior to the initiation of negotiations.

[49 CFR 24.10](#)

Refer to [Chapter 1: Project Administration](#) for information on grievance procedures.

Who May Appeal

Any person, family, or business directly affected by the acquisition and/or relocation activities undertaken by a grantee may appeal. All appeals must be in writing and must be directed to the chief executive officer of the grantee and the highest official of the administering agency undertaking the acquisition, relocation or demolition activity. A protestor must exhaust all administrative remedies as outlined in the grantee's written procedures prior to pursuing judicial review.

Basis for Appeals

Any person, family, or business that feels that the grantee failed to properly consider his or her written request for financial or other assistance must file a written appeal with the agency personnel identified within 60 days of the date of receipt of the administering agency's written determination denying assistance.

Review of Appeals

The grantee shall designate a Review Officer to hear the appeal. The administrative officer of the unit of local government or his/her designee provided neither was directly involved in the activity for which the appeal was filed. The grantee shall consider all pertinent justification and other material submitted by the person and all other available information that is needed to ensure a fair and full review of the appeal.

[49 CFR 24.10\(e\)\(f\)\(g\)\(h\)](#)

Promptly after receipt of all information submitted by a person in support of an appeal, the grantee shall make a written determination on the appeal, including an explanation of the basis on which the decision was made and notify the person appealing a grantee's decision.

If the appeal is denied, the grantee must advise the person of his or her right to seek judicial review of the grantee's decision.

Section 5.4 Section 104(d) One-for-One Unit Replacement

The basic concept behind the Section 104(d) requirements is that CDBG funds may not be used to reduce a jurisdiction's stock of affordable housing.

The 104(d) regulations state that: "All occupied and vacant occupiable low- and moderate-income dwelling units that are demolished or converted to a use other than as low- and moderate-income dwelling units in connection with an assisted activity must be replaced with comparable low income dwelling units."

[24 CFR 42.375\(a\)](#)

Before obligating or expending funds that will directly result in demolition or conversion, the grantee must make public and submit to DOH the information required in the grantee's Residential Anti-displacement and Relocation Assistance Plan.

There are four key issues in understanding the one-for-one replacement requirement.

- Which dwelling units must be replaced (and which need not be replaced)?
- What counts as a replacement dwelling unit?
- What information must be made public and submitted to the state before execution of contracts?
- What is the exception to one-for-one replacement rules?

All replacement housing must initially be made available for occupancy at any time during the period beginning one year before the grantee makes public the information required under the Residential Anti-displacement and Relocation Assistance Plan and ending three years after the commencement of the demolition or rehabilitation related to the conversion. Also, a One-for-One Replacement Summary Grantee Performance Report must be submitted before relocation activities can begin and kept updated (informing DOH of updates) for the low- and moderate-income units demolished or converted in the project. See Attachment 5-13 for a sample of the One-for-One Replacement Summary Grantee Performance Report.

[Attachment 5-13: One-for-One Replacement Summary Grantee Performance Report](#)

Dwelling Units That Must Be Replaced

Grantees must replace a housing unit if the unit meets all three conditions listed below:

- Condition 1: It meets the definition of low/moderate dwelling unit. A low/mod dwelling unit is defined as a dwelling unit with a market rent (including an allowance for utilities) that is equal to or less than the Fair Market Rent (FMR) for its size. A reduced rent charged to a relative or on-site manager is not considered market rent.

[HUD Fair Market Rents](#)

AND

Chapter 5: Acquisition

- Condition 2: It is occupied or is a vacant occupiable dwelling unit. A vacant occupiable dwelling unit is defined as:
 - A dwelling unit in standard condition (regardless of how long it has been vacant); or
 - A vacant unit in substandard condition that is suitable for rehabilitation (regardless of how long it has been vacant); or
 - A dilapidated unit, not suitable for rehabilitation, which has been legally occupied within three months from before the date of agreement.

AND

- Condition 3: It is to be demolished or converted to a unit with a market rent (including utilities) that is above the FMR or to a use that is no longer for permanent housing (including conversion to a homeless shelter).

It is important to note that the income of the particular occupant is irrelevant in one-for-one replacement. It is also important to note that local funds used to match a CDBG grant (including those in excess of the required match amount) are defined as any monies expended to support CDBG activity, which means that the use of the matching funds for the demolition or conversion of a unit that meets the criteria listed above would also trigger the Section 104(d) replacement requirements.

Criteria for Replacement Units

Replacement low- and moderate-income dwelling units may be provided by any public agency or private developer. Replacement units must meet all of the following criteria:

- Replacement units must be located within the grantee's jurisdiction and, to the extent feasible and consistent with other statutory priorities, the units shall be located within the same neighborhood as the units lost.
- Applicable statutory priorities include those promoting housing choice, avoiding undue concentrations of assisted housing, and prohibiting development in areas affected by hazardous waste, flooding, and airport noise.
- Replacement units must be sufficient in number and size to house no less than the number of occupants who could have been housed in the units that are demolished or converted.
- The number of occupants who could have been housed in units shall be determined in accordance with applicable local housing occupancy codes. The grantee may not replace those units with smaller units (e.g., a 2-bedroom unit with two 1-bedroom units) unless the grantee, before committing funds, must provide information to citizens and to DOH demonstrating that the proposed replacement is consistent with the housing needs of lower-income households in the jurisdiction.
- Provided in standard condition and vacant; rehabilitation of occupied units toward replacement does not count. Replacement low- and moderate-income dwelling units may include units that have been raised to standard from substandard condition if:

- The unit must have been vacant for at least three months before execution of the agreement covering the rehabilitation (e.g., the agreement between the grantee and the property owner); and
- No one was displaced from the unit as a direct result of the assisted activity.

Provided within a four-year timeframe:

- Replacement units must be initially made available for occupancy at any time during the period beginning one year before the grantee's submission of the information required under 24 CFR 570.606(c) and ending three years after the commencement of the demolition or rehabilitation related to the conversion. [24 CFR 570.606\(c\)\(1\)\(iii\)](#)
- This period may slightly exceed four years. However, DOH requires all replacement units to be available before the project is closed.

A grantee that fails to make the required submission will lose the year before submission for counting replacement units

- Affordable for 10 years.
- Replacement units must be designed to remain LMI dwelling units for at least 10 years from the date of initial occupancy.
- A key factor in projecting affordability is the character of the neighborhood in which the replacement units are located (i.e., neighborhood where current market rents are moderate and projected future rents are expected to remain within future FMRs).
- Replacement low- and moderate-income dwelling units may include, but are not limited to, public housing, existing housing receiving Section 8 project-based assistance, HOME or CDBG- funded units that have at least a 10-year affordability period.

Grantee Submission Requirements

Before a grantee executes a contract committing to provide CDBG funds for any activity that will directly result in either the demolition of low- and moderate-income dwellings units or the conversion of low- and moderate-income dwelling units to another use, the grantee must make public by posting in the Chief Elected Official's (CEO) office and submit the following information in writing to DOH for monitoring purposes:

- Description—A description of the proposed assisted activity.
- Location and number of units to be removed—The location on a map and number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than as a LMI dwelling units as a direct result of the assisted activity.

Chapter 5: Acquisition

- A time schedule for the commitment and completion of the demolition or conversion.
- Location and number of replacement units—The location on a map and the number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units.
- If such data is not available at the time of the general submission, the submission shall identify the general location on an area map and the approximate number of dwelling units by size. Information identifying the specific location and number of dwelling units by size shall be submitted and disclosed to the public as soon as it is available.

Exception to One-for-One Replacement

Replacement is not required if DOH determines that enough standard, vacant, affordable housing serving the jurisdiction is available. A grantee may not execute a contract for demolition or rehabilitation of dwelling units for which an exception is sought until the exception is authorized in writing by DOH.

The one-for-one replacement requirement does not apply to the extent DOH determines, based upon objective data, that there is an adequate supply of vacant lower-income dwelling units in standard condition available on a non-discriminatory basis within the grantee's jurisdiction.

In determining the adequacy of supply, DOH will consider whether the demolition or conversion of the low- and moderate-income dwelling units will have a material impact on the ability of lower-income households to find suitable housing. DOH will consider relevant evidence of housing supply and demand including, but not limited to, the following factors:

- Vacancy rate—The housing vacancy rate in the jurisdiction.
- Number of vacancies—The number of vacant LMI dwelling units in the jurisdiction (excluding units that will be demolished or converted).
- Waiting list for assisted housing—The number of eligible families on waiting lists for housing assisted under the United States Housing Act of 1937 in the jurisdiction. However, DOH recognizes that a community that has a substantial number of vacant, standard dwelling units with market rents at or below the FMR may also have a waiting list for assisted housing. The existence of a waiting list does not disqualify a community from consideration for an exception.
- Consolidated Plan—The needs analysis contained in the State's Consolidated Plan and relevant past predicted demographic changes.
- Housing outside the jurisdiction—DOH may consider the supply of vacant low- and moderate-income dwelling units in a standard condition available on a non-discriminatory basis in an area that is larger than the grantee's jurisdiction. Such additional dwelling units shall be considered if DOH determines that the units would be suitable to serve the needs of lower-income households that could be served by the low- and moderate-income dwelling units that are to be demolished or converted to another use. DOH will base this determination on geographic and demographic factors, such as location and access to places of employment and to other facilities.

Procedure for Seeking an Exception

The grantee must submit a request for determination for an exception directly to DOH. Simultaneously with the submission of the request, the grantee must make the submission public and inform interested persons that they have 30 days from the date of submission to provide to DOH additional information supporting or opposing the request. If DOH, after considering the submission and the additional data, agrees with the request, DOH must provide its recommendation with supporting information to HUD.

Chapter 6: Relocation

Introduction

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

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

The objectives of the URA are:

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

Overview of Requirements

The URA applies to all federally assisted activities that involve the acquisition of real property, easements, or the displacement of persons, including displacement caused by rehabilitation and demolition activities. If CDBG assistance is used in any part of a project, the URA governs the acquisition of real property and any resulting displacement, even if local funds were used to pay the acquisition costs. Private persons, corporations or businesses that acquire property or displace persons for a CDBG-assisted project are subject to the URA. Under the URA, all persons displaced as a direct result of acquisition, rehabilitation, or demolition, for a CDBG-assisted project, are entitled to relocation payments and other assistance under the URA. All acquisitions made in order to support a CDBG activity are subject to the URA. Acquisition that takes place on or after the date of submission of a CDBG application to fund an activity on that property is subject to URA, unless the Grantee shows that the acquisition was unrelated to the proposed CDBG activity. Acquisition that takes place before the date of submission of the application will be subjected to the URA if the Department of Housing (DOH) determines that the intent of the acquisition was to support a subsequent CDBG activity. The URA provisions apply to all types of long term acquisition of property, including when acquiring full fee title, fee title subject to retention of a life estate or a life use, long-term leases (including leases with options for extensions) of 50 years or more, and to permanent and temporary

[49 CFR Part 24](#)

easements necessary for the project. However, the Grantee may apply these regulations to any less-than-full acquisition.

Displacement results when people or a non-residential entity moves permanently as a direct result of the acquisition, demolition, or rehabilitation of property for CDBG-funded projects.

Uniform Relocation and Real Property Acquisition Policies Act (URA) protects all persons who are displaced by a federally-assisted project regardless of their income. However, [Section 104\(d\) of the Housing and Community Development Act](#) (located in the regulations at 24 CFR Part 42) only protects low/moderate income persons (within 80% of the Area Median Income limit for their household size).

[24 CFR Part 42](#)

Section 104(d) requirements focus on the "loss" of low and moderate-income housing rental units) in a community through CDBG-funded demolition or conversion. Section 104(d) has two distinct components:

- People: 104(d) specifies relocation assistance for displaced low- and moderate-income renter households.
- Units: 104(d) requires one-for-one replacement of low and moderate-income dwelling units (as defined by the regulations) that are demolished or converted using CDBG or HOME funds to a use other than low-moderate income permanent housing. More information can be found later in the chapter.

[24 CFR 570.606](#)

Section 6.1 Displacement

In order to understand applicable relocation requirements, it is necessary to understand some key terminology.

Who Is Displaced under the URA and CDBG?

The URA, the CDBG regulations and Section 104(d) each address specific circumstances that would qualify someone as a "displaced person."

[49 CFR 24.2\(a\)](#)

[Handbook 1378,
Chapter 1, Paragraph 1-4 I](#)

Under the URA, the term "displaced person" means:

- A person who moves permanently from the real property after the property owner (or person in control of the site) issues a vacate notice to the person. An owner who refuses to renew an expiring lease in order to evade the responsibility to provide relocation assistance will also trigger URA coverage for the tenant.
- The effective move date of the displaced person is based on whether:
 - If the grantee has site control at the time the grantee submits an application for DOH funds for the project that is later approved, then the household is considered displaced on the submission date of the application; or
 - If the grantee does not have site control when the application for DOH funds, the effective date will be the date the grantee obtains site control.

- A person who moves permanently from the real property after the initiation of negotiations, unless the person is a tenant who was issued a written notice of the expected displacement prior to occupying the property (otherwise known as a "Move-In Notice")
- A person who moves permanently and was not issued a Notice of Non-displacement after the application for DOH funds is approved.

[Handbook 1378:
Chapter 1-4, Paragraph I- 4](#)

Even if there was no intent to displace the person, if a Notice of Non-displacement was not provided, HUD has taken the position that the person's move was a permanent, involuntary move for the project since the person was not given timely information essential to making an informed judgment about moving from the project.

Under CDBG, the regulations define a "displaced person" as someone who moves after a specific event occurs:

- This event establishes a presumption that a project may begin (e.g., date of submission of an application). It is presumed that displacement before this date did not occur "for the project" and is not covered by the URA, unless rebutted by convincing evidence to the contrary.
- It is also presumed that a permanent, involuntary move on or after that date is a displacement "for the project," unless the grantee or state determines otherwise.

HUD must concur in a determination to deny a person relocation benefits on this basis:

- When an owner either evicts a tenant or fails to renew a lease in order to sell a property as "vacant" to a grantee for a HUD-funded project, HUD will generally presume that the tenant was displaced "for the project." (Evictions for serious or repeated violations of the lease are permissible, but the owner must follow state tenant-landlord laws governing eviction.)
- In cases where the tenant was not notified of their eligibility for URA benefits, the grantee is responsible for finding the displaced tenant and providing appropriate relocation assistance, unless the grantee can demonstrate that the move was not attributable to the project.
- CDBG regulations also define a "displaced person" as:
 - A tenant who moves permanently after the DOH-funded acquisition or rehabilitation, and the increased rent is not affordable (they are "economically displaced").

The CDBG program regulations cover "economic displacement," while the URA is silent on this issue. If rents are increased after a CDBG project is completed, and the new rent exceeds 30% of the tenant's gross monthly income, they would be "economically displaced."

[24 CFR 570.606\(b\)\(2\)\(D\)](#)

- The URA also protects the following "displaced persons":
 - A tenant-occupant of a dwelling who receives a Notice of Non-displacement but is required to move to another unit in the building/complex may be considered displaced, if the tenant moves from the building/complex permanently and either:

- The tenant was not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move within the project; or
- Other conditions of the move within the project were not reasonable.
- A tenant who moves permanently after the building has a change from residential use to a public use as a direct result of a CDBG-assisted project (for example, the building now leases units to serve persons who were homeless or require supportive housing). Under the CDBG program, leases of 15 years or more are considered acquisitions for the purposes of the URA.
- A nonresidential tenant who receives a Notice of Non-displacement, but moves permanently from the building/complex, if the terms and conditions under which the tenant may remain are not reasonable.

It is expected that the grantee or property owner will negotiate these terms and conditions. A tenant who believes the offer is unreasonable may relocate and file an appeal seeking assistance as a "displaced person."

When Section 104(d) is triggered:

- The term "displaced person" means any lower-income household that moves from real property permanently as a direct result of the conversion of an occupied or vacant occupiable low- and moderate-income dwelling unit or the demolition of any dwelling unit, in connection with a DOH-assisted activity.

Persons Not Considered Displaced

A person does not qualify as a "displaced person" (and is not entitled to relocation assistance at URA levels), if:

- The person has no legal right to occupy the property under state or local law; or
- The person has been evicted for serious or repeated violation of the terms and conditions of the lease or occupancy agreement or other good cause, the grantee determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance; or
- The person moves into the property after the date of the application for DOH funds and, before moving in, was provided written notice of the project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated or suffer a rent increase) and the fact that he or she would not qualify for assistance as a "displaced person" as a result of the project. See Attachment 6-1 for a sample notice to provide to prospective tenants.

[24 CFR 570.606\(b\)\(2\)\(i\)](#)

[49 CFR 24.2\(a\)](#)

[Handbook 1378,
Chapter 1, Paragraph 1-4 J \(1\)](#)

[Handbook 1378,
Chapter 1, Paragraph 1-4 J \(2\)](#)

[Attachment 6-1: Sample Notice
to Prospective Tenants](#)

People are also not considered displaced if:

[49 CFR 24.2\(a\)](#)

- The person occupied the property for the purpose of obtaining relocation benefits.
- The person retains the right of use and occupancy of the property for life following its acquisition (life estates).
- The person is determined not to be displaced as a direct result of the project. Grantees may not make this determination on their own. Contact DOH for determination assistance.
- The person is an owner-occupant of the property who moves as a result of a voluntary acquisition. (Refer to Chapter 5 of HUD Handbook 1378 and Chapter 5: Acquisition of this Handbook for more information on voluntary acquisition.) (NOTE: Tenants living in properties that are acquired via a voluntary acquisition are covered by the URA regardless of their willingness to move.)
 - [Handbook 1378, Chapter 1, Paragraph 1-4 J \(3\)](#)
 - [Handbook 1378, Chapter 5](#)
- The person leaves due to code enforcement, unless the code enforcement results in rehabilitation or demolition for an assisted project.
- An owner-occupant or tenant who is required to move permanently as a direct result of this rehabilitation or demolition may be eligible for relocation assistance.
- The person, after receiving a notice of eligibility, is notified in writing that he or she will not be displaced.

Such a notice cannot be delivered unless the person has not moved and the agency agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of eligibility.

- The person is an owner-occupant who voluntarily applies for rehabilitation assistance on his or her property. When the rehabilitation work requires the property to be vacant for a period of time, this assistance is considered optional. Refer to [Chapter 7: Housing Rehabilitation](#), for more information.
- The person is not lawfully present in the United States unless denial of benefits would result in "exceptional and extremely unusual hardship" to a lawfully present spouse, child, or parent. This prohibition covers all forms of relocation assistance under the URA including both replacement housing payments (RHP) and moving assistance.
 - [49 CFR 24.2\(a\)](#)

The current URA regulations include a definition of the phrase "exceptional and extremely unusual hardship," which focuses on significant and demonstrable impacts on health, safety, or family cohesion. This phrase is intended to allow judgment on the part of the grantee and does not lend itself to an absolute standard applicable in all situations.

When considering whether such an exemption is appropriate, a displacing agency may examine only the impact on an alien's spouse, parent, or child who is a citizen or lawful resident alien.

An "alien not lawfully present in the United States" is defined as an alien present in the United States who has not been admitted or paroled into the United States pursuant to the Immigration and Nationality Act (8 United States C.1101 et seq) and whose stay in the United States has not been authorized by the United States Attorney General. It includes someone who is in the United States after the expiration of the period of stay authorized by the United States Attorney General or who otherwise violates the terms and conditions of admission, parole, or authorization to stay in the United States.

When a household contains members who are present lawfully but others who are present unlawfully, there are two different computation methods, one for moving expenses and one for replacement housing payments (RHP). For moving expenses, the payment is to be based on the proportion of lawful occupants to the total number of occupants. For example, if four out of five members of a family to be displaced are lawfully present, the proportion of lawful occupants is 80 percent, and that percentage is to be applied against the moving expenses payment that otherwise would have been received.

For the RHP, the unlawful occupants are not counted as a part of the family and its size is reduced accordingly. Thus, a family of five, one of whom is a person not lawfully present in the U.S., would be counted as a family of four. The comparable for the family would reflect the makeup of the remaining four persons and the Replacement Housing Payment (RHP) would be computed accordingly.

Initiation of Negotiations (ION)

The date of the Initiation of Negotiations ("ION") serves as a milestone in determining a person's eligibility for relocation assistance, including moving costs and a replacement housing payment. CDBG regulations establish a program-specific definition of ION as the trigger for issuance of the Notice of Eligibility for Relocation Assistance or Notice of Non-displacement.

For CDBG programs, the term "initiation of negotiations" is defined as the following:

- If the displacement results from privately undertaken rehabilitation, demolition or acquisition, the execution of the grant or loan agreement between the grantee and the person owning or controlling the real property.
- If the displacement results from grantee demolition or rehabilitation and there is no related grantee acquisition, the notice to the person that he or she will be displaced by the project (or the person's actual move, if there is no such notice).
- When there is voluntary acquisition of real property by a grantee, the term "initiation of negotiations" means the actions described above, except that the ION does not become effective, for purposes of establishing eligibility for relocation assistance, until there is a written purchase agreement between the grantee and the owner. (See [Chapter 5: Acquisition](#))

Whenever real property is acquired by a grantee that has the legal power under the Eminent Domain Act of Connecticut and the acquisition is an involuntary transaction, the initiation of negotiations means the delivery of the initial written offer of just compensation by the grantee to the owner to purchase the real property for the project.

[24 CFR 570.606\(b\)\(3\)](#)

After the ION, any person who seeks to rent a unit in the project must be issued a Move-in Notice before executing a lease; otherwise, the project will incur liability for relocation costs if the persons are found to be eligible as displaced persons.

[49CFR 24.2\(a\)](#)

Project

The definition of what is a "project" differs for URA and for Section 104(d):

[Handbook 1378
Chapter 1, Paragraph
1-4 DD](#)

The term project is defined under URA as an activity or series of activities funded with federal financial assistance received or anticipated in any phase. In addition, URA states that program rules will further define what is considered a project.

[49 CFR 24.2\(a\)](#)

Under Section 104(d), a project is an activity or series of activities undertaken with HUD financial assistance received or anticipated in any phase. Section 104(d) benefits are triggered if the activity is a CDBG or HOME funded activity and the HUD assisted activity is part of a single undertaking.

In order to determine whether a series of activities are a project, look at:

- Timeframe—Do activities take place within a reasonable timeframe of each other?
- Objective—Is the single activity essential to the overall undertaking? If one piece is unfinished, will the objective be incomplete?
- Location—Do the activities take place on the same site?
- Ownership—Are the activities carried out by, or on behalf of, a single entity?

Section 6.2 General Relocation Requirements under the URA

The URA covers all types of displaced persons, including both residents and businesses. It also covers the temporary relocation of existing occupants. The following sections of the handbook are sorted by: (1) URA requirements that apply to all persons; (2) URA requirements that apply to displaced residential occupants; (3) URA requirements that apply to temporary relocation; and (4) URA requirements that apply to commercial occupants.

Acquisition and/or relocation of mobile homes is also covered by the URA. Since there are many variables in the ownership and tenancy of mobile homes, grant administrators are asked to consult with DOH before proceeding with the acquisition or relocation of mobile homes.

Following the URA text, this chapter covers Section 104(d). A flow chart summarizing the relocation process can be found as Attachment 6-2 of this chapter.

[Attachment 6-2:
URA Relocation Flow Chart
With Trigger Dates](#)

The requirements in this section apply to all projects where the URA is triggered. The URA relocation process can differ greatly depending upon the funding used in a project and whether an involuntary sale will be involved in the process. Attachment 6-2 provides a typical relocation scenario in a flow chart indicating key dates in the process.

Planning for Relocation

If DOH funds will involve relocation, the grantee must develop written policies and procedures for managing the anticipated relocation caseload in the form of a "relocation plan."

These procedures must be in compliance with all elements of the Final Rule implementing changes to the URA and the Residential Anti-displacement and Relocation Plan previously developed as part of the application for CDBG assistance.

The plan must contain two components:

- A commitment to replace all low- and moderate-income dwelling units that are demolished or converted to a use other than low- and moderate-income housing as a direct result of the use of DOH funds, and
- A commitment to provide relocation assistance required under Section 104(d) of the Housing and Community Development Act.

The plan must be adopted by the local governing body.

A sample of this plan is included as Attachment 6-3 of this chapter.

[Attachment 6-3:
Sample Residential
Anti-displacement
and Relocation Plan](#)

DOH requires that all grantees carrying out housing rehabilitation or public housing modernization projects must create a transition plan and schedule that include the following:

- Clear consideration of tenant accommodations
- Detailed plan and schedule for the moving of tenants
- Hotel/Motel back-up plan
- Cleaning of rehabbed units
- Cleaning and preparing of temporary units

Grantees may wish to consult with a relocation specialist to assist with the transition plan and schedule. For more information on housing rehabilitation and public housing modernization, see [Chapter 7](#).

Advisory Services, Including Relocation Notices

The next step in the process is to provide relocation advisory services. This process requires the grantee to first personally interview the person to be displaced.

The purpose of the interview is to explain the:

- Various payments and types of assistance available,
- Conditions of eligibility,
- Filing procedures, and
- Basis for determining the maximum relocation assistance payment available.

Grantees should use Attachment 6-4: Household Case Record to collect the required information for residential occupants. It is very important that all significant contact with displacees be logged into Section 5 of the Household Case Record.

[Attachment 6-4:
Household Case Record](#)

As a part of advisory services, the URA requires that all occupants receive notices informing them of their various rights.

General Information Notice

The General Information Notice is referred to in [Chapter 5: Acquisition](#) as one of the required notices when there is involuntary acquisition. This is an ***extremely important notice!***

As soon as feasible after grant application, the project administrator must notify each household and/or business that the potential for displacement exists and provide them with a General Information Notice (GIN). The GIN informs residential and non-residential occupants of a possible project, including potential acquisition of the property. A sample of the GIN is provided as Attachments 6-5 of this chapter. The GIN also informs the occupant prior to the initiation of negotiations not to move prematurely, because doing so will jeopardize any assistance that they may be due. By providing occupants with the GIN, the grantee protects themselves from claims for relocation benefits that could have been avoided if the person would not have been displaced.

[Attachment 6-5:
General Information Notice for
Tenants to be Displaced](#)

Notice of Eligibility and Notice of Non-displacement

After grant approval, the grantee should determine who must be displaced and who will be allowed to remain in (or return to) the project.

After making these determinations, the grantee should issue the appropriate relocation notices: either a Notice of Eligibility (for relocation assistance) or a Notice of Non-displacement.

[HUD Handbook 1378, Appendix 6:
Notice of Eligibility for Relocation
Assistance](#)

- The Notice of Eligibility informs occupants who will be displaced of their rights and levels of assistance under the URA.

- The Notice of Non-displacement informs occupants who will remain in or return after completion of their rights under URA and of the terms and conditions of their remaining in the property.

[HUD Handbook 1378, Appendix 4: Notice of Non-displacement](#)

In addition to these notices, copies of the HUD brochures,

"Relocation Assistance to Displaced Homeowner Occupants" and "Relocation Assistance to Tenants Displaced from Their Homes" should be provided to displaced persons (see Attachments 6-6 and 6-7).

[Attachment 6-6: Relocation Assistance to Displaced Homeowner Occupants Brochure](#)

[Attachment 6-7: Relocation Assistance to Tenants Displaced from Their Homes Brochure](#)

Note that these two brochures are for residential relocation only.

There are different requirements for relocation of businesses, farms, and nonprofit organizations. Contact DOH for guidance on non-residential relocation.

Notice to Move

The grantee may issue a 90-Day Move Notice after a Notice of Eligibility has been sent and when the grantee wants to establish the move-out date (see Attachment 6-8). The 90-Day Notice may not be issued until at least one comparable unit has been identified and presented to the residential displaced person.

[Attachment 6-8: 90/30-Day Move Notices](#)

[Handbook 1378, Chapter 2, Paragraph 2-3\(c\)](#)

The 90-day notice must either state a specific date as the earliest date by which an occupant will be required to move, or state that the occupant will receive a further notice, at least 30 days in advance, indicating the specific date by which to move. A flow chart summarizing the relocation process can be found as Attachment 6-9 of this chapter.

[Attachment 6-9: Tenant Assistance/Relocation Process Flow Chart](#)

[Handbook 1378, Chapter 2, Paragraph 2-3\(d\)](#)

Discrimination in Relocation

Obviously, grantees must ensure that there is no discrimination in the relocation process. Individual displacees who have been discriminated against may not know how to take action on their own. Legal action is often too expensive to be a practical solution for them. The grantee must provide assistance in cases of discrimination. There are also different equal opportunity protections for businesses and additional protections for Fair Housing for displaced persons. See [Chapter 8: Fair Housing and Equal Access](#) of this handbook for additional information.

If a displacee has been discriminated against, there are two alternatives:

The displacee can send a complaint to DOH within 180 days of the incident, simply telling DOH what happened. The relocation officer and grant administrator should advise the displacee of this option and assist in preparing the complaint if the displacee desires to make one. Upon receipt of the complaint, DOH

may take one or more of the following steps:

- Investigate to see if the law has been broken;
- Contact the person accused of the violation and try to resolve the discrimination complaint;
- Refer the complaint to a local human rights commission for investigation and possible resolution and/or the Connecticut Commission on Human Rights and Opportunities, www.ct.gov/chro (phone number [1-800-477-5737](tel:1-800-477-5737)).
- Recommend that the displacee go to court.

A suit may be filed in federal court, in which case the displacee should consult either an attorney or the local Legal Aid Society for assistance. The relocation officer should advise the displacee regarding both sources of help. If the court finds in favor of the displacee, it can stop the sale of the house or the rental of the apartment to someone else, and award the displacee damages and court costs.

Section 6.3 Residential Displacement under the URA

Residential occupants who will be displaced are entitled to receive a range of benefits under the URA. These include: (1) advisory services; (2) offer of a comparable replacement unit; (3) replacement housing payments; and (4) moving expenses. The following sections highlight each of these requirements.

Advisory Services for Displaced Households

The grantee should work with the household that will be displaced throughout the process to ensure the household is provided appropriate and required advisory services.

- Grantees must provide counseling and appropriate referrals to social service agencies, when appropriate.
- Grantees must offer or pay for transportation (e.g., taxi, rental car) to inspect comparable units or the actual unit selected by the displaced person.
- When a displacee is a minority, every effort should be made to ensure that referrals are made to comparables located outside of areas of minority concentration, if feasible.
- The grantee must provide current and continuing information on the availability, purchase price or rental cost and location of "comparable replacement dwellings." (See the section below for more information on comparable replacement dwellings.)

Comparable Replacement Dwelling Units

The grantee must make referrals to the replacement housing units (comparables) for displaced residential households. It is also recommended that the grantee inspect the comparables to determine if they are in decent, safe and sanitary condition (including ensuring they are lead safe) prior to making referrals.

The regulations stipulate that no person is to be displaced unless at least one, and preferably three, comparable dwellings are made available to the potential displacee. However, DOH requires the grantee to document the case file if three comparable dwellings are not identified.

- A comparable replacement dwelling means a dwelling which it meets local relevant housing codes and standards for occupancy;
- The replacement unit must be functionally equivalent to the displacement dwelling. The term "functionally equivalent" means that it performs the same function and provides the same utility. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features must be present. In determining whether a replacement dwelling is functionally equivalent to the displacement dwelling, the grantee may consider reasonable trade-offs for specific features when the replacement unit is equal to or better than the displacement dwelling;
- Adequate in size to accommodate the occupants;
- If the displaced household were over-crowded, the comparable must be large enough to accommodate them;
- In an area not subject to unreasonable adverse environmental conditions;
- In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities and commercial and public facilities, and reasonably accessible to the person's place of employment;
- On a site that is typical in size for residential development with normal site improvements, including customary landscaping;
- Currently available to the displaced person on the private market (unless they are displaced from subsidized housing as described below); and
- Within the financial means of the displaced person. A replacement dwelling is considered to be within the person's financial means if a grantee pays the appropriate replacement housing payment.

For a person receiving government housing assistance before displacement, a comparable dwelling unit that has similar government housing assistance must be offered. (For example, a comparable unit for a tenant who had a Housing Choice Voucher prior to displacement must be offered another unit where the Voucher could be used or is accepted.) When the government housing assistance program has requirements relating to the size of the replacement dwelling, the rules for that program apply.

Grantees may use Attachment 6-10: HUD Inspection Checklist to determine whether a comparable unit is decent, safe and sanitary. Since replacement housing units must meet all local codes and housing standards, an inspector must be familiar with these requirements to ensure that displaced persons move to standard housing.

[Attachment 6-10:
HUD Inspection Checklist](#)

Attachment 6-11: HUD Comparable Replacement Dwelling Computation Form may be used to identify the most representative comparable replacement dwelling units for purposes of computing a replacement housing payment.

[Attachment 6-11:
Comparable Replacement Dwelling
Computation Form](#)

The grantee should then provide the potentially displaced household with a Notice of Eligibility for Relocation Assistance (Attachment 6-12). The notice must identify the cost and location of the comparable replacement dwelling(s).

[Attachment 6-12:
Notice of Eligibility for
Relocation Assistance](#)

Replacement Housing Payments

In some instances, a comparable replacement dwelling may not be available within the monetary limits for owners or tenants. This is the purpose of the Replacement Housing Payment (RHP).

[49 CFR 24.401](#)
and
[49 CFR 24.402](#)
and
[49 CFR 24.404\(a\)](#)

Relocation payments are not considered "income" for purposes of the IRS or the Social Security Administration.

The revised regulations do not allow a grantee to encourage or ask a displaced person to waive their relocation assistance; however, a fully informed person may choose not to apply for financial benefits and must acknowledge that decision in writing by clearly describing the assistance for which he/she will not apply. Grantees are encouraged to contact DOH if this situation is likely to occur.

[49 CFR 24.209](#)
and
[49 CFR 24.207\(f\)](#)

Replacement Housing Assistance for 90-Day Homeowners

Only homeowner-occupants who were in residency for 90 days prior to an offer to purchase their home (Initiation of Negotiations – "ION") USING INVOLUNTARY ACQUISITION are eligible for a replacement housing payment as "displaced persons". If homeowners were in occupancy for less than 90 days prior to the ION, they are protected by the URA as "displaced persons" but the calculation is made using the same method used for tenants.

Note: If an owner occupies a property acquired using voluntary acquisition requirements, they are NOT eligible for relocation benefits.

For involuntary acquisitions, the ION is defined as the delivery of the written offer of just compensation by the grantee to the owner.

The RHP made to a 90-day homeowner is the sum of:

- The lesser of: the cost of the comparable or the cost of the actual replacement unit.
- Additional mortgage financing cost; and
- Reasonable expenses incidental to purchase the replacement dwelling.

[42 U.S.C. 4623\(a\)\(1\)](#)
and
[42 U.S.C. 4624\(b\)](#)

To calculate the replacement housing payment for a 90-day homeowner, grantees should use the HUD claim form in Attachment 6-13. If an owner elects to become a renter, the RHP can be no more than the amount would otherwise have received as an owner. The maximum payment is \$31,000.

[Attachment 6-13:
HUD Claim for 90-day
Homeowner](#)

The displaced homeowner must purchase and occupy the replacement unit in order to qualify for a RHP as a displaced owner-occupant of 90 days.

[49 CFR 24.404](#)

Replacement Housing Payments for Displaced Tenants

The amount of the replacement housing payment paid to a displaced tenant does not vary depending upon whether the household was in occupancy more or less than 90 days prior to the date of execution of the agreement.

The replacement housing payment is intended to provide affordable housing for a 42-month period. Although the URA regulations establish a \$7,200 limitation on rental assistance payments, it also requires that persons receive the calculated payment under: replacement "Housing of Last Resort." Therefore, families are entitled to the full 42 months of assistance even though the amount may exceed \$7,200. See Section 6.6: Relocation Requirements under Section 104(d) to determine if applicable to your project.

[42 U.S.C. 4624\(a\)](#)

For all tenants, the replacement housing payment makes up (for a 42-month period) the difference between:

- The lesser of rent and estimated utility costs at the replacement dwelling or comparable unit; and
- The lesser of:
 - Thirty percent of the tenant's average monthly gross household income (if the household is classified as low income—within 80% Area Median Income—using HUD's income limits), or
 - The monthly rent and estimated average utility costs of the displacement dwelling.

URA cash rental assistance must be provided in installments unless the tenant wishes to purchase a home. If the displaced tenant wishes to purchase a home, the payment must be provided in a single lump sum so that the funds can be used for a down payment, including incidental expenses.

The amount of cash rental assistance to be provided is based on a one-time calculation. The URA RHP payment is not adjusted to reflect subsequent changes in a person's income, rent/utility costs, or household size. See Attachment 6-14 for the claim form to use for rental assistance or down payment assistance.

[Attachment 6-14:
HUD Claim
for Rental or
Down Payment Assistance](#)

Housing of Last Resort

When undertaking relocation activities, grantees must be sure to provide a comparable replacement dwelling in a timely manner. If the grantee cannot identify comparable replacement housing, they must seek other means of assisting displacees under the "Last Resort Replacement Housing" provisions of the regulations. This situation can occur in communities where there is a limited supply of available comparable units. Grantees should contact DOH to confer on how to proceed.

[Handbook 1378,
Chapter 3, Paragraph 3-6](#)

The Last Resort sections of the URA require grantees to take alternate measures to assist displaced persons to be able to afford to move to a decent, safe and sanitary comparable unit.

Such alternatives include rehabilitation of, and/or additions to, an existing replacement dwelling; a replacement housing payment in excess of regulatory limits; construction of new units; relocation of a replacement dwelling; and removal of barriers to the disabled in a replacement dwelling.

Early Movers: Relocation Prior to Notice of Eligibility

Some displaced persons will not wait for the grantee to locate comparable units and offer replacement housing assistance. These households may search for their own units and relocate themselves.

The implication of the early move will depend on when it occurs. If the move occurs after a General Information Notice (GIN) was sent to the household but before the Initiation of Negotiations, the household may have jeopardized their eligibility for relocation assistance.

However, after the Initiation of Negotiations, (the date that triggers eligibility for relocation assistance) relocation eligibility can be triggered for all occupants. So, it is vital that the grantee immediately send the Notice of Eligibility or Non-displacement. If these notices are not sent in a timely or complete manner and the household moves out, HUD may require that the replacement housing be based on the actual unit they have chosen (if that exceeds a possible comparable), if that unit qualifies as decent, safe and sanitary. The budgetary consequences can be substantial.

Relocation into a Substandard Unit

If an individual locates or moves into a replacement unit that is not decent, safe and sanitary and that move occurred because the grantee was not timely in the delivery of the required URA notices, the grantee may try to upgrade the unit to the decent, safe and sanitary standard. Alternately, the grantee can offer the household the opportunity to move to a decent, safe and sanitary unit and the grantee must pay for that move.

In the event the grantee was timely in the delivery of the Notice of Eligibility but the household moved anyway to a substandard unit, the grantee must inform the displacee that if they remain in a substandard unit, they will be eligible only for moving expenses and not for replacement housing payments. The grantee must also inform the displacee that if he or she moves into standard housing within a year from the date he or she moved from the displacement dwelling and files a claim within 18 months of the date of displacement, he or she will be eligible for a replacement housing payment. A sample letter is provided as Attachment 6-15 of this chapter.

[Attachment 6-15:
Sample Letter to Relocatee in a
Substandard Unit](#)

Payment for Residential Moving and Incidental Expenses

Displaced homeowners and tenants may choose to receive payment for moving and related expenses either by:

- Commercial mover selected through competitive bids obtained by the grantee paid directly to the mover or reimbursed to the household; OR
- Reimbursement of actual expenses for a self-move, OR
- Receipt of a fixed payment based upon a schedule established by the Department of Transportation, Federal Highway Administration (FHWA), for the current payment level established for Connecticut, which is available on their website.

[FHWA Fixed Residential Moving Cost Schedule](#)

The updated regulations at 49 CFR 24.301(b) clarified that grantees cannot allow residential self-moves based on the lower of two bids.

If reimbursement of actual expenses for a self-move is chosen, the grantee must determine that the expenses are reasonable and necessary and include only eligible expenses, which are:

[49 CFR 24.301\(b\) & \(g\)](#)

- Transportation of the displaced person and personal property. (This may include reimbursement at the current mileage rate for personally owned vehicles that need to be moved.) Transportation costs for a distance beyond 50 miles are not eligible, unless the Agency determines that relocation beyond 50 miles is justified.
- Packing, crating, uncrating and unpacking of the personal property.
- Storage of the personal property for a period not to exceed 12 months, unless the Agency determines that a longer period is necessary.
- Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances, and other personal property.
- Insurance for the replacement value of the property in connection with the move and necessary storage.
- The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft or damage is not reasonably available.
- Credit checks.
- Utility hook-ups, including reinstallation of telephone and cable service.
- Other costs as determined by the agency to be reasonable and necessary.

The following are ineligible expenses:

- Refundable security and utility deposits; or
- Interest on a loan to cover moving expenses; or
- Personal injury; or
- Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the Agency; or
- The cost of moving any structure or other real property improvement in which the displaced person reserved ownership; or
- Costs for storage of personal property on real property owned or leased by the displaced person before the initiation of negotiations.

[49 CFR 24.301\(h\)](#)

If the displaced homeowner/tenant chooses a fixed payment based upon a schedule established by the Department of Transportation, Federal Highway Administration (FHWA), the following apply:

- A person displaced from a dwelling or a seasonal residence may, at his or her discretion, choose to receive a fixed moving expense payment as an alternative to a payment for actual reasonable moving and related expenses.

This payment is determined according to the applicable schedule published by FHWA. The most current schedule was published in 2021.

[FHWA Fixed Residential Moving Cost Schedule](#)

The payment reflects the number of rooms in the displacement dwelling and whether the displaced person owns and must move the furniture. If a room or an outbuilding contains an unusually large amount of personal property (e.g., a crowded basement), the Agency may increase the payment accordingly (i.e., count it as two rooms). A current schedule is accessible on HUD's website.

Occupant of Dwelling with Congregate Sleeping Space (Dormitory). The moving expense for a person displaced from a permanent residence with congregate sleeping space ordinarily occupied by three or more unrelated persons is \$100.

Homeless Persons. A displaced "homeless" person (e.g., the occupant of an emergency shelter) is not considered to have been displaced from a permanent residence and, therefore, is not entitled to a fixed moving expense payment. (Such a person may, however, be eligible for a payment for actual moving expenses.)

In addition to the moving expenses, the updated regulations at 49 CFR 24.401(e)(4) added professional home inspection to the list of eligible incidental expenses for displaced owner-occupants only. This will only apply when a property is involuntarily acquired and owner occupied for a period of at least 90 days.

[49 CFR 24.401\(e\)\(4\)](#)

The URA also allows grantees to pay for non-refundable security deposits but clarifies that refundable security and utility deposits are ineligible.

[49 CFR 24.301\(h\)\(12\)](#)

Section 6.4 Temporary Relocation

Agencies administering housing rehabilitation programs should establish written policies for temporary relocation of both owner-occupants and tenants.

Any temporary relocation may not exceed 12 months or the household is considered displaced.

Agencies must administer their temporary relocation activities consistently and treat all people in similar circumstances the same. All terms must be "reasonable" or the temporarily relocated household may become eligible as a "displaced person".

Lead-Based Paint Hazards Requirements and Relocation

The Lead Safe Housing Rule, 24 CFR Part 35, contain rules concerning the temporary relocation of occupants (renters and owners) before and during hazard reduction activities.

[24 CFR Part 35.24](#)
and
[24 CFR 570.608](#)

Under the lead regulations, circumstances when temporary occupant relocation is not required include:

- Treatment will not disturb lead-based paint or create lead-contaminated dust; or
- Treatment of interior will be completed within one period in eight daytime hours, the site will be contained, and the work will not create other safety, health or environmental hazards; or
- Only the building's exterior is treated; the windows, doors, ventilation intakes, and other openings near the work site are sealed during hazard reduction activities and cleaned afterward; and a lead-free entry is provided; or
- Treatment will be completed within five calendar days; the work area is sealed; at the end of each day, the area within 10 feet of the contaminant area is cleared of debris; at the end of each day, occupants have safe access to sleeping areas, bathrooms, and kitchen facilities; and treatment does not create other safety, health, or environmental hazards.

If these above conditions are not met, then the temporary relocation of the household is required. However, because the rehabilitation of owner-occupied units is considered voluntary, the relocation requirements of the URA do not apply regardless of whether the unit is being treated for lead-based paint. Any payments made on an owner-occupants' behalf would be addressed in an Optional Relocation Policy.

Again, note that the rehabilitation of tenant-occupied units is not considered voluntary and the URA requirements detailed earlier in this section apply.

Tip: Elderly residents living in units undergoing lead hazard reduction activities may waive the requirement to relocate but only if the grantee obtains a written and signed waiver. (See Attachment 6-16.)

[Attachment 6-16:
Sample Elderly Waiver for
Relocation](#)

The lead rule further requires that temporary dwellings not have lead-based paint hazards. Therefore, grantees are required to ensure that units used for temporary relocation are lead safe. This means that temporary housing units that were built after 1978 or have undergone a visual assessment and dust wipe sampling to ensure no lead hazards are present.

Temporary Relocation of Owner-Occupants in Rehabilitation Projects

An owner-occupant who participates in a CDBG grantee's housing rehabilitation program is considered a voluntary action under the URA, provided that code enforcement was not used to induce an owner-occupant to participate.

If a grantee chooses to provide temporary relocation assistance to owner-occupants, the grantee must adopt an Optional Temporary Relocation Assistance Policy.

Guidance for Owner-Occupant Temporary Relocation in Rehabilitation Projects

The grantee should develop written policies as early as possible in the application stage so occupants can make suitable arrangements to move from of their homes with the least amount of disruption. Because the URA does not cover owner-occupants who voluntarily participate in housing rehabilitation programs, the grantee has broad discretion regarding payments to owners during the period of temporary relocation. If a grantee chooses to provide temporary relocation assistance to owner-occupants through a "voluntary" CDBG Program, the grantee must adopt an optional relocation assistance policy.

[24 CFR 570.606\(B\)\(2\)\(d\)\(2\)](#)

The owner-occupant may be encouraged to stay with family or friends (noting the requirement to inspect these units to ensure the units are decent, safe and sanitary and lead-safe), but if there are circumstances in which there is no suitable alternative, and the owner would be faced with a hardship, the agency may set a policy that describes what constitutes a "hardship" and provide a certain level of financial assistance.

An agency may negotiate with various hotels to establish an attractive rate and pay the negotiated rate on the owner's behalf. The hotel units must be decent, safe and sanitary, and cannot present a lead-paint hazard to occupants. Agencies should inspect the hotel units prior to signing an agreement to use them as a resource. In addition, agencies may provide a stipend for meals if the temporary unit does not have cooking facilities.

Temporary Relocation of Tenants in Rehabilitation Projects

Tenants are protected by the URA during temporary relocation. HUD's Handbook 1378 suggests that at least 30 days advance notice be given to tenants prior to the temporary move. In addition, the tenant must be provided:

[HUD Handbook 1378, Chapter 2, Paragraph 2-7](#)

Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing and any increase in monthly rent/utility costs at such housing. (They are still responsible for paying their share of the rent for the unit undergoing renovation.)

Appropriate advisory services, including reasonable advance written notice of:

- The date and approximate duration of the temporary relocation;
- The address of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period;
- The terms and conditions under which the tenant may lease and occupy a suitable, decent, safe and sanitary dwelling in the building/complex upon completion of the project; and
- The provisions of reimbursement for all reasonable out-of-pocket expenses.

The tenant must receive a Notice of Non-displacement (Attachment 6-17) which advises a person that they may be or will be temporarily relocated.

[Attachment 6-17:
Notice of Nondisplacement](#)

Once it becomes evident that the tenant will need to be temporarily relocated, the grantee should send a Temporary Relocation Notice to inform households who will be temporarily relocated of their rights and of the conditions of their temporary move. (See Attachment 6-18 for a sample Temporary Relocation Notice.)

[Attachment 6-18: Sample
Temporary Relocation Notice](#)

Tip: The Notice of Non-displacement is very important when dealing with temporary relocation because it helps prevent temporary moves from becoming permanent.

Guidance on Tenant Temporary Relocation

To assist with the temporary relocation of tenants, the grantee could encourage tenants to identify their own temporary housing (within the established guidelines), but ultimately the agency is responsible for finding suitable shelter until rehabilitation is complete. In addition, the agency could use hotel rooms and provide a meal stipend if there are no cooking facilities. The stipend could vary depending on the age of the children in the household (if any).

The terms and conditions of the temporary move must be reasonable or the tenant may become "displaced." The grantee should be aware that the temporary unit need not be comparable, but it must be suitable for the tenant's needs. It must be inspected, found to be decent, safe, sanitary, and lead safe. Attachment 6-10: HUD Inspection Checklist may be used to document the inspection. If the tenant claims to be paying rent to a friend or family member, the grantee should document that rent was paid and the housing was suitable. The tenant must be provided adequate advance notice to move out of their unit and back when rehabilitation work is complete. A good rule of thumb suggested by DOH is that temporary relocation is reasonable for six months or less. Anything more than twelve (12) months is considered permanent displacement.

[Attachment 6-10:
HUD Inspection Checklist](#)

If the owner of the property is planning to raise the rent or offer a different unit in the property (that exceeds the greater of their former rent or 30% of gross monthly income), the tenant must be notified of these changes before moving back.

If the cost of rehabilitation including lead hazard control work causes the rent to be increased and creates a rent burden ("economic displacement"), the tenant is protected by the URA and could be eligible for relocation assistance.

The term "economic displacement" is used to cover households who lived in the project prior to the federally funded activity (acquisition or rehabilitation) and whose rent is raised resulting in a move because they can no longer afford to remain.

If the rent will be increased and the household can no longer afford to stay, the grantee should treat the household as a displaced person and provide them with all of the assistance outlined under Section 8-D including: Advisory Services, Moving Expenses, and a Replacement Housing Payment as needed.

Section 6.5 Non-Residential Relocation under the URA

Displaced businesses (including non-profit organizations and farm owners) are entitled to advisory services and relocation assistance under the URA. A business is defined for this purpose as:

[49 CR 24.2\(a\)\(4\)](#)

- A for-profit business, engaged in any lawful activity involving purchase, sale of goods or services, manufacturing, processing, marketing, rental of property, or outdoor advertising when the display must be moved;
- To qualify for assistance, the business must meet the definition of a "displaced person" discussed earlier in this chapter. It must move permanently as a direct result of an assisted project involving acquisition, rehabilitation, or demolition.

[Handbook 1378,
Chapter 1,
Paragraphs 1-4](#)

The URA provides coverage for business owners (whether they are on-site or not), for owner/occupants of a business, and for tenants operating a business in rented space.

Business versus Residential Assistance

URA coverage for moving expenses is similar for residential and non-residential displacees. Qualified businesses may choose between a fixed payment or actual moving expense. The fixed payment is based on a formula, rather than a schedule.

[Handbook 1378,
Chapter 4, Paragraphs 4-2 and 4-5](#)

A displaced business is eligible to choose a fixed payment if the grantee determines that:

- The business either (a) discontinues operations, or (b) it relocates but is likely to incur a substantial loss of its existing patronage (The URA presumes this unless there is a preponderance of evidence to the contrary.); and
- The business is not part of a commercial enterprise having more than three other entities which are not being displaced by the grantee, and which are under the same ownership and engaged in the same or similar business activities; and

- The business contributed materially to the income of the displaced person; and
- The business operation at the displacement property is not solely for the rental of that real property to another property management company.
- Actual moving expenses provide for reimbursement of limited reestablishment expenses.
- There are differences between coverage for residential and non-residential displaces.
- A 90-day Notice to Move may be issued without a referral to a comparable site.
- Businesses are entitled to temporary moving expenses; however, displaced businesses are not eligible for 104(d) assistance.

[Handbook 1378,
Chapter 4, Paragraph 4-3](#)

Owners or tenants who have paid for improvements will be compensated for their real property under acquisition rules. A complete, thorough appraisal is essential to making these decisions.

Advisory Services

Non-residential moves are often complex. Grantees must interview business owners to determine their relocation needs and preferences. Displaced businesses are entitled to the following:

- Information about the upcoming project and the earliest date they will have to vacate the property;
- A complete explanation of their eligibility for relocation benefits and assistance in understanding their best alternatives;
- Assistance in following the required procedures to receive payments;
- Current information on the availability and cost to purchase or rent suitable replacement locations;
- Technical assistance, including referrals, to help the business obtain an alternative location and become reestablished;
- Referrals for assistance from state or federal programs, such as those provided by the Small Business Administration, that may help the business reestablish, and help in applying for funds; and
- Assistance in completing relocation claim forms.

Notices and Inspections

The grantee must provide a business to be displaced with written information about their rights, and provide them with a General Information Notice (GIN) tailored to the situation when a Notice of Interest is issued to the property owner. See Attachment 6-19 for a sample GIN to use for businesses (non-residential tenants).

[Handbook 1378,
Chapter 2, Paragraph 2-3 B](#)

[Attachment 6-19
Sample GIN Non-Residential Tenant](#)

The General Information Notice should include:

- An explanation that a project has been proposed and caution the business not to move until they receive a Notice of Eligibility for Relocation Assistance. (See Attachment 6-20 for a sample of this notice.)

[Attachment 6-20:
Notice of Eligibility for Business
Relocation Assistance](#)

- A general description of relocation assistance payments they could receive, the eligibility requirements for these payments, and the procedures involved. The HUD Information Booklet, Relocation Assistance to Displaced Businesses, Nonprofit Organizations, and Farms (HUD 1043-CPD) includes this general information and should be given to the business. See Attachment 6-21 for a copy of this HUD information booklet for non-residential tenants.

[Attachment 6-21:
Relocation
Assistance to Displaced
Businesses, Nonprofit
Organizations and Farms Brochure](#)

- Information that they will receive reasonable relocation advisory services to help locate a replacement site, including help to complete claim forms;
- Information that they will not be required to move without at least 90 days' advance written notice; and
- A description of the appeal process available to businesses.

[Handbook 1378,
Chapter 2, Paragraph 2-3 E](#)

If a business must be displaced, a tailored Notice of Relocation Eligibility (NOE) must be provided as soon as possible after the ION (see Attachment 6-21 for a sample notice).

[Handbook 1378,
Chapter 2, Paragraph 2-3 C](#)

This Notice should:

- Inform the business of the effective date of their eligibility.
- Describe the assistance available and procedures.
- If necessary, a 90-day Notice to Move may be sent after the initiation of negotiations.

The business must be told as soon as possible that they are required to:

- Allow inspections of both the current and replacement sites by the grantee's representatives, under reasonable terms and conditions;
- Keep the grantee informed of their plans and schedules;
- Notify the grantee of the date and time they plan to move (unless this requirement is waived); and
- Provide the grantee with a list of the property to be moved or sold.

[Handbook 1378, Chapter 4,
Paragraphs 4-3a \(7\)](#)

Grantees need to be aware of when a property will be vacated. In many situations, the grantee must be on-site during a business move to provide technical assistance and represent the grantee's interests. In accordance with state law, any property not sold, traded or moved by the business becomes the property of the grantee. To be certain that the move takes place at a reasonable cost, an inventory containing a detailed itemization of personal property to be moved should be prepared and provided to the grantee. The grantee should verify this inventory and use it as a basis of comparison with bids or estimates and eventual requests for payment.

Reimbursement of Actual Moving Expenses

Any displaced business is eligible for reimbursement of reasonable, necessary actual moving expenses.

[Handbook 1378, Chapter 4, Paragraphs 4-2a\(1\)](#)

- Only businesses that choose actual moving expenses—versus a fixed payment—are eligible for a reestablishment expense payment.
- Grantees should not place additional hardships on businesses, but they can limit the amount of payment for actual moving expenses based on a least-cost approach.
- Businesses may choose to use the services of a professional mover or perform a self-move. Eligible expenses include:
 - Transportation of personal property;
 - Packing, crating, uncrating, unpacking of personal property;
 - Disconnecting, dismantling, removing, reassembling, and reinstalling machinery, equipment, and personal property;
 - Storage of personal property;
 - Insurance for replacement value of personal property in connection with the move and/or storage;
 - Any license, permit or certification required at the new location;
 - Professional services to plan the move, move the personal property or install the personal property at the new location;
 - Provision of utility service from the Right of Way to the business;
 - Professional services performed prior to the purchase or lease of a replacement site to determine its suitability for the displaced person's business operation including but not limited to, soil testing, feasibility and marketing studies (excluding any fees or commissions directly related to the purchase or lease of such site);
 - Impact fees or one-time heavy utility use assessments;
 - Re-lettering signs and replacing existing stationery that are obsolete due to the displacement; and

- Reasonable costs incurred while attempting to sell items that will not be relocated.

A business is eligible for either a "Direct Loss" or "Substitute Equipment" payment if the displacee will leave or replace personal property. A business can accept either of these (but not both) for an item.

[49 CFR 24.301\(g\)\(14\)](#)

A "Direct Loss" payment can be made for personal property that will not be moved. Payments can also be made as a result of discontinuing the business of the nonprofit or farm. The business must make a good faith effort to sell the personal property (unless the grantee determines it is unnecessary) in order to be eligible for a Direct Loss payment. A Direct Loss payment is based on the lesser of:

- The fair market value of the item for continued use at the displacement site, minus the proceeds from the sale, or
- The estimated cost to move the item, with no allowance for the following: storage, or reconnecting a piece of equipment if the equipment is in storage or not being used at the acquired site. If the business is discontinuing, the cost to move is based on a moving distance of 50 miles.

A "Substitute Equipment" payment can be made when an item used by the business, nonprofit, or farm is left in place, but is promptly replaced with a substitute item that performs a comparable function at the new site. A Substitute Equipment payment is based on the lesser of:

The cost of the substitute item, including installation costs at the replacement site, minus any proceeds from the sale or trade-in of the replaced item; or

The estimated cost to move and reinstall the item, but with no allowance for storage.

Certain costs incurred while searching for a replacement location are also eligible. Businesses are entitled to reimbursement up to \$2,500. Grantees can pay more than this if they believe it is justified.

[Handbook 1378,
Chapter 4, Paragraph 4-5a](#)

Costs may include reasonable levels of such items as:

- Transportation;
- Meals and lodging away from home;
- Time spent while searching, based on a reasonable pay salary or earnings; and
- Fees paid to a real estate agent or broker while searching for the site. (Note that commissions related to the purchase are not eligible costs.)

The grantee may pay other moving and related expenses that the grantee determines are reasonable and necessary and are not listed as ineligible. Payment of other reasonable and necessary expenses may be limited by the grantee to the amount determined to be least costly without causing the business undue hardship.

There may be instances where a person is required to move personal property from real property but is not required to move from a dwelling (including a mobile home), business, farm or nonprofit organization. Eligible expenses for moving the personal property are listed above.

Businesses may have personal property that is considered low value, high bulk such as stock piled sand, gravel, minerals, metals or other similar items in stock. When the personal property to be moved is of low value and high bulk, and the cost of moving the property would be disproportionate to its value in the judgment of the grantee, the allowable moving cost payment shall not exceed the lesser of:

[Handbook 1378,
Chapter 4, Paragraph 4-3A\(5\)](#)

[49 CFR 24.301 \(e\)](#)

- The amount which would be received if the property were sold at the site; or
- The replacement cost of a comparable quantity delivered to the new businesses location.

See Attachment 6-22 for a sample claim form for moving and related expenses for businesses.

[Attachment 6-22: Claim for
Moving & Related Expenses
Non-Residential](#)

Reestablishment Expenses

Only certain small businesses are eligible for reestablishment expenses, up to \$10,000. "Small businesses" for this purpose are defined as those with at least one, and no more than 500 people, working at the project site. Businesses displaced from a site occupied only by outdoor advertising signs, displays, or devices are not eligible for a reestablishment expense payment.

[Handbook 1378,
Chapter 4, Paragraph 4-6](#)

[49 CFR 24.304](#)

Eligible items included in the \$10,000 maximum figure are:

- Repairs or improvements to the replacement site, as required by codes, or ordinances;
- Modifications to the replacement property to accommodate the business;
- Modifications to structures on the replacement property to make business;
- Construction and installation of exterior advertising signs;
- Redecoration or replacement at the replacement site of soiled or worn surfaces, such as paint, paneling, or carpeting;
- Other licenses, fees, and permits not otherwise allowed as actual moving expenses;
- Feasibility surveys, soil testing, market studies;
- Advertisement of the replacement location;
- Estimated increased costs of operation for the first two years at the replacement site for such items as:
 - Lease or rental charges,
 - Utility charges,
 - Personal or property taxes, and
 - Insurance premiums.
- Other reestablishment expenses as determined by the grantee to be essential to reestablishment.

Ineligible Expenses

The following are ineligible for payment as an actual moving expense, as a reestablishment expense, or as an "other reasonable and necessary expense":

[49 CFR 24.301\(h\)](#)

- Loss of goodwill;
- Loss of profits;
- Personal injury;
- Interest on a loan to cover any costs of moving or reestablishment expense;
- Any legal fees or other costs for preparing a claim for a relocation payment, or for representing the claimant before the grantee;
- The cost of moving any structure or other real property improvement in which the business reserved ownership;
- Costs for storage of personal property on real property already owned or leased by the business before the initiation of negotiations;
- Costs of physical changes to the replacement site above and beyond that required to move and reestablish the business;
- The purchase of capital assets, manufactured materials, production supplies, or product inventory, except as permitted under "moving and related costs;" or
- Interior and exterior finishes solely for aesthetic purposes, except for the redecoration or replacement of soiled or worn surfaces described in "reestablishment expenses."

Fixed Payments

A displaced business may select a fixed payment instead of actual moving expenses (which include reestablishment expenses) if the grantee determines that the displacee meets the following eligibility criteria:

[49 CFR 24.305](#)

- The nature of the business cannot solely be the rental of property to others.
- The business discontinues operations or it will lose a substantial portion of its business due to the move. (The latest regulations state that a business is presumed to meet this test unless the grantee can demonstrate it is not "location sensitive".)

The business is not part of an operation with more than three other entities where:

- No displacement will occur, and
- The ownership is the same as the displaced business, and
- The other locations are engaged in similar business activities.
- The business contributed materially to the income of the displaced business.

The term "contributed materially" means that during the two taxable years prior to the taxable year in which the displacement occurred (or the grantee may select a more equitable period) the business or farm operation:

- Had average gross earnings of at least \$5,000; or
- Had average net earnings of at least \$1,000;
- Contributed at least 33 1/3 percent (one-third) of the owner's or operator's average annual gross income from all sources;
- If the grantee determines that the application of these criteria would cause an inequity or hardship, it may waive these criteria.

The amount of the fixed payment is based upon the average annual net earnings for a two-year period of a business or farm operation.

Net earnings include any compensation obtained from the business that is paid to the owner, the owner's spouse, and dependents. Calculate net earnings before federal, state, and local income taxes for a two-year period.

[49 CFR 24.305\(e\)](#)

Divide this figure in half. The minimum payment is \$1,000; the maximum payment is \$20,000.

The two-year period should be the two tax-years prior to the tax year in which the displacement is occurring, unless there is a more equitable period of time that should be used:

- If the business was not in operation for a full two-year period prior to the tax year in which it would be displaced, the net earnings should be based on the actual earnings to date and then projected to an annual rate.
- If a business has been in operation for a longer period of time, and a different two-year period of time is more equitable within reason, the fixed payment should be based on that time period.
- When income or profit has been adjusted on tax returns to reflect expenses or income not actually incurred in the base period, the amount should be adjusted accordingly.

- When two or more entities at the same location are actually one business, they are only entitled to one fixed payment. This determination should be based on:

[49 CFR 24.305\(b\)](#)

- Shared equipment and premises, and
- Substantially identical or inter-related business functions and financial affairs that are co-mingled, and
- Entities that are identified to the public and their customers as one entity, and
- The same person or related persons own, control, or manage the entities.

Businesses must furnish grantees with sufficient documentation of income to justify their claim for a Fixed Payment. This might include:

- Income tax returns,
- Certified or audited financial statements,
- W-2 forms, and
- Other financial information accepted by the grantee.

Optional form HUD-40056 "Claim for Fixed Payment in Lieu of Payment for Actual Reasonable Moving and Related Expenses" (Appendix 17 of HUD Handbook 1378) may be used to claim the fixed payment. If another form is used, it should provide the same information in at least the same level of detail (see Attachment 6-23).

[Attachment 6-23:
Claim for Fixed Payment in Lieu
of Payment for Actual Moving and
Related Expenses—Businesses](#)

Section 6.6 Relocation Requirements under Section 104(d)

The relocation requirements of Section 104(d) differ from URA requirements.

The grantee is required to provide certain relocation assistance to any lower-income person displaced as a direct result of (1) the demolition of any dwelling unit, or (2) the conversion of a low- and moderate-income dwelling unit to a use other than a low- and moderate-income dwelling in connection with an assisted activity. The rules implementing the Section 104(d) relocation requirements for the State CDBG program are found at 24 CFR 570.488.

[24 CFR Part 42](#)

Such 104(d) replacement housing payments are available only to low- or moderate-income households. In addition, Section 104(d) relocation assistance is not triggered for a project, but rather for a household within a specific unit.

Eligibility

To be eligible for Section 104(d) relocation assistance, a person must meet certain criteria. Under Section 104(d), a displaced person is a lower-income tenant who moves permanently, in connection with an assisted activity, as a direct result of conversion of a low- and moderate-income dwelling unit or demolition of any dwelling unit.

[24 CFR 42.305](#)

Amount of Assistance

Under Section 104(d), each displaced household is entitled to choose either assistance at URA levels (detailed earlier in the chapter) or the following relocation assistance:

- Advisory services (same as under URA) - Includes notices, information booklets, explanation of assistance, referrals to comparable housing and counseling.

- In general, both 104(d) and the URA require that a General Information Notice, and a Notice of Non-displacement or a Notice of Eligibility for Relocation Assistance be provided.
 - The Notice of Non-displacement informs residential occupants who will remain in the project area after completion of the assisted activity of their rights and of the terms and conditions of their remaining in the property.
 - The Notice of Eligibility for Relocation Assistance informs residential occupants who will be displaced of their rights and levels of assistance under 104(d).
- Payment for moving and related expenses (the same as under URA)
 - Payment for actual reasonable moving and related expenses or a moving expense and dislocation allowance based on a schedule that is available from DOH (see Attachment 6-25: Residential Moving Expense and Dislocation Allowance Schedule). Also, see Attachment 6-26 for the claim form to use for moving costs and related expenses.
- Security Deposits (not required under URA) - The reasonable and necessary cost of any security deposit required to rent the replacement dwelling unit.
- Credit checks (not required under URA) - Required to rent or purchase the replacement dwelling unit (also eligible under URA).
- Interim living costs (same as for URA) - The person shall be reimbursed for actual reasonable out-of-pocket costs incurred in connection with temporary relocation, including moving expenses and increased housing costs if the person must relocate temporarily because continued occupancy of the dwelling unit constitutes a substantial danger to the health or safety of the person or the public.
- Replacement Housing Assistance: The 104(d) replacement housing payment is intended to provide affordable housing for a 60-month period. There is no cap on the 104(d) replacement housing payment. As with URA, the 104(d) payment is calculated using the cost of the tenant's actual, decent, safe and sanitary replacement dwelling (including utilities) or a comparable replacement dwelling.
- The replacement housing payment makes up (for a 60-month period, not 42 months as in URA) the difference between:
 - The rent and utility costs for the actual replacement dwelling (or comparable), and

[Attachment 6-17:
Notice of Non-Displacement](#)

[Attachment 6-24a
Notices of Eligibility of 104\(d\) with
Section 8](#)

[Attachment 6-24b
Notice of Eligibility of 104\(d\) w/o
Section 8](#)

[HUD Handbook 1378, Appendix 6](#)

[Attachment 6-25:
Residential Moving Expense and
Dislocation Allowance
Schedule](#)

[Attachment 6-26:
Residential Claim Form for Moving
and Related Expenses](#)

[HUD Form 40054: Residential Claim
for Moving Expenses](#)

- The tenant's Total Tenant Payment, calculated as the greater of: Thirty percent of adjusted income, ten percent of gross income, the welfare rent (see 24 CFR 5.628(a)(3)), and minimum rent in accordance with 24 CFR 5.630.

Note: The amount of the rent at the displacement unit is NOT used in calculating the RHP under 104(d).

Persons eligible for assistance under Section 104(d) are also eligible for URA assistance. In order for such persons to make an informed decision, grantees must determine and inform the person of the amount of replacement housing assistance available under Section 104(d) housing assistance available under the URA.

Attachment 6-27 to this Chapter summarizes the major differences between URA and Section 104(d) relocation assistance.

[Attachment 6-27:
Summary of Major Differences
between 104\(d\) and URA
Relocation Assistance](#)

The grantee has the option to offer all or a portion of this 104(d) rental assistance through a Section 8 Housing Choice Voucher, if the grantee has access to a Voucher and provides referrals to comparable replacement dwelling units where the owner is willing to participate in the Section 8 Existing Housing Program.

If a person then refuses Section 8 assistance, the grantee has satisfied the Section 104(d) replacement housing assistance requirements. In such case, the displaced person may seek URA replacement housing assistance.

Cash rental assistance must be provided in installments, unless the tenant wishes to purchase a home. If the displaced tenant wishes to purchase a home, the payment must be provided in a lump sum so that the funds can be used for a down payment, including incidental expenses. The amount of cash rental assistance to be provided is based on a one-time calculation. The payment is not adjusted to reflect subsequent changes in a person's income, rent/utility costs, or household size. (Note: This guidance is also applicable under the URA.) Under 104(d), only a housing cooperative or mutual housing are eligible forms of ownership for down payment assistance.

[Attachment 6-28:
Claim for Rental or Purchase
Assistance under Section 104\(d\)](#)

A sample eligibility notice for Section 104(d) relocation assistance is included as Attachments 6-24b of this chapter. Also, the claim form for rental or purchase assistance under Section 104(d) can be found as Attachment 6-28.

Total Tenant Payment (TTP)

Under the URA, a displaced person's gross monthly income and old rent are used to calculate the replacement housing payment. However, under Section 104(d), the Total Tenant Payment (TTP) is used to establish the amount of replacement housing assistance.

[Handbook 1378,
Chapter 7, Paragraph 7-10](#)

Under Section 104(d), a displaced person is eligible for financial assistance sufficient to reduce the monthly rent and estimated average monthly utility costs for a replacement dwelling to the Total Tenant Payment (TTP).

To receive assistance, a person must sign a release authorizing any depository or source of income to furnish the grantee information necessary to verify income. In order of acceptability, the three methods of

verifying a person's income are:

- Third party written or oral verification. Written verification should not be hand-carried by the person.
- Review of documents, when third party verification is unavailable. Documents may include items such as pay stubs, government benefits statements like social security, and income tax returns provided they are updated to project income.
- Notarized self-certification, unless the grantee determines notarization is unnecessary.

Caution: The method of verifying income for the purposes of determining eligibility for housing assistance varies from what is described above. (See [Chapter 7: Housing Rehabilitation](#) for further guidance.)

Section 6.7 Appeals

The grantee must develop an appeals procedure. It must outline the appeals process, including the grounds for filing an appeal, which appeals would be filed in the locality, appropriate time limits, and the right of appeal to DOH. These are outlined in [Chapter 5: Acquisition](#) and apply to appeals concerning relocation. See Attachment 6-29 for sample grievance procedures.

[Attachment 6-29:
Grievance Procedures](#)

Section 6.8 Applicable Regulations

There are three major types of requirements that cover relocation (and acquisition) activities in CDBG programs:

- The URA regulations, effective February 2005 implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) of 1970, as amended (49 CFR Part 24);
- Section 104(d) of the Housing and Community Development Act of 1974 and the implementing regulations at 24 CFR Part 570.496(a) and
- 24 CFR 570.606 of the CDBG Regulations, which requires compliance with the regulations, listed above.

[49 CFR Part 24](#)

[Section 104\(d\) and 5305\(a\)\(11\) of
Title 1, Housing and Community
Development Act of 1974](#)

[24 CFR 570.496\(a\)](#)

[24 CFR 570.606](#)

An over-riding principle in the CDBG program and the URA is that the grantee shall assure that it has taken all reasonable steps to minimize displacement in implementing activities.

Tip: HUD Handbook 1378 (recently updated) is a resource available for relocation information. It can be downloaded from HUD's website at https://www.hud.gov/program_offices/administration/hudclips/handbooks/cpd/13780.

Grantees should also refer to the Department of Transportation's Federal Highway Administration's Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs. It may be downloaded from the Federal Highway Administration's website at <http://www.fhwa.dot.gov/legsregs/directives/fapg/cfr4924a.htm>.

Chapter 7: Housing Rehabilitation

Introduction

Like all other aspects of the Connecticut State and Small Cities Program, there are a variety of ways that grantees may use CDBG funds for housing activities that serve low- and moderate-income households (LMI). However, most grantees in Connecticut will administer housing programs as discussed in this chapter.

Section 7.1 Housing Rehabilitation Programs

This part of the Housing Chapter reviews traditional housing rehabilitation activities and provides a step-by-step process for implementing housing rehabilitation programs in compliance with applicable rules and requirements.

Meeting a National Objective in Housing Rehab

All CDBG-funded activities must not only be eligible, but also meet a national objective. Housing rehabilitation activities must result in permanent, residential housing that is occupied by low-and moderate-income (LMI) households upon completion.

[24 CFR 570.483\(b\)\(3\)](#)

[Guide to National Objectives and Eligible Activities for State CDBG Program](#)

Occupancy of housing shall be based on the household income of all household members over 18 years of age using the following rules:

- Each single-family unit rehabilitated with CDBG funds must be occupied by a LMI household.
- If the structure contains two dwelling units, at least one unit must be occupied by a LMI household.
- For properties with more than two units, at least 51% of the units must be occupied by LMI households.

For more information on documenting households as LMI, grantees should refer to the section regarding applicant eligibility later in this Chapter.

Connections to water/sewer lines and septic systems.

The costs of connecting existing residential structures to water distribution lines or local sewer lines and payment of connection fees are eligible costs. The upgrading or replacement of an existing substandard septic system is also an eligible cost as part of a rehabilitation project, if providing a service lateral is cost prohibitive. Grantees should work with the local health department (LHD) to determine the criteria for a substandard septic system.

Ineligible Activities

The general rule is that any activity not specifically authorized under the CDBG regulations is ineligible to be assisted with CDBG funds. The regulations stipulate that the following activities may not be assisted with CDBG funds:

- New housing construction except under certain conditions.
- Certain types of nonprofit organizations that are undertaking certain kinds of activities may be allowed to utilize CDBG funds for new construction.
- Income payments, which are defined as grants to an individual or family that are used to provide basic levels of food, shelter (i.e., payment for rent, mortgage and/or utilities) or clothing;
- Luxury or non-standard items, such as swimming pools, Jacuzzis, high-end appliances, window air conditioners, washers and dryers, etc.; and
- Labor time for sweat equity may not be paid out to recipients of rehabilitation assistance.

[24 CFR 570.204\(c\)](#)

Section 7.2 Program Guidelines

DOH funded housing rehabilitation programs must be consistent with the Assistance Agreement requirements. Any significant variation requires approval from DOH. The grantee must develop program guidelines covering the procedural requirements of its rehabilitation program and administer the guidelines uniformly.

These guidelines should be specific to the project and well defined as to what the grantee requires of the property owner in return for providing the assistance. Guidelines should generally contain the following key elements:

- Types of financial assistance,
- Applicant eligibility,
- Property eligibility,
- Property standards,
- Contracting requirements,
- Relocation requirements,
- Grievance procedures, and
- Maintenance agreements

[Attachment 7-1:
Housing Rehab Admin vs Activity
Delivery](#)

Each of these topics is discussed in more detail below.

NOTE: The DOH Small Cities Program does not allow for the inclusion of emergency repairs in Housing Rehabilitation Programs.

The program guidelines should be developed by local agency staff. Guidelines should be written in plain language and made available to all potential applicants to the rehabilitation program.

The guidelines should always include a clause describing the process by which they can be changed. If the local governing body passes special policies that change the adopted guidelines, these changes must also be approved by the governing body as an addendum to the guidelines. Each page of the adopted guidelines and addendum must be initialed by eligible participants and kept in their file.

All applicants initially selected to participate in the project are potential applicants until re-verification of income can prove they are low and moderate-income based on the applicable HUD income limits. This re-verification should not be done until CDBG funds are made available. Once income re-verification identifies the eligible applicants, the program guidelines should be presented to the applicant household prior to commencing work on their properties.

Applicants who choose not to comply with the grantee's guidelines can choose not to participate in the Owner-Occupied Rehabilitation project.

Financial Assistance

The use of loans to rehabilitation recipients will enable the grantee to recover all or a portion of the original financial assistance for use in accomplishing additional housing rehabilitation. Loans also provide the recipient with security on the property that is not possible when funds are provided as a grant.

Loan programs are self-perpetuating when loan proceeds are used to provide other loans. Repayments from housing rehabilitation loans made with CDBG funds are considered program income and are to be expended according to DOH requirements. See [Chapter 3: Financial Management](#) for more information on Program Income.

DOH requires a minimum of a five-year primary residency requirement for all recipients of owner-occupied housing assistance. Therefore, the grantee should use a mechanism such as a covenant or lien recorded on the property to ensure that this requirement is enforceable. Investment properties assisted with CDBG require “[use restrictions](#)” on the rental units. A sample has been provided as Attachment 7-29. A separate use restriction for public housing modernization can be found in Section 7.6: Public Housing Modernization.

[Attachment 7-29: Sample Use Restriction](#)
(Not for use with Public Housing Modernization)

Applicant Eligibility

Program guidelines should specify who is eligible for the program, the types of assistance for which they are eligible, and the amount of assistance available. The types and amounts of assistance available should be based on household and tenure characteristics and ability to pay and should be consistent across a grantee's program. Applicants who have been assisted within the last ten years with Small Cities funds should not be approved unless it is for different work items (e.g., roof, septic, etc.) and the project meets the LTV ratio.

Determining Household Income

DOH requires that applicants conduct an initial threshold determination of household income prior to grant application to DOH. The income determination must be conducted using the current year CDBG Income Limits for the applicants' county. These limits are posted on DOH's website. However, once funds have been awarded, but before providing any assistance, the grantee must conduct a detailed income verification of all applicants. DOH requires all grantees to follow the 24 CFR Part 5 method of calculating annual household income.

[HUD Area Median Income Limits for CDBG](#)

The 24 CFR Part 5 definition of annual income is the gross amount of income of all adult household members that is anticipated to be received during the coming 12-month period.

[24 CFR 5.609](#)

24 CFR Part 5 provides a comprehensive list of the types of income that are included and excluded from the calculation of annual gross income. Income from assets, such as income received from rental property, is also recognized as part of annual income under the Part 5 definition. The following steps should be taken to determine household income for the purpose of determining eligibility for CDBG housing assistance:

[IRS Tax Topics: Rental Income and Expenses](#)

- **Step 1:** Ask questions of the household regarding annual income and income from assets. Follow the rules pertaining to what types of income to include and exclude.
- **Step 2:** Gather appropriate documentation such as wage statements, interest statements, third-party verifications, etc. (Grantees should use Attachment 7-2: Sample Applicant Release to Obtain Verification of Income form.) Note: While verification from other agencies and employers is considered appropriate, self-certification of income by the household is not sufficient for housing activities.
- **Step 3:** Calculate total household income by adding up the information obtained. Use Attachment 7-3: Sample Part 5 (Section 8) Annual Household Income Calculation Form.
- **Step 4:** Compare the total household income to the HUD income limits for that household's size. Income limits are provided by DOH and can be found on HUD or DOH's website. Determine if eligible for assistance.
- **Step 5:** Place the income calculation, determination and back-up documentation in the appropriate files.

[Attachment 7-2:
Sample Applicant Release to Obtain
Verification of Income](#)

[Attachment 7-3:
Sample Part 5 Annual
Household Income Calculation Form](#)

[CPD Income Calculator](#)

Details and forms used for calculating household income for rehabilitation projects are provided in the "Technical Guide for Determining Income and Allowances" and an Income Calculator for CDBG is available for use on the HUD Exchange website.

Property Eligibility

Eligible units for rehabilitation must be substandard and occupied by LMI households (households whose income is below 80 percent of the area median income as provided by HUD annually). Homeowners may only be assisted once every 10 years with CDBG Small Cities funding. Grantees must identify and document the major deficiencies that qualify the unit as substandard. The grantee must receive and document proof of ownership from the applicant. A family or individual owns the property if that family or person:

- Has fee simple title to the property;
- Maintains a 99-year leasehold interest in the property;
- Has a recorded life estate agreement; or
- Owns or has a membership in a cooperative or mutual housing project that constitutes homeownership under state law.

DOH requires the grantee to conduct a title-search to determine the applicant is the rightful owner of the property. The title search will also allow grantees to learn if there are any outstanding liens on the property. All tax liens must be cleared before assistance can be provided to the applicant.

Since DOH has a minimum five-year residency requirement for all owner-occupied properties, it is recommended that grantees have recipients sign a certification that the property is and will remain their primary residence. This five-year residency requirement should also be clearly stated in the agreement between the recipient and the grantee and recorded in a lien or covenant.

Homeowners must also have current insurance and maintain insurance over the life of the loan for a property to be eligible for rehabilitation with CDBG funds. The grantee should be listed on the policy as an additional party or loss payee to obtain notification of insurance coverage or changes to the policy. Grantees must maintain documentation for review at monitoring.

Conflict of Interest

CDBG grantees and sub-recipients must comply with procurement requirements found at [2 CFR 200.318-326](#) and with other state and local applicable conflict-of-interest provisions. If a grantee believes there may be a potential conflict of interest with a property or applicant, the grantee should refer to [Chapter 1: Project Administration](#) regarding "Conflict of Interest " and complete [Attachment 1-8](#) "Request for Exception to Conflict of Interest" to disclose any potential conflict of interest associated with the project.

Property Standards

The rehabilitation program guidelines should specify the property standard that units must meet after rehabilitation is complete. Grantees must meet all local housing codes and occupancy standards for their rehabilitation program. At a minimum, the grantee must meet all guidelines outlined in this chapter, as well as any local and state building codes. All new construction and reconstruction projects must meet the State of Connecticut Building Code. The guidelines should clearly state both the eligible and ineligible

improvements. Key rules in this area include:

- Any improvement needed to bring the unit to code or which will result in energy conservation should be specified as an eligible improvement.
- Exterior painting or siding should also be eligible, depending on local weather conditions.
- General property improvements—carports, window air conditioning, den additions, etc., are generally ineligible.
- No repairs to or replacement of driveways are allowed including but not limited to, cement, asphalt, pavers, gravel, etc.
- Emergency repairs that do not allow time to meet all policies and procedures will not be entertained by DOH.

To comply with HUD's Lead Safe Housing Rule (LSHR), rehabilitation to all units built prior to 1978 must follow prescribed rehabilitation practices and pass final clearance before approval of payment to the contractor. Tenants may be required to vacate the unit and not allowed to re-occupy unit until an acceptable clearance test is achieved. See Section 7.3: Implementing Housing Rehabilitation of this chapter for more information on compliance with LSHR.

Contracting Requirements

DOH recommends a three-party initial contract agreement and final inspection agreement between the municipality/building inspector/town consultant, the homeowner, and the contractor. At a minimum, the homeowner and contractor must be a party to the construction contract. However, the grantee always remains responsible for monitoring contractor compliance with payments and all other program requirements. More information on contract development can be found in [Chapter 10: Contracts and Modifications](#).

Grantees are required to ensure that contractors receiving work funded by CDBG are registered in and the System for Award Management (SAM) and have not been excluded from participation in Federal programs before contracts are awarded. To do this, the grantee must check the SAM database. The search of the excluded party's website must be completed prior to awarding the construction contract and a printout documenting the search should be placed in the file documentation. More information on how to do this can be found in [Chapter 4: Procurement](#). In addition, grantees must check potential contractors against the CT Department of Labor Debarment List.

[System for Award Management
\(SAM.gov\)](https://sam.gov)

[CT Department of Labor
Debarment List](#)

Program guidelines shall also require that the contractor include dispute resolution provisions in any and all agreements between: a) a homeowner and the Municipality, b) a homeowner and the contractor and 3) the Municipality and the CDBG Consultant. Additionally, the Municipality shall require that the homeowner, the contractor and the Municipality or its CDBG Consultant, as applicable, sign off on the “final inspection and acceptance” of all work completed on the homeowner’s project utilizing CDBG funds. The Municipality is responsible for and shall ensure that proper work permits are secured before work begins, the town building inspector(s), as applicable, sign off on various tasks performed by the contractor as required by

the agreements between the Municipality and the homeowner and the homeowner and the contractor. The Municipality is responsible to make sure that all the warranty related information is provided to the homeowner at the completion of the project or upon execution of the Certificate of Completion by the parties involved.

Relocation Requirements

As described in [Chapter 6: Relocation](#), federal relocation requirements generally do not apply to homeowner rehabilitation programs since participation is voluntary and usually does not involve permanent displacement. However, if the owner's home is a two- to four-unit structure with rental units, the tenants are covered by the Uniform Relocation Act (URA) and possibly by Section 104(d) of the Housing and Community Development Act. 24 CFR Part 42 are the regulations that implement Section 104(d) of the Housing and Community Development Act. See [Chapter 6: Relocation](#) for more information.

[24 CFR Part 42](#)

In addition, the Lead Safe Housing Rule states that temporary relocation may be required if lead hazard reduction work is performed. The grantee is not obligated to provide financial assistance for an owner occupant; however, it must ensure the family is relocated to a suitable, decent, safe and similarly accessible dwelling unit that does not have lead-based paint hazards. See [Chapter 6: Relocation](#) and 24 CFR 35 for more information.

[24 CFR Part 35](#)

For all other situations, grantees are permitted (but not required) to relocate homeowner households temporarily while work is being completed. (For example, if rehabilitation work requires shutting off heat or plumbing for some period of time, temporary relocation may be appropriate.) In these cases, the grantees must meet several requirements:

- Grantees must have a written policy on eligibility and level of relocation benefits, known as an Optional Relocation Policy, so that benefits are distributed in a fair, nondiscriminatory manner.
- Residents who are relocated temporarily must be offered a dwelling that is suitable, safe, sanitary and lead safe. However, the unit does not have to be comparable. All other conditions of the move must be reasonable.

Grievance Procedures

Grievances are a part of every rehabilitation program. The best prevention is to conduct frequent onsite inspections of the work, and stop work when there are problems until the problems are corrected. Also grantees should make efforts to ensure recipients are well informed about the contract work, have initialed and signed-off on the work write-up, and have a copy of the program guidelines that include the grantee's grievance procedure.

In those cases where a mutually satisfactory resolution cannot be reached between the parties, at a minimum, the following procedure should be followed as initial steps towards resolution:

1. A written statement of the dispute/complaint by the homeowner or contractor, as applicable, shall be filed with the Municipality's Small Cities Program Administrator (the "Program Administrator") and the CDBG Consultant, if the Municipality is utilizing the services of a CDBG Consultant.

2. The Municipality shall mediate any workmanship-related complaints filed by homeowners. If the Municipality is using a CDBG Consultant to manage the Small Cities Program, the Municipality shall require such CDBG consultant to address any complaints in a timely manner.
3. The Program Administrator or designee and/or the CDBG Consultant, as applicable, shall meet with the homeowner and contractor and attempt to negotiate a solution to the dispute.
4. The Municipality will assist the homeowner in addressing the complaint and make a determination about the responsibility to fix any items in dispute.
5. If the contractor is determined by the Municipality as responsible to fix the disputed items, the Municipality shall issue a written statement to the contractor informing contractor of its determination and contractor's responsibility to address the items.
6. If a contractor is nonresponsive, the Municipality or the CDBG Consultant, as applicable, may contact the contractor's bonding company to fix the items or take any other action it deems appropriate.
7. If the CDBG Consultant is found to be responsible for the errors and omissions in bids and specifications prepared by the CDBG Consultant including, but not limited to, lack of inspection, the Municipality shall hold the CDBG consultant financially responsible to address the complaint and remedy the issue
8. Other solutions may include, but are not limited to, requiring the contractor to fix the items within a specified period of time, contacting the Connecticut Department of Consumer Protection, if applicable and appropriate, and/or contacting the contractor's bonding company to file a complaint against the contractor or take action to enforce the bond, etc.

More information on appeals and grievances can be found in [Chapter 1: Program Administration](#).

Section 7.3 Implementing Housing Rehabilitation

Determining Staffing

In staffing a rehabilitation program, it is helpful to understand the specific skills and duties that will be needed. Some of the key elements include:

Finance Staff. Staff is required for marketing the program, processing applications, completing income verifications, and ensuring that all CDBG requirements are met for the project. General knowledge of mortgage lending is also helpful.

Rehabilitation Staff. Staff is required for performing work write-ups and inspections. Qualifications may include a certification and considerable knowledge and/or experience in various aspects of housing construction, considerable inspection experience in government funded rehabilitation programs or in residential construction management or certified in the completion of recognized building codes and/or rehabilitation standards training programs. These skills are found in experienced contractors, building inspectors, architects, etc., familiar with rehabilitation.

Marketing

In order to ensure a sufficient pool of qualified applicants, program staff should develop marketing procedures and materials (e.g., ads, flyers, etc.).

Marketing procedures should assure that the program is marketed and available to the full range of potential applicants, including those least likely to apply. Additional information can be found in [Chapter 8: Fair Housing and Equal Access](#).

These procedures should address the following:

- Use of equal opportunity language in advertisements and literature;
- Grantee waiver of eminent domain in advertisements and literature;
- Literature that is understandable to applicants, including key information available in other languages;
- A schedule and plans to ensure that advertising or other outreach efforts reach potential applicants at places they frequent;
- Lists of the places and/or personal contacts where program information is distributed such as churches, laundry mats, service providers, parks, etc.; and
- Accessible facilities such as the ability to accommodate people with disabilities and the completion of an accessibility self-assessment.

Screening Applicants

Applicants must be screened to determine income, property ownership and any other applicable criteria, as may be specified in the guidelines. Homeowners may only be assisted with Small Cities funding once every 10 years.

[Attachment 7-5:
Sample CDBG Rehabilitation
Application for Assistance](#)

Re-verification of income using the Part 5 definition of income is required before providing direct benefit. A sample CDBG Rehabilitation Assistance Application is provided as Attachment 7-5. The grantee may develop its own application format; however, the application file must contain, **at a minimum**, the following information:

- ✓ Name of the owner and address of the property.
- ✓ Signature of the owner and the date.
- ✓ Number of persons (adults and children) in the occupant household and their ages.

Chapter 7: Housing Rehabilitation

- ✓ Sufficient information concerning the occupant's household income.
- ✓ The grantee should also verify that property taxes are current and in the case of an existing mortgage, that principle and interest payments are current and the mortgage is not in a delinquent or fail status.
- ✓ Sufficient information to show that the occupant meets the grantee's program eligibility criteria, including household income.
- ✓ Verification of the above-referenced information.

The interview is also a good time to give the applicant a copy of the pamphlet "Protect Your Family from Lead in Your Home" (Attachment 7-6). The grantee must document using a Verification of Receiving the Lead-Based Paint Pamphlet form (Attachment 7-7) that the pamphlet was provided to the applicant before any work may begin. The pamphlet can also be downloaded from DOH's website. If the house is reconstructed, it is not required that the applicants be given the Lead Based Paint Pamphlet. The file should, however, be documented that the project is exempt from the Lead Safe Housing Rule since it is a reconstructed property.

[Attachment 7-6:
"Protect Your Family from Lead
in Your Home" Pamphlet](#)

[Attachment 7-7:
Verification of Receiving the Lead-
Based Paint Pamphlet form](#)

The information collected is confidential and should be treated as such. Applicant's permission to obtain and verify any personal information must always be granted.

TIP: Detailed income documentation must be performed. See [Section 7.2: Program Guidelines](#) in this chapter for more guidance.

Initial Inspections

Rehab Specialists must use the standardized checklist (Attachment 7-8: Initial Inspection Checklist) when inspecting housing units for health and safety. DOH also requires that Rehab Specialists use photos or videos to document the conditions of the property as well as pictures of the completed project. This documentation will be reviewed at monitoring. DOH also utilizes these photos to submit project summaries to HUD and other organizations for highlighting the impact of CDBG programs. A PowerPoint on [Photography Tips for Beginners](#) can be found on the DOH website.

[Attachment 7-8: Initial
Inspection Checklist](#)

Performing Work Write-Ups and Cost Estimates

A very thorough inspection of the property must be conducted to determine the type and cost of work necessary to bring the property into compliance with all local and state building codes, including the CDBG Residential Rehabilitation Standards and HUD guidelines (for rehabilitation) or the State of Connecticut Building Code (for reconstruction). After the initial inspection, the work to be done should be written down. This is termed an

[Attachment 7-28: CDBG
Residential Rehab Standards](#)

[Attachment 7-9: Sample
Work-Write Up and Cost
Estimate Form](#)

inspection report. At this stage, the items must be estimated in terms of cost, a process to produce a cost estimate. These reports are usually done on a room-by-room basis. Some grantees with experienced staff have blank forms the housing inspector completes. If the staff is inexperienced, they may need detailed check-off forms that list virtually every possible deficiency. The housing inspector checks for each one and specifies action needed to remedy the problem. It is better to err on the side of caution. A Sample Work-Write up and Cost Estimate Form are provided as Attachment 7-9.

In addition, historic properties (those more than 50 years old and/or listed or eligible for inclusion on a national, state or local historic register) are required to follow the Secretary of Interior's Standards for Rehabilitation (also referred to as the Section 106 requirements). During the environmental review process, grantees must consult the State Historic Preservation Office (SHPO) for guidance for historic properties, which may require a Memorandum of Agreement or documentation approved by the SHPO. Grantees must then ensure the requirements stipulated by the SHPO be incorporated into the work write-up and cost estimate. Release of CDBG funds cannot be obtained until the grantee receives SHPO concurrence. Refer to [Chapter 2: Environmental Review](#) for detailed guidance.

[Connecticut Museum of Culture and History](#)

[State Historic Preservation Office](#)

Pre-1978 Properties and Lead Hazard Reduction

All units in a project assisted with CDBG funds must comply with 24 CFR Part 35, which implements Title X of the Housing and Community Development Act of 1992, also referred to as the Lead Safe Housing Rule (LSHR). This regulation has been in effect since September 15, 2000, and Subpart J applies to rehabilitation projects. A briefing packet that explains more about HUD's Lead Safe Housing Rule is provided as Attachment 7-10.

[24 CFR Part 35](#)

[Attachment 7-10:
Lead Safe Housing Rule
Briefing Packet](#)

Some rehabilitation work performed in pre-1978 units may be exempt from following the lead safe housing rule such as:

- Properties found not to have lead-based paint during current testing and earlier testing that meets the requirements of prior evaluations.
- Properties where all lead-based paint has been identified and removed using approved methods; and S Rehabilitation that does not disturb paint.

Grantees should refer to the Lead Safe Housing Requirements Screening Worksheet Parts 1-4 (Attachment 7-11) and 24 CFR 35.115 and 35.165 for more information regarding exemptions.

[Attachment 7-11:
Lead Safe Housing
Requirements Screening
Worksheet](#)

If a home was constructed prior to 1978, the LSHR applies. Therefore, the initial inspection report must specify all the work to be done to bring the building to standard and include all work necessary to comply with applicable lead hazard reduction requirements.

[24 CFR 35.115
and
24 CFR 35.165](#)

Evaluation Method

After the initial work write-up is complete, the rehabilitation specialist must determine which lead evaluation activity must be followed. The evaluation activity required depends on the level of assistance:

- < \$5,000. Paint testing of surfaces to be disturbed must be completed. Paint testing must be conducted by a certified paint inspector or risk assessor.
- \$5,000-\$25,000. A comprehensive lead inspection must be performed of the entire unit. A comprehensive lead inspection must be conducted by a DPH certified lead risk assessor who is employed by a DPH licensed lead consultant.
- > \$25,000. A comprehensive lead inspection must be performed of the entire unit. A comprehensive lead inspection must be conducted by a DPH certified lead risk assessor who is employed by a DPH licensed lead consultant.

[Attachment 7-12:
Guidance on HUD/EPA
Abatement Letter](#)

Grantees should be aware that there are additional rules for the type of work that is performed depending on the intent of the work. See the combined HUD-EPA Notice and Guidance (Attachment 7-12) for more information.

Notification

If lead-based paint hazards or bare soil lead hazards are identified, the results must be reported to the Director of Health and the Commissioner of Health. Results of the paint test and risk assessment must be provided in a Notice of Lead Hazard Evaluation to the homeowner within 15 days of the grantee receiving them. The person performing the evaluation may be able to assist the grantee in completing the form.

It is important for the homeowner to know that, under the LSHR, they must disclose any knowledge of lead in the home to any future buyers of the property. A sample Notice of Lead Hazard Evaluation is provided as Attachment 7-13.

[Attachment 7-13:
Sample Lead Hazard
Evaluation Notice](#)

Grantees also have the option to presume there is lead in the unit rather than paint testing or risk assessments. If the grantee utilizes the presumption of lead option, the scope of work must address all painted surfaces. Grantees should note that this approach may raise the cost of the work as non-lead surfaces will be required to be treated as if they contained lead.

Also, if the presumption method is followed, a "Notice of Presumption" must be provided to the homeowner within 15 days of performing the initial inspection. A sample Notice of Presumption is provided as Attachment 7-14.

[Attachment 7-14:
Sample Lead Hazard
Presumption Notice](#)

Finalizing the Bid Specs

If the paint testing or risk assessment shows there are no lead hazards, then traditional rehabilitation practices may be followed.

If there are lead hazards found in the home then the following lead hazard reduction activities must be followed based on the amount of assistance and incorporated into the work write-up.

- < \$5,000. Repair surfaces to be disturbed using safe work practices and trained workers.
- \$5,000-\$25,000. Perform interim controls using safe work practices and trained workers. If presumption occurred, perform standard treatments using safe work practices and trained workers.
- > \$25,000. Perform abatement using safe work practices and certified abatement supervisor and certified workers.

For more information about repair, interim controls, standard treatments, abatement and the types of training or certification required for personnel performing the work, please see the Briefing Packet on the LSHR (Attachment 7-10).

The work write-up must be revised to incorporate the appropriate lead hazard reduction work and methods required to perform the work. If abatement is involved the LHD must be involved at this point. Once the work write-up has been finalized, the cost estimate tells whether or not the work can be done within the average loan limits and the owner's ability to repay.

The person preparing cost estimates should be familiar with the current rates for materials and labor and be able to estimate accurately the time required to complete each task. Good, reliable cost estimates are critical. Since costs change rapidly, it is important that cost estimates be used as soon as possible.

Loan to Value/Dollar Threshold Requirements

When administering a housing rehabilitation program, grantees are required to seek approval from the State to move forward with cases that have a Loan to Value (LTV) above 100% and/or exceed the dollar threshold limits (\$35,000 per single-family house or up to \$100,000 per property if 2 or more units).

Grantees must include enough information in their written request for the State to make a determination in the most efficient way possible. This request must be made before any commitments are made to the homeowner. The request must, at the very least, address the following items:

1. Source of funding: grant dollars (and grant year) or program income.
2. A reason as to why the Town would like to move forward with the case,
3. The proposed scope of work and itemized cost estimate of the work,
4. Identify the proposed scope of work as Life Threatening or Non-Life Threatening,
5. If the household(s) are receiving income and if bank statements have been checked to determine that the homeowner cannot pay for some of the improvements to bring the LTV down,
6. If relocation will be necessary; and if so, how it will be handled,
7. Any upgrades or maintenance work done to the property in question in the last 10 years,

Chapter 7: Housing Rehabilitation

8. Any open home equity lines of credit, and
9. Any other information that the grantee deems will help the waiver request.

Grantees should notify all applicants written notification if the project is deemed not feasible with appropriate reasoning and documentation must be filed for future monitoring.

Executing Agreements with Beneficiaries

The grantee must enter into a formal written agreement with the applicant for the amount of the assistance made available.

- This agreement needs to be signed by the homeowner, prior to the start of work, and represents the official financial obligating instrument between the homeowner and the grantee.
- At a minimum, this agreement shall certify the legal owner of the property, the type of assistance, as well as outline all conditions associated with the assistance.
- Conditions of the agreement may include a monthly payment schedule if applicable, a minimum five-year primary residency requirement for owner occupied properties, hazard insurance, death of the applicant, conversion, transfer or sale of the property rehabilitated, and any other conditions that, if violated, may result in a reimbursement of funds by the applicant.

The grantee must also utilize a recorded mortgage, prior to the start of work, to secure the amount of the federal investment.

Following approval, grantees should meet with the applicant to review the proposed scope of work to be undertaken. Applicants should initial each page and sign the last page of work items, thereby attesting to the fact that the applicant was made aware of the improvements to be made to the property. The homeowner should also receive all proper notices and information about lead-based paint. It is also important to finalize any temporary relocation plans and set a schedule for the work.

NOTE: Under the Fair Credit Reporting Act, Grantees must inform any homeowner or investor receiving funds under the program, the conditions of receipt of the funds, the amount of the funds, percent of interest on funds, and the ability to exercise the Three Day Right of Rescission.

Contracting for Rehabilitation

Developing and implementing effective contracting procedures is one of the most critical tasks in a housing rehabilitation program. Four key elements involved in the contracting process are covered in the following discussion: recruiting contractors, bidding procedures, preparing the contract, and contract award and monitoring.

[Attachment 7-15:
Sample Rehabilitation
Agreement](#)

Recruiting Contractors

It is often difficult to recruit contractors if there are only relatively small jobs for repairing homes in poor condition. The grantee should identify possible contractors and attempt to interest them in program participation. The yellow pages of the telephone book, the Chamber of Commerce, the Supplier Diversity Division of the Connecticut Department of Administrative Services, conversations with construction materials suppliers, and word of mouth are all information resources to aid in developing a contractors list.

[Supplier Diversity, CT
Department of Administration](#)

Licensed lead-based paint and asbestos contractors may also be found on the State of Connecticut's Health Department website.

[CT Department of Health
License Lookup Portal](#)

To promote the participation of small contractors, the grantee may attempt to eliminate procedural barriers and provide technical assistance. Some grantees have:

- Provided technical assistance such as:
 - Financial management assistance;
 - Talking to local suppliers about credit extension to rehabilitation contractors;
 - Asking local financial institutions to extend lines of credit; and
 - Allowing progress payments after completion and inspection of a certain percentage of work.

In addition, grantees must ensure that they are using trained and certified workers to perform work in compliance with the lead safe housing rule.

Pre-Qualified Lists

Grantees may utilize pre-approved lists in the Housing Rehabilitation Program. The federal regulations require that Grantees ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the Grantee must not preclude potential bidders from qualifying during the solicitation period.

All Pre-Qualified Lists must adhere to the policies outlined below:

- 1) Grantees must advertise the procurement at least once at the beginning of the grant period for each approved grant. The ads must be posted on the DAS website (and published in the minority newspaper) for each town and in newspaper of daily general circulation.
- 2) Contractors shall be allowed to request an application from the municipality or the procured consultant's office.

- 3) Along with the application contractors are required to submit a copy of the HIC license, insurance certificate for liability, workers compensation, RRP certificate for lead, Section 3 certificate (if applicable), WBE/MBE certificate (if applicable), former town references and at least three (3) homeowner references.
- 4) All contractors and sub-contractors must be checked for exclusions against the Federal and State debarment lists. **All Information on the application should be verified and references are checked.**
- 5) All Pre-Qualified Lists must be updated on an annual basis. The list must include the date established and date of the most recent update.

[Attachment 7-16: Sample Pre-Qualified Contractor Application Form](#)

[Attachment 7-17: Sample Pre-Qualified Contractor List](#)

[Attachment 7-18: Sample Pre-Qualified List Update Request](#)

When developing a Pre-Qualified List, Grantees should consider the following:

- a) Homeowner satisfaction on previous jobs
- b) Communication with homeowners and consultants on previous jobs
- c) Timeliness and accountability on previous jobs
- d) Issues or concerns on previous jobs
- e) Contractor eligible for re-hire
- f) Conduct a basic internet search and look for any online reviews, BBB ratings, news articles, etc. to uncover any potential issues.

Bidding Procedures

Bidding procedures need to be developed by grantees. Grantees must demonstrate that bids were let in a fair, unbiased manner and that efforts were made to solicit bids from small, minority, women owned and Section 3 businesses. Below are some guidelines to include in bidding procedures.

- Bids may be advertised in the newspaper, through public notice or radio and by contacting an already approved list of contractors.
- Advertising at the start of the program and establishing a list of contractors interested in bidding for jobs throughout the duration of the program is acceptable.
- At least three contractors should be encouraged to bid on each job.
- Grantees are required to check the System for Award Management (SAM) to ensure contractors have not been excluded from participation in federal programs before awarding a bid and must check this list when bids are received.

[System for Award Management \(SAM\)](#)

NOTE: Grantees are prohibited from utilizing the Small Purchase Method for Housing Rehab contracts.

Each contractor must provide proof of liability insurance in an amount deemed reasonable by the grantee. The liability insurance shall be maintained during the life of the contract. Each contractor must provide evidence of workers compensation insurance at a level in conformance with state law for all employees at the job site and shall require subcontractors to provide evidence of the same. Contractors must submit documentation that shows they are qualified to perform lead work such as:

- Proof they attended a safe work practices training session (for jobs involving safe work practices).
- Copies of the Connecticut certification for abatement supervisor and workers (for jobs involving abatement).

Any solicitation for bids by the grantee should include:

- Location for bid document pick up and submission;
- Address of unit to be rehabilitated;
- Time the unit is open for inspection; and
- Time and place for bid opening.

DOH requires that minutes from the bid opening be taken. The minutes should include names of all present at the meeting, a list of all bids received, and the amounts bid for the work. Homeowners must be informed of the bid opening and given an opportunity to attend it as well.

Bids need to be reviewed for cost reasonableness. Grantees should be wary of bids above or below 15 percent of the cost estimate. Grantees should not award to the low bidder if the contractor has a backlog of incomplete rehabilitation jobs or a history of poor performance. Grantees are advised to impose a cap of two rehabilitation jobs per contractor at any given time, unless the contractor can clearly demonstrate capacity to handle more than that. This cap should be clearly outlined in the policies and procedures.

The homeowner makes the final decision for selection of the contractor. The Homeowner must pay the difference if they choose a contractor who is not the lowest responsible bidder.

Preparing the Contract

The contract for rehabilitation must be between the homeowner and the contractor. The grantee remains responsible for monitoring contractor compliance with payments and all other program requirements.

Key federal provisions which apply to all rehabilitation contracts are:

- Lead Based Paint clause, and
- Conflict of Interest clause

Davis-Bacon and other labor standard provisions do not apply unless the rehabilitation involves a structure

with eight or more units. Within the contract, the grantee should require the contractor to:

- Obtain and pay for all necessary permits and licenses;
- Perform all work in conformance with all local and state building codes, including the CDBG Residential Rehabilitation Standards and HUD guidelines, and State of Connecticut Building Code, whether or not covered by the specifications and drawings;
- Keep the premises clean and orderly during repairs and remove all debris at the completion of work;
- Obtain written consent from the grantee and the homeowner for changes to specifications;
- Comply with all required rehabilitation practices for the lead safe housing rule;
- Obtain written consent prior to sub-contracting;
- Provisions for termination and for non-performance;
- Pay for all lead-based paint clearance tests of the unit and continue work until the unit passes clearance; and provide each of the required notices to owners and tenants;
- Warrant the work for one year from final acceptance.

DOH requires that grantees attach a copy of the work write-up to the contract. A Sample Contract Package for Rehabilitation is provided as [Attachment 7-15](#). More information can be found in [Chapter 10: Contracts and Modifications](#).

WARNING: There should not be any verbal agreements between homeowners and the contractor. It should be strictly identified in the contract.

Contract Award and Monitoring

Following award of the contract, the contract package must be executed by all parties. The homeowner must sign the contract and initial each page and sign the last page of the work write-up. A Notice to Proceed should be issued promptly to the contractor, specifying the time period within which the work should begin and when the work should be completed. A sample Notice to Proceed is provided as Attachment 7-19.

[Attachment 7-19:
Sample Housing Notice
to Proceed](#)

A pre-construction conference is required by DOH to clarify the responsibilities of all parties. A sample Pre-Construction Conference Checklist that can be used at such a conference is provided as Attachment 7-20.

[Attachment 7-20:
Sample Rehab
Pre-Construction
Conference Checklist](#)

Work must not begin until all the required permits are secured by the contractor, copies of which must be provided to the grantee for verification and original to be posted inside the house.

Inspections

Systematic thorough inspections by the rehabilitation specialist are critical to successful housing rehabilitation. Periodic interim inspections of the rehabilitation construction will be made by the grantee throughout the contract period, and formally documented in the files. Photographs of before and after are highly recommended. These inspections will be conducted to assure compliance with the contract standards for workmanship and materials, to detect any unauthorized deviations and to identify necessary changes to the contract work in its early stages. A PowerPoint on [Photography Tips for Beginners](#) can be found on the DOH website.

The Interim monitoring checklist must be prepared by the grantee and submitted to the DOH Construction Specialist. Inspection and approval of completed work must be conducted by the grantee prior to the contractor's request for partial or final payment. The grantee has the authorization to override an owner's decision and accept the work in accordance with grievance procedures if an owner makes unreasonable requests/demands and the contractor has satisfied all the requirements of the grantee. A final inspection of the work must be performed prior to final payment to the contractor in order for the project to be considered complete.

[Attachment 7-21:
Sample Certification of
Inspection](#)

Change Orders

Any additions to, deletions from, or changes in the rehabilitation contract work, time, or price must be approved in a written change order request before the additional work is started. The LHD must approve all change orders when abatement is involved.

The change order must be executed by the owner and the contractor and approved by the rehabilitation specialist and the grantee. Change orders may be used to add items of work that are essential to complete the original work and were not evident until after the work started.

[Attachment 7-22:
Sample Change Order
Request](#)

The contractor shall not be authorized to perform any work outside the scope of the original contract without a written and properly executed change order. Total change orders must not exceed 15% of the original contract price.

REMINDER: Change Orders exceeding 15% of contract price must be approved by DOH in advance.

Clearance

If the rehabilitation job had any lead hazard reduction work performed, a clearance of the unit must be passed before re-occupancy. A clearance examination involves a visual assessment and dust testing to determine if the unit or worksite is safe for occupancy. Clearance must be performed by a certified risk assessor, certified lead-based paint inspector or certified lead sampling technician. Clearance cannot be performed by the same contractor who performed the work. It must be a separate party.

Chapter 7: Housing Rehabilitation

The clearance test cannot be performed until one hour after the final cleaning of the unit. Results of the clearance test must be incorporated into a "Notice of Lead Hazard Reduction Activities" by the grantee. This notice must be provided to the homeowner within 15 days of the clearance test. A sample Notice of Lead Hazard Reduction Activities is provided as Attachment 7-23.

[Attachment 7-23:
Sample Notice of Lead Hazard
Reduction Activities](#)

[Attachment 7-24
Checklist for Lead Safe Work
Practices and Hazard
Reduction](#)

[Attachment 7-25
Checklist for Lead Abatement
Projects](#)

Grantees must be aware that if the unit fails the clearance test the unit cannot be reoccupied. The contractor will need to re-clean and another clearance test must be performed. All costs for subsequent testing are NOT eligible CDBG costs but must be borne by the contractor.

Once the unit has passed the clearance test, the final invoice may be processed. If LHD is involved in the project, a final visual assessment must be conducted by LDH. Grantees should coordinate this visual inspection to be conducted at the time of dust wipe testing.

Final Documentation

DOH recommends that all Programs hold a "post-construction" meeting that establishes final inspection, final payments, completed and accepted work. Grantees must have the contractor sign an affidavit for Contract Termination and Release of Lien Form (Attachment 7-26) and provide warranty documents, and subcontractors release of lien waivers before final payout. After which, the Notice of Acceptance of Work (Attachment 7-27) may be issued to the contractor.

[Attachment 7-26:
Sample Contract Termination
and Release of Lien Form](#)

[Attachment 7-27:
Sample Notice of Acceptance
of Work](#)

The work must have a one-year warranty along with other warranties as may be applicable.

Section 7.4 Walk-Away Policy

The purpose of the walk-away policy is to prevent investment in a home which is so deteriorated that compliance with the HUD Housing Quality Standards (HQS) and/or DOH Rehabilitation Standards cannot be achieved within limited financial resources.

[Attachment 7-28: DOH
Residential Rehab Standards](#)

All the grantees must consider and utilize these criteria when drafting this policy:

- Overall condition of the house
- Ownership disputes
- Insufficient equity (over 100% loan to value ratio)
- Insufficient program funds
- Use of a disproportionate amount of the available funding
- Cost reasonableness/excessive cost
- Inability to meet HQS and/or Rehabilitation Standards upon completion

- Reduction of living units
- Permanent relocation
- Homeowner's ability to secure funds from other funding sources (homeowner's contribution, if sufficient equity in the house)
- Differentiate between needs vs. wants; urgent vs. future improvements
- Type of maintenance done in the past 10 years

The Department of Housing (DOH) recommends that grantees, in the administration of a housing rehabilitation program, develop a “walk away” policy for projects when the cost to bring it into compliance with DOH's latest CDBG Residential Rehabilitation Standards exceeds \$35,000 per house or up to \$100,000 per property (if 2 or more units). Under no circumstances will a project be undertaken when the cost of rehabilitation is greater than 75% of the total cost of replacement after rehabilitation. DOH also recommends that a written notification be provided to the homeowner if the project is deemed not feasible with appropriate reasoning and such documentation be filed for future monitoring. DOH's consent is required if deviating from above policies and dollar thresholds. The grantee is required to provide justification when making such a request.

[Attachment 7-28: DOH Residential Rehab Standards](#)

Section 7.5 Housing Rehab Revolving Loan Program

State of Connecticut's Rehabilitation Program is a “Revolving Loan Fund Program”. Small Cities program funds spent on rehabilitation of any property are expected to be repaid to the grantee or the State, as the case may be, by the property owner. Grantees can set up their loan program as they feel appropriate; however, they must adhere to the following criteria for uniformity in managing the program. No other lending terms and conditions are allowed.

Single Family Loan Program – Loans up to \$35,000 per unit:

1. 100% deferred loan with 0% interest and full repayment (which becomes Program Income) upon transfer or sale of the property ownership, refinance (it is recommended that the grantee identify specific conditions and requirements in the agreement with the homeowner in case of refinance), etc., or;
2. Minimum loan re-payments due every month with 0% loan and a term of 10, 15, 20 years, or as appropriate. (for homeowners who wants to follow conventional financing model).
3. Small Cities recipients must have Statutory Mortgage Deed, a Loan Note placed and a Modification Mortgage Deed to include change orders, lead clearance (if applicable) on individual properties with requirements for full repayment upon transfer or sale of the property ownership.
4. “Use restrictions” are for restricting the use of certain properties such as residential rental properties to maintain long term requirements. The grantee must place appropriate “use restrictions” for these activities for a minimum of 15 years.

Multi-family Loan Program (2 or more units) – Investor Owned Properties require a 50% match. Loans of \$35,000 per unit, up to \$100,000 per property:

Investors may be eligible for direct loans with interest rates of up to 3% and a fixed term of 15 years. A [deed restriction](#) for rents and income eligible tenants is required. Use restriction should run with the property and must be for 15 years or the length of the loan whichever is longer. Towns may require owner/investor to pay a penalty for not complying with the term requirements. All loans must be secured with a mortgage deed, promissory note, and use restriction. Grantees are responsible to make sure that the above conditions are met, otherwise the loans are due payable to the State immediately. DOH's consent is required if deviating from the above policies and dollar thresholds. Grantee is required to provide justification when making such a request.

Section 7.6 Public Housing Modernization

Using CDBG funds for the rehabilitation of public housing units is also an eligible activity. Rents must be affordable for a minimum of five years, based on the level of CDBG investment per unit. The maximum amount of rent charged may not exceed HUD's Fair Market Rent during the required affordability period.

DOH requires using the following affordability and use restrictions:

[Attachment 7-30: Sample Use Restriction for PHM](#)

Up to \$5,000 per unit	5 years
\$5,001-\$25,000 per unit	10 years
Over \$25,001 per unit	15 years

Meeting a National Objective

In addition to the requirements discussed in the previous section, public housing projects must also meet a National Objective of the CDBG program.

- For properties with more than two units, at least 51 percent of the units must be occupied by LMI households.

Rental units must be occupied by LMI persons at affordable rents (as defined by DOH) for a minimum period of five years based on the level of investment. The maximum amount of rent charged may not exceed the HUD Fair Market Rent (FMR) during the affordability period. Each completed residential rehabilitation project file must have a signed copy of the landlord-tenant agreement for each rental unit. In addition, the grantee is responsible for monitoring and enforcing the affordability periods for each project.

[HUD Fair Market Rents](#)

Relocation

The Uniform Relocation Act applies to all projects in which tenants are living in a multi-unit structure. Proper notices, services and payments must be provided to tenants as applicable. See [Chapter 6: Relocation](#), for more information.

Grantees are required to create a transition plan and schedule that must include:

- Clear consideration of tenant accommodations
- Detailed plan and schedule for the moving of tenants
- Hotel/Motel back-up plan
- Cleaning of rehabbed units
- Cleaning and preparing of temporary units

Grantees may wish to consult with a relocation specialist to assist with the transition plan and schedule.

Chapter 8: Fair Housing and Equal Access

Introduction

This chapter covers the rules and regulations that are applicable to upholding the rights of every individual regardless of race, creed, color, national origin, ancestry, sex, gender identity or expression, age, lawful source of income, familial status, learning disability or physical/mental disability, or sexual orientation on projects that utilize CDBG Small Cities funds. A list of all [protected classes](#) under federal and state law can be found as Attachment 8-1.

[Attachment 8-1: Connecticut Protected Classes List](#)

Each grantee of Small Cities Development Block Grant funds must comply with the fair housing and civil rights laws and requirements contained in the contract for financial assistance and local assurances. By agreeing to these provisions, the grantee has certified that its project will be designed and administered in a non-discriminatory manner. In addition, all state and federal projects funded by DOH are subject to the requirements of Section 8-37cc(b) of the [Connecticut General Statutes \(CGS\)](#) which states, “*Each housing agency shall affirmatively promote fair housing choice and racial and economic integration in all programs administered or supervised by such housing agency.*”

[Fair housing](#) and civil rights laws impact many aspects of Small Cities projects. [Nondiscrimination](#) must be shown with relation to any benefits created with a grantee’s public facilities projects. In addition, the grantee will be expected to show that the community in general is committed to nondiscrimination, equal opportunity, and affirmative action.

Grantee’s Responsibility

- Affirmatively further fair housing by analyzing the impediments to fair housing
- Implement fair housing action steps including activities for Fair Housing Month
- Implement the project in a non-discriminatory manner
- Maintain records that document project beneficiaries
- Demonstrate compliance with fair housing and civil rights objectives

State’s Responsibility

- Rate and rank fair housing and civil rights components of the Small Cities application
- Perform compliance review of the project during the life of the contract for financial assistance

Section 8.1 Affirmatively Furthering Fair Housing (AFFH)

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

Step 1: Analyze Impediments to Fair Housing.

Grantees are not required to perform their own Analysis of Impediments but may use the analysis performed by the State or by an adjacent entitlement community.

Step 2: Implement Fair Housing Action Steps.

Each grantee must identify and implement action steps to overcome the impediments to fair housing. The *Connecticut Opportunity Map* will assist you in identifying the fair housing action steps appropriate for your community.

[Connecticut Opportunity Map](#)

Step 3: Develop a Fair Housing Resolution.

The Grantee should work with their Attorney to develop a Fair Housing Ordinance. A sample Fair Housing Action Plan and Resources has been provided as Attachment 8-2. The Fair Housing Ordinance must be formally adopted by the Grantee and included with each application for funding.

[Attachment 8-2: Fair Housing Action Plan and Resources](#)

Step 4: Display the Applicable Fair Housing Logo and Posters.

The Grantee and their Grant Administrator are responsible for placing the applicable Civil Rights posters in conspicuous locations of public buildings, including local government offices, and the posters must always be displayed at the job site. The required posters may be found in the DOH's *Fair Housing and Civil Rights Manual*. (See Attachment 8-3: Fair Housing and Civil Rights Manual) All housing-related notices, advertising, and brochures must include the fair housing logo. DOH also recommends that the logo be displayed on all municipal stationary.

[Attachment 8-3: Fair Housing and Civil Rights Manual](#)

Grantees must post the following documentation at the town/city hall in a prominent place for viewing by the general public:

- Title VI Certification
- Fair Housing Policy Statement which includes Discrimination Complaint Procedure
- ADA Notice
- ADA Grievance Procedure
- Affirmative Action Policy Statement
- Fair Housing Posters in both English and Spanish. Copies can also be found on the DOH Website.
- Equal Employment Opportunity posters in both English and Spanish. Copies can be found on the DOH Website

Municipal officials should become thoroughly familiar with the FHAP's provisions and actively participate in its implementation since they are ultimately responsible for ensuring that the town/city complies with the FHAP. Failure to do so can result in the grantee being ineligible to apply for a grant in the future. Grantees may enlist public participation in carrying out the plan and post it so that it is made available to the general public.

As part of the FHAP, the grantee pledges to carry out local fair housing actions steps to overcome the identified impediments to fair housing choice. Too often, cities and towns have made statements that they will fight housing discrimination but in actuality have done nothing to overcome housing discrimination or segregation in their communities, as HUD states below in its *Fair Housing Planning Guide*:

“It should be a source of embarrassment that fair housing poster contests or other equally benign activity were ever deemed sufficient evidence of a community’s effort to affirmatively further fair housing. The Department believes that the principles embodied in the concept of ‘fair housing’ are fundamental to healthy communities, and that communities must be encouraged and supported to include real, effective, fair housing strategies in the overall planning and development process, not only because it is the law, but because it is the right thing to do.” -Fair Housing Planning Guide

[HUD Fair Housing Planning Guide](#)

For more information, please see the HUD *Fair Housing Planning Guide*.

Examples of action steps designed to truly overcome the impediments to fair housing include:

- Hiring a fair housing specialist to train town/city staff and housing authority staff, not simply notifying staff that they should attend a fair housing training with little effort to ensure that this happens
- Conducting fair housing seminars once a year for community residents, landlords, real estate professionals and lenders
- Reviewing local building and zoning codes to remove overly restrictive occupancy standards, family definitions, and density requirements which prevent large families with children or people who are disabled from occupying housing in any neighborhood
- Developing a written inspection procedure to inspect and monitor new construction and substantial rehabilitation specifically for compliance with the accessibility requirements of the fair housing laws, the American Disabilities Act, and related laws
- Creating or expanding Section 8 and other mobility counseling programs to encourage people of color, people with disabilities, families with children, as well as low and moderate income people to move into the town/city

In short, fair housing action steps should ensure that the people underrepresented in the community are able and encouraged to move to the town/city in question and/or can avail themselves of the services that it provides.

Step 5: Contract Provisions

Include provisions for non-discrimination in all contracts issued to all recipients of your CDBG funds, including businessmen, developers, contractors, and homeowners. Keep a copy of such provisions in your file, along with any additional information documenting your own compliance. See [Chapter 10: Contracts and Modifications](#).

Section 8.2 Drug Free Workplace Policy

A Drug Free Workplace Policy must be formally adopted by the Grantee, if one does not exist. This policy is intended to establish a drug free workplace and will be considered as a condition of employment.

A copy of the Drug Free Workplace Policy **MUST** be included in all applications for funding.

Section 8.3 Equal Employment Opportunity (EEO) Compliance

The [Equal Employment Opportunity \(EEO\)](#) Posters must be displayed at the job site. It is the responsibility of the Grant Administrator to provide the posters to the Grantee and verify that the posters are displayed at the job site.

Section 8.4 Accessibility Certification

All CDBG assisted facilities must be designed, constructed and altered so as to be accessible to and usable by persons with physical disabilities. To accomplish this, the Grant Administrator must complete the following tasks:

Step 1: Architect/Engineer Coordination

Coordinate activities with the design architect or engineer.

Step 2: Certification of Accessibility

The Grantee and project Engineer or Architect are responsible for:

- a. Affirming that the completed project is accessible to all persons regardless of disabilities,
- b. Completing the Attachment 8.4: Certification of Accessibility and submitting to DOH no later than Project Monitoring.

[Attachment 8-4:
Certification of Accessibility](#)

Certain types of projects utilizing CDBG funds are exempt from the above step. Exempt projects include housing rehabilitation, shelter diversion, and most infrastructure projects. Grantee should contact DOH, if they are unsure of the status of their project.

Section 8.5 Limited English Proficiency

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

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

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

Step 1: Conduct Analysis

Conduct the *Four Factor Analysis* prior to advertising the initial public hearing. A sample has been provided. A sample Four Factor Analysis is included in this Chapter as Attachment 8-5.

[Attachment 8-5: Four Factor
Analysis for Limited English
Proficiency](#)

Step 2: If Required, Provide Language Assistance

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

Step 3: Develop LAP

If an application is funded, the community will be required to develop a LAP if necessary and provide a description of outreach efforts prior to Release of Funds. Particular attention will be given to plan details for projects including acquisition, relocation or housing rehabilitation. A sample Language Access Plan has been included in this manual as Attachment 8-6.

[Attachment 8-6: Sample Language Access Plan for LEP](#)

Step 4: Documentation of LAP

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

Section 8.6 Violence Against Women Act (VAWA)

The Violence Against Women Act (VAWA) Reauthorization of 2022, effective October 1, 2022, includes a new requirement for U.S. Department of Housing and Urban Development (HUD) recipients to support an individual's right to seek law enforcement or emergency assistance. All CDBG grantees are required to report on the existence of laws or policies adopted that impose penalties based on requests for law enforcement or emergency assistance or based on criminal activity that occurred at a covered property.

Examples of Laws that violate VAWA are:

- Nuisance property ordinances that include fines for an “excessive” number of calls for emergency or ambulance services and/or incidents of domestic violence.
- Laws that lack exceptions for cases where the resident or tenant is a survivor of domestic violence or another crime, or for calls for emergency assistance by persons with disabilities.
- Laws that do not specify domestic violence as a nuisance but still penalize survivors due to having a broad definition of “nuisance activities” (e.g., disturbing the peace, excessive noise, disorderly conduct, or “excessive” calls to emergency services).
- Laws that require or encourage denial of an applicant with any criminal record, including arrests or misdemeanors.

ALL CDBG Grantees must review all ordinances, local regulations, and policies adopted by the local government and currently in effect and certify compliance with the Violence Against Women Reauthorization Act of 2022. If any policies are identified as non-compliant, they must be evaluated and

[Attachment 8-7: VAWA Certification](#)

addressed prior to the first request for CDBG funds. A summary of efforts to evaluate alternative policies that do not impede the Right to Report Crime and Emergencies from One's Home and a timeline for action on one or more alternatives must be submitted.

The VAWA certification (Attachment 8-7) must be submitted as part of the grant conditions package. Any policies identified as violating VAWA must be resolved and submitted to DOH for review and approval prior to execution of the Grant Agreement.

Section 8.7 Americans with Disabilities Act (ADA)

The Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 require all grantees of Federal financial assistance to make public accommodations accessible to persons with disabilities including but not limited to making changes in rules and public practices to allow persons with disabilities to participate. To comply with the ADA and Section 504, grantees should have completed an ADA/Section 504 Self-Evaluation and have a procedure in place for project participants to request reasonable accommodations and to file a grievance. In addition, once a Self-Evaluation has been completed, the grantee should create and implement an ADA/Section 504 Transition Plan.

[ADA/Section 504
Transition Plan](#)

Section 8.8 Applicable Regulation Summary

Applicable Statutes

- [Drug Free Workplace Act of 1988](#)
- [Title VI of the Civil Rights Act of 1964 and as amended in 1988](#)
- Title VIII of the Civil Rights Act of 1968, as amended, (The Fair Housing Act) [42 U.S.C. 3601–3619](#)
- Title II of the Civil Rights Act of 1968([25 U.S.C. 1301-1303, Indian Civil Rights Act](#))
- [Section 3, Housing and Urban Development Act of 1968](#)
- [Architectural Barriers Act of 1968](#)
- [Title IX of the Education Amendments Act of 1972](#)
- [Section 504 of the Rehabilitation Act of 1973](#)
- [Section 508 of the Rehabilitation Act of 1973](#)
- [Section 109 of Title I of the Housing and Community Development Act of 1974](#)
- [Section 104\(b\)\(2\) of the Housing Community Development Act of 1974](#)
- [Age Discrimination Act of 1975](#)
- [Title II of the Americans with Disabilities Act of 1990](#)
- [Housing for Older Persons Act of 1995 \(HOPA\)](#)
- [Violence Against Women Act, as amended](#)

Applicable Executive Orders

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

Chapter 9: Labor Standards

Introduction

Construction projects funded with CDBG require that certain procedures be followed in order to comply fully with applicable federal and state requirements. For example, federal and state labor standards require recipients and contractors to meet and document compliance with certain rules associated with the employment of workers on construction projects.

This chapter describes the policies and procedures that must be followed when undertaking construction projects with CDBG funds, including bid preparation, compliance with labor standards, pre-construction meetings and inspection and approval procedures.

Section 9.1 Pre-Bidding Requirements

The first step in effective management of CDBG-funded construction projects is the preparation of a bid package. This requires the writing of the technical bid specification - usually by an architect or engineer on the basis of prepared plans or working drawings. These specifications must provide a clear and accurate description of technical requirements for materials and products and/or services to be provided in the contract. Please refer to [Chapter 4: Procurement](#) for more guidance on bidding.

Additionally, the plans and specifications for non-residential construction must be stamped by an architect or engineer registered in Connecticut. Water and sewer projects also require the approval of various state agencies. While the engineer/architect prepares the technical specifications, the Grant Administrator must determine the applicability of Labor Standards and request the necessary wage determinations (see Section 5 of this chapter).

Note: The environmental review must be completed and, if applicable, release of funds obtained prior to publishing the bid advertisement. Please refer to [Chapter 2: Environmental Review](#) for more information.

Property Acquisition issues

At this stage of the process, the grantee must have obtained all lands, rights-of-way, and easements necessary for carrying out the project. All property to be acquired for any activity, funded in whole or in part with CDBG funds, is subject to the Uniform Relocation Assistance and Real Property Acquisitions Policies for Federal and Federally Assisted Programs (42 U.S. Code Chapter 61), also referred to as the Uniform Act or URA. Included in the definition of property, among other things, are rights-of-way and easements. If the construction project involves real property acquisition, the grantee should contact DOH to ensure acquisition is done according to the provisions of the Uniform Act. See [Chapter 5: Acquisition](#) for additional information.

Section 9.2 Determining the Applicability of Labor Provisions

Federal Requirements

Most construction projects including alteration, repair or demolition, funded in whole or in part with federal dollars, must comply with federal labor standards provisions. Applicable laws include the following:

- The Davis-Bacon Act requires that workers receive no less than the prevailing wages being paid for similar work in the same locality. The CDBG regulations apply this Act to construction work that is financed in whole or in part with CDBG funds of more than \$2,000.
- The Copeland Anti-Kickback Act requires that workers be paid weekly, that deductions from their pay be permissible, and that contractors keep and submit weekly payrolls and Statements of Compliance.
- The Contract Work Hours and Safety Standards Act requires that workers receive overtime compensation for hours they have worked in excess of 40 hours in one week. This Act applies to all CDBG-assisted construction contracts of \$100,000 or more.

[Davis Bacon and Related Acts](#)

[Copeland Anti-Kickback Act](#)

[Contract Work Hours and Safety Standards Act](#)

Tip: HUD has published two guides that are available for downloading on labor standards requirements. These documents are Davis Bacon and Labor Standards: Agency/Contractor Guide and the Davis Bacon and Labor Standards: Contractor Guide Addendum. HUD Handbook 1344.1 also provides detailed guidance on labor standards requirements.

[Davis Bacon Agency/Contractor Guide](#)
[Davis Bacon Contractor Guide Addendum](#)

[HUD Handbook 1344.1](#)

Exceptions

There are certain exceptions to the Davis-Bacon and Copeland Anti-Kickback Acts. These acts do not apply to:

- Construction contracts at or below \$2,000. Note that arbitrarily separating a project into contracts below \$2,000 in order to circumvent the requirements is not permitted.
- Rehabilitation of residential structures containing less than eight units.
- Non-construction related activities will not cause Davis-Bacon to apply to the whole project. These are activities such as real property acquisition, procurement of furnishings, architectural and engineering fees, and certain pieces of equipment that would not become permanently affixed to the real property.
- Separate and distinct projects. In some cases, an activity can occur in the same vicinity as another activity, but because it is a separate and distinct project, labor provisions may apply to one and not the other. Contact DOH for guidance.
- Contracts solely for demolition, when no construction is anticipated on the site.

DOH should be contacted if there is any situation where Davis-Bacon applicability is in question.

Section 9.3 State Prevailing Wage Requirements

State Prevailing wage requires the payment of state prevailing wage, set by Connecticut General Statute, on each contract for the construction, remodeling, refinishing, refurbishing, rehabilitation, alteration or repair of any public works project by the State or its agents, or by any political subdivision of the State. The law is applicable when the total cost of all work to be performed by all contractors and subcontractors in connection with new construction of a public works project is \$1,000,000.00 or more. **It is applicable to remodeling, refinishing, refurbishing, rehabilitation, alteration or repair of any public works project \$100,000.00 or more.**

Public works projects are construction projects financed by the government for the benefit or use of the general public. Under current law, the state or political subdivision must award the contract and be a party to the contract and not be a mere grantor of funds for the project to be covered.

Therefore, any CDBG construction contract entered into between a contractor and the State, and/or Municipality, and/or Housing Authority for a project that will benefit the general public, where federal Davis-Bacon wages are not applicable, is covered by the State prevailing wage laws regardless of where the funding for the project has been derived. Example: A Municipality enters into a contract for street repair, and is financing the project with its own funds. This project is subject to State prevailing wages.

For additional information regarding the State prevailing wage law and rates contact the State Department of Labor's Wage and Workplace Standards Division at (860) 263-6000. State Prevailing Wage rates can also be requested through their web site: <http://www.ctdol.state.ct.us/wgwkstnd/prevailwage.htm>.

[Connecticut Department
of Labor Wage and
Workplace Standards](http://www.ctdol.state.ct.us/wgwkstnd/prevailwage.htm)

State's July 1 Update

As part of the State Prevailing wage conditions, Connecticut State law requires an update for wages every year as of July 1. That is, if the contract includes State public works provisions, then the contractor must update his wages every year on July 1 (the Town must ensure compliance). The contractor must determine if updates to wages are required and to pay the new wages to the effected workers. Therefore, every contract between the Town and the General Contractor should have language in it to make these changes applicable to the construction work proposed.

Section 9.4 Bidding and Contracting Requirements

A grantee or the grant administrator must be sure to include all applicable labor standards, equal opportunity, and other language in the bid specifications and contract documents, in addition to verifying contractor/subcontractor eligibility (as described in [Chapter 4: Procurement](#)). The grantee is responsible for obtaining all required documentation, monitoring project compliance, and maintaining appropriate files.

Preparing Bid Packages to Meet Federal and State Labor Standards Provisions

Once it is determined that a construction project is subject to federal and/or state labor standards provisions, the following steps must be taken to ensure compliance.

Step 1: Download Applicable Federal and State Wage Rate Decisions

Federal Prevailing Wage Rates

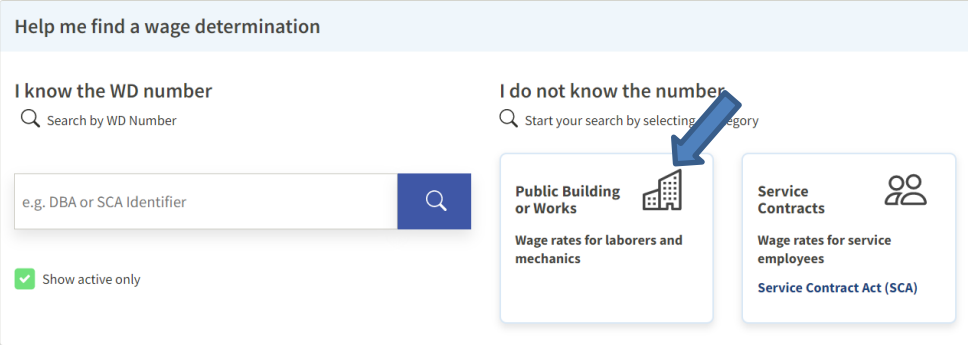
The grantee should access the federal wage rate decisions through the Internet at <https://sam.gov/content/wage-determinations>.

When accessing a wage decision for the first time, Grantees should click the Public Building or Works box.

Wage Determinations

Legacy Website
WDOL

A wage determination (WD) is a set of wages, fringe benefits, and work rules that the U.S. Department of Labor has ruled to be prevailing for a given labor category in a given locality.



Help me find a wage determination

I know the WD number
Search by WD Number

I do not know the number
Start your search by selecting a category

e.g. DBA or SCA Identifier

Public Building or Works
Wage rates for laborers and mechanics

Service Contracts
Wage rates for service employees
Service Contract Act (SCA)

Show active only

Note that federal wage determinations are issued for four categories: Building, Residential, Heavy, and Highway. Most CDBG construction projects will involve either Building or Heavy determinations. In determining which type of wage determination to request, it is important to understand the differences to avoid paying wages from an inappropriate determination.

Building construction generally includes construction of sheltered enclosures with walk-in access for housing persons, machinery, equipment or supplies. This includes all construction within and including the exterior walls, both above and below grade.

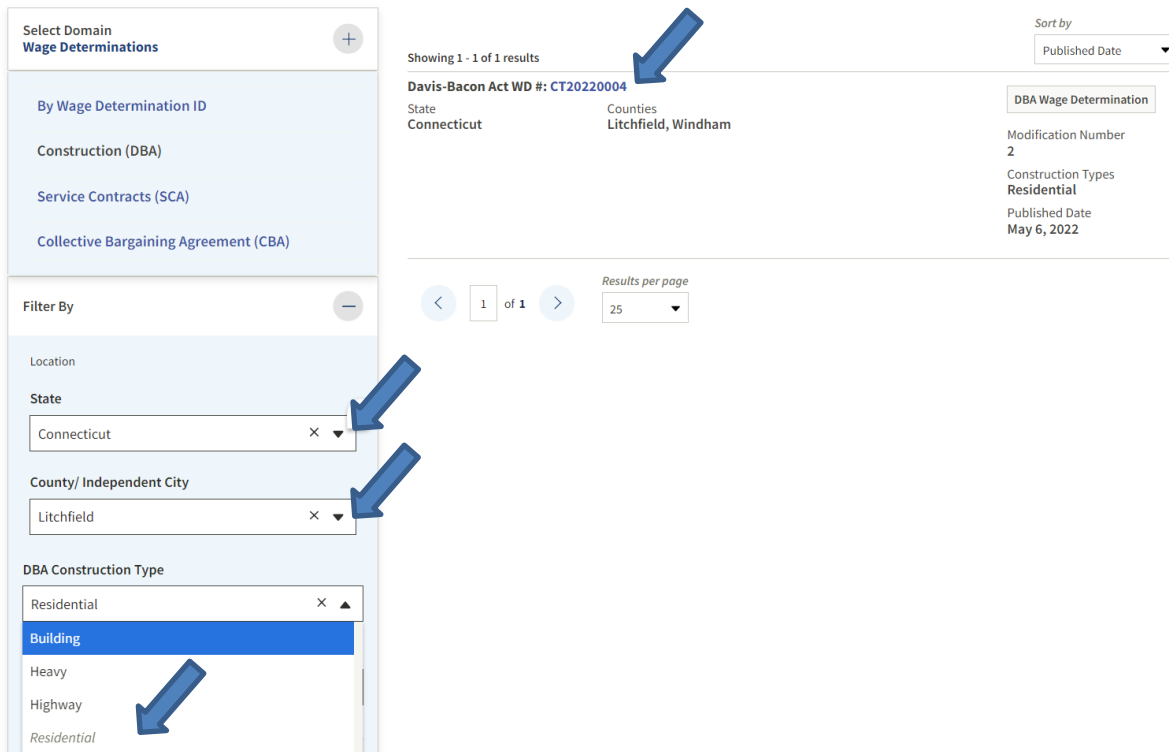
Residential projects involve the construction, alteration or repair of single-family houses or apartment buildings no more than four stories tall.

Highway projects include construction, alteration or repair of roads.

Heavy construction is generally considered for all construction not properly classified as Highway, Residential, or Building. Water and sewer line construction will typically be categorized as Heavy construction.

Next, choose Connecticut and the county of the project and the construction type. The current applicable wage decision will appear. Click the Davis-Bacon Act WD # to download the wage decision.

Search



The screenshot shows the SAM.GOV search interface. On the left, there is a 'Filter By' section with the following options:

- Location: State (Connecticut), County/ Independent City (Litchfield)
- DBA Construction Type: Residential, Building (highlighted), Heavy, Highway, Residential

 In the center, the search results show:

- Showing 1 - 1 of 1 results
- Davis-Bacon Act WD #: CT20220004
- State: Connecticut
- Counties: Litchfield, Windham

 On the right, there is a 'Sort by' dropdown menu set to 'Published Date' and a 'DBA Wage Determination' button. Below the results, there is a pagination control showing '1 of 1' and a 'Results per page' dropdown set to '25'.

A DOH Program Manager should be consulted if there are questions about properly identifying the type of construction on the project and the wage determination necessary, including those instances where the Grantee is required to request a wage determination from the Department of Labor.

State Prevailing Wage Rates

The Grantee can access the state prevailing wage rates at: <https://portal.ct.gov/dol/divisions/wage-and-workplace-standards/prevailing-wage>.

Choose the current (most recent) year and the construction type.

CT Department of Labor

Home
Unemployment
Jobs
Employers
Services
Programs
About
Press Releases
FAQ
Contact Us

Wage and Workplace Standards

- [Wage and Workplace Standards Homepage](#)
- [Employee Complaint Forms](#)
- [Employer Forms](#)
- [Employment of Minors](#)
- [FMLA](#)
- [JOINT ENFORCEMENT COMMISSION FOR WORKER MISCLASSIFICATION \(JEC\)](#)
- [Manuals and Publications](#)
- [Prevailing Wage Information](#)
- [Standard Wage Rates](#)
- [Stop Work Orders](#)
- [Workplace Standards](#)
- [Wage and Hour - Minimum Wage and Overtime](#)
- [All Divisions & Units](#)

Prevailing Wage Information

Information regarding Connecticut's prevailing wage requirements and rate schedules.

Effective: October 31, 2017:

Threshold to prevailing wage requirements have been modified. New construction has been raised to one million dollars (\$1,000,000.00) while renovation remains at one hundred thousand (\$100,000.00).

The Annual Adjusted July 1, 2024 Prevailing Wage Rates are now available.

These rates are provided for informational purposes. If you have a prevailing wage project that is going out to bid, please obtain a bid package with the most up to date rates [here](#). Rates are subject to change throughout the year.

HEAVY/HIGHWAY RATES, BUILDING RATES, AND RESIDENTIAL RATES IMPORTANT INFORMATION

2024 (**Note change)	2023	2022
Building Rates	Building Rates	Building Rates
Heavy/Highway Rates	Heavy/Highway Rates	Heavy/Highway Rates
***Residential Rates July 11, 2024 & on	Residential Rates	Residential Rates
Residential Rates July 1-10, 2024	Important Information - to be added to each rate schedule	Important Information - to be added to each rate schedule
Important Information - to be added to each rate schedule	Footnotes	Footnotes
Footnotes		

***Please note: The prevailing wage Residential schedule was adjusted on July 11, 2024 to address a rate issue. Additional information will be posted here when it becomes available.

[Resources](#)

The current applicable wage decision will appear.



Prevailing Wage Rates System Annual Adjusted July 1st Rates

Residential Rates

County	Town	Classification	Hourly Rate	Hourly Benefit
Fairfield	Bethel	Roofers: Slate & Tile	\$43.00	23.30 + a
Fairfield	Bethel	Sprinkler Fitters (Fire Sprinklers) (Trade License required: F-1,2,3,4)	\$49.98	32.82 + a
Fairfield	Bethel	Cement Masons/Concrete Finisher	\$17.89	
Fairfield	Bethel	Tile Finisher	\$29.32	18.75
Fairfield	Bethel	Tile Setter	\$38.81	21.24
Fairfield	Bethel	Elevator Mechanics (Trade License required: R-1,2,5,6)	\$64.01	39.19+a+b
Fairfield	Bethel	Power Equipment Operator: Backhoe/Excavator 2 Cubic Yards and Over	\$50.40	28.80 + a
Fairfield	Bethel	Power Equipment Operator: Bulldozer Fine Grade	\$49.45	28.80 + a
Fairfield	Bethel	Power Equipment Operator: Combination Hoe and Loader	\$48.22	28.80 + a
Fairfield	Bethel	Power Equipment Operator: Loader (3 cubic yards up to 7 cubic yards)	\$47.83	28.80 + a
Fairfield	Bethel	Power Equipment Operator: Loader (7 cubic yards or over)	\$50.79	28.80 + a
Fairfield	Bethel	Power Equipment Operator: Backhoe/Excavator under 2 cubic yards;	\$49.45	28.80 + a
Fairfield	Bethel	Rubber Tire Backhoe/Excavator		
Fairfield	Bethel	Power Equipment Operator: Bulldozer (Rough Grade Dozer)	\$47.83	28.80 + a
Fairfield	Bethel	Power Equipment Operator: Loader (under 3 cubic yards)	\$46.35	28.80 + a
Fairfield	Bethel	Surveyor: Chief of Party	\$45.87	28.80 + a
Fairfield	Bethel	Surveyor: Assistant Chief of Party	\$42.30	28.80 + a

Step 2: Add Federal Construction Contract Provisions to the Bid Package

The wage rate decision must be a physical part of the bid package. The bid package must contain the labor standards requirements, which are summarized below and separately in this Chapter as Attachment 9-1.

- Davis-Bacon provisions;
- Contract Work Hours and Safety Standards clause;
- Copeland Anti-Kickback clause;
- Employment of Apprentices/Trainee clause.

[Attachment 9-1:
Federal Labor Standards
Provisions \(HUD 4010\)](#)

Caution: If the grantee fails to include the correct wage rate determination(s), the grantee will be responsible for paying the difference between the proper wage rate and the wages paid by the contractor based upon the information provided in the bid package.

Step 3: Procurement Requirements

Once the bid document is prepared, it is time to advertise for construction bids. Refer to [Chapter 4: Procurement](#) for specific instructions on how to proceed with the bidding process.

Step 4: Wage Determination Lock-in Notice

Because the DOL continually monitors the economic conditions of the construction contracting profession, the wage rates are subject to change. It is essential that the Labor Standards Officer verify that the most current rates are being utilized. The Davis-Bacon Wage Determination that is in effect on the day of bid opening is the wage decision that must be used for all construction related activities on the federally funded project. Therefore, the following actions must be taken:

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

[Attachment 9-2: Wage
Determination Notification](#)

Section 9.5 Pre-Construction Requirements

Pre-construction Conferences

Before any work is performed by a contractor, DOH requires that the grantee, the grant administrator, the engineer or architect, and any other technical advisors to the grantee conduct a preconstruction conference with the contractor to explain contractual requirements and performance schedules. Though no longer required in order to comply with federal labor standards, this conference reduces the likelihood of later conflicts caused by assumptions and misunderstandings between the contractor and the grantee.

The grantee should prepare an agenda, and plan to utilize and distribute a pre-construction checklist as a guide to ensure that all areas are properly addressed (See Attachment 9-3: Pre-construction Conference Checklist). A tape recorder may be used to record the meeting and/or a stenographer may be asked to prepare notes. The grantee should clearly present the federal statutory compliance requirements as well as performance expectations. A copy of the minutes should be signed by all parties to the contract and placed in the files. Attachment 9-3: Preconstruction Conference Checklist should be signed by all attendees and kept in the project file as meeting minutes.

[Attachment 9-3:
Pre-Construction
Conference Checklist](#)

Items that should be covered at the pre-construction conference include, but are not limited to:

- Explain to the contractors their responsibilities with respect to labor standards and equal opportunity requirements as well as the technical job requirements.
- Obtain the contractor's Federal Identification Number and their Unique Entity Identification (UEI) number from the System for Award Management (SAM). See [Chapter 4: Procurement](#) for more information about the UEI.
- Have the contractor complete Attachment 9-4: Wage/Fringe Benefit Certification, listing each anticipated job classification and salary/wage rate anticipated to work on the project. The contractor should also provide a current employee roster, listing all persons currently employed. This roster can then be used to determine Section 3 Worker status and new job opportunities.
- Explain that the contractor must submit weekly payrolls and Statements of Compliance signed by an officer of the company, and that the prime contractor is responsible for securing, checking, and reviewing payrolls and Statements of Compliance from all subcontractors.
- Explain that wages paid must conform to those included in the wage rate decision included in the contract. Discuss the classifications to be used. If additional classifications are needed, contact DOH immediately.
- Explain that employee interviews will be conducted during the project.
- Emphasize that both a copy of the wage rate decision and the wage rate poster must be posted at the job site.

[Attachment 9-4:
Wage/Benefit Certification
Form](#)

- Explain that apprentice or trainee rates cannot be paid unless the apprentice or training program is certified by the State Bureau of Apprenticeship and Training. If apprentices or trainees are to be used, the contractor must provide the grantee with a copy of the state certification of his/her program.
- If the contract is \$100,000 or greater, explain that workers must be paid overtime if they work more than 40 hours in one week. Only a waiver from the Secretary of Labor can override the Contract Work Hours and Safety Standards Law. If state wage rates apply to the contract, explain that workers must also be paid overtime if they work more than eight hours in a day or 40 hours in a week, unless signed agreements have been obtained from each employee.
- Indicate that failure to pay workers at least time and a half whenever overtime violates the Contract Work Hours and Safety Standards law (more than 40 hours per week) makes the contractor liable for not only restitution but also liquidated damages of \$10 per day for every day each worker that exceeded 40 hours a week without being paid time and a half.
- Explain that no payroll deductions can be made that are not specifically listed in the Copeland Anti-kickback Act provisions as permissible payroll deductions. In addition, some of the permissible deductions require written permission of the employee. An unidentified payroll deduction is a method used by unethical contractors to get their workers to "kickback" a portion of their pay. This is a particularly common problem in times of high unemployment and in areas of minority concentrations. Unspecified payroll deductions are a serious discrepancy and should be resolved prior to further contractor payments.
- Explain debarment proceedings relative to violation of labor standards and equal opportunity requirements. Obtain any outstanding documents including Contractor/Subcontractor Eligibility Certifications Regarding Debarment, Suspension and Other Responsibilities.
- Provide the contractor with a copy of the HUD "[Davis Bacon and Labor Standards Agency/Contractors Guide](#)" and the "[Davis Bacon and Labor Standards Contractor Guide Addendum](#)."
- Provide contractor with posters for the site, such as "Davis Bacon Act," "Notice to All Employees Working on Federal or Federally Financed Construction Projects," "Safety and Health Protection on the Job," and "Equal Employment Opportunity is the Law." These posters are referenced in the text box to the right. Inform the contractor that it is his/her responsibility to employ only eligible subcontractors who have certified eligibility in a written subcontract containing federal labor standards and equal opportunity provisions.
- Provide handouts explaining everything covered and obtain the contractor's signature to document receipt.

[Attachment 9-5a: Davis Bacon and Labor Standards Agency/Contractor's Guide](#)

[Attachment 9-5a: Davis Bacon and Labor Standards Contractor Guide Addendum](#)

[Attachment 9-6: Required Contracting Posters](#)

Also available online at
[DOL Workplace Posters](#)

- The grantee should also describe the compliance monitoring that will be conducted during the project, and indicate that discrepancies and underpayments discovered as a result of compliance monitoring must be resolved prior to making further payment to the contractor. Remind the contractor that labor standards provisions are as legally binding as the technical specifications, and failure to pay specified wages will result in contractor payments being withheld until all such discrepancies are resolved.

Notice to Proceed

Following execution of the contract documents and completion of the pre-construction conference, issue a Notice to Proceed to each prime contractor to begin performance of the work. The Notice to Proceed must establish the construction start date, the scheduled completion date, and provide the basis for assessing liquidated damages. The Notice to Proceed must include the name of the contractor and the amount of the contract. The construction period and basis for assessing liquidated damages must be consistent with those sections of the contract documents. A sample Notice to Proceed is provided as Attachment 9-8. **The Notice to Proceed must also be sent to DOH following execution.**

[Attachment 9-8:
Sample Notice to Proceed](#)

Section 9.6 Certified Payroll Requirements

Once construction is underway, the general contractor must obtain weekly payrolls (including signed Statements of Compliance) from all subcontractors as they work on the project. The payrolls must be reviewed by the general contractor to ensure that there are no discrepancies or underpayments. Remember that the prime contractor is responsible for the full compliance of all subcontractors on the project and will be held accountable for any wage restitution that may be found. This includes underpayments and potentially liquidated damages that may be assessed for overtime violations.

Certified Payroll Reports

Grantees must obtain copies of all general contractor and subcontractor weekly payrolls (accompanied by the Statements of Compliance) and review them to ensure that there are no discrepancies or underpayments in accordance with HUD guidelines. See Attachment 9-9: Payroll Falsification Indicators, for HUD guidance on detecting falsification through frequent payroll review and interview comparison.

[Attachment 9-9:
Payroll Falsification
Indicators](#)

Certified payroll reports must be submitted by the contractor to the grantee within seven to eleven working days of the end of the payroll period. A Payroll Form and Statement of Compliance is provided as Attachment 9-10. Note that an employee's full social security number and address are not to be included on these certified payroll reports. Instead, an alternative individual identity number should be used, such as the last four digits of the employee's social security number or an employee ID. This form does not have to be used, but alternative payroll documentation must include all of the same elements in order to determine compliance with applicable regulations. And a Statement of Compliance must accompany each payroll submission.

[Attachment 9-10: Payroll
Form/Statement of
Compliance
\(WH 347\)](#)

Payroll reports must be reviewed by the grantee upon receipt so that any necessary corrective action can be initiated before the problem multiplies. Payroll forms must be initialed by the grantee to indicate that they have been reviewed.

NOTE: Grantees must ensure that the contractor has signed both the federal Statement of Compliance (included as page 2 of the WH-347 Form) AND the Connecticut Certified Statement of Compliance which is included in the Connecticut Payroll Certification for Public Works Projects and the Certified Statement of Compliance form.

In addition to the falsification indicators described in the HUD guidance, items to be spot-checked should include:

- The correct classification of workers;
- A comparison between the classification and the wage determination to determine whether the rate of pay is at least equal to the rate required by the determination;
- A review to ensure that work by an employee in excess of 40 hours per week is being compensated for at rates not less than one and one-half times the basic rate of pay;
- Review of deductions for any non-permissible deductions; and
- The Statement of Compliance (part of the payroll form in [Attachment 9-10](#)) has been completed and signed by the owner or an officer of the firm.

[HUD Handbook 1344](#)

Any discrepancies and/or falsification indicators must be reported to DOH, along with the steps being taken by the grantee to resolve the discrepancies. Where underpayments of wages have occurred, the grantee is responsible to make sure the correct wages are paid and that the employer will be required to pay wage restitution to the affected employees. Wage restitution must be paid promptly in the full amounts due, less permissible and authorized deductions. Grantees are required to submit a Section 5.7 Report (provided as Attachment 9-11 including instructions) whenever an employer is found to have underpaid its employees by \$1,000 or more. Grantees should contact their DOH Program Advisor for assistance if a violation occurs.

[Attachment 9-11:
Section 5.7 Enforcement
Report and Instructions](#)

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

Caution: Owner-operators, like self-employed mechanics who do not have employees may not submit their own payrolls certifying to the payment of their own wages **BUT** must instead be included on the responsible contractor's certified payroll report.

Fringe Benefits

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

Paragraph (a) or (b) on the Statement of Compliance must be marked on every certified payroll report to indicate the method by which fringe benefits will be paid. If the fringe benefits are being paid to a bona fide fringe benefit plan, the Grant Administrator must obtain verification from the contractors or subcontractors of the calculation of benefits paid and proof of payment. Bona fide fringe benefit plans are identified at 29 CFR4.171. Examples include but are not limited to:

1. **Health, life or other similar insurance premiums paid by the employer** Documentation includes:
 - a. Most recent insurance statement with a breakdown of each covered employee's premium, and
 - b. A signed letter by an officer of the company that states how much of the premium they cover (percentage or dollar amount).
2. **Pension or retirement contributions recognized by the Internal Revenue Service (IRS) and contributed by the employer** Documentation includes
 - a. Letter from Pension Provider stating which employees participate in the program,
 - b. Signed letter by an officer of the company that states what percentage of contributions they match, or if it is automatically given to the employee even if they do not contribute, and
 - c. Monthly statements throughout the project that show how much the employee contributed and how much the employer contributed.
3. **Holiday and/or vacation pay contributed by the employer** Documentation includes:
 - a. Copy of Employee Handbook that states the number of paid vacation and holidays provided to employees and
 - b. Copy of employer's calculations for the amount of fringe benefit credit claimed for vacation and holiday pay listed by employee.
4. **Union Fringe Benefit Packages** Documentation includes:
 - a. Copy of the Union Benefits Breakdown provided by each specific Union to the contractor, and
 - b. Monthly statement listing covered employees and verifying payment to the plan.

Fringe benefits do not include employer payments or contributions required by other federal, state, or local laws, such as the employer's contribution to Social Security or Workmen's Compensation. The Grant Administrator must verify that the base rate + fringe benefit amount paid to each employee is equal to or greater than the amount stated in the wage determination assigned to the project. To determine the hourly

amount of fringe benefits being paid by the contractor for the employee, the annual amount paid must be divided by 2080 hours.

Section 9.7 Construction Management Requirements

General

During construction, the grantee is responsible for monitoring the labor standards and equal opportunity requirements described in this Chapter. In addition to payroll reviews and interviews, the grantee is responsible for ensuring proper construction management. This role may be fulfilled by the architect/engineer and, if so, should be included in the scope of services for that professional services contract. Construction management must include on-site inspection and general supervision of construction to check the contractor's work for compliance with the drawings and specifications, as well as quantity and quality control.

Note that written inspection reports must accompany any contractor's request for partial payment. It is also strongly recommended that monthly progress meetings be held to allow the grantee, engineer, grant administrator, and funding agencies to review the status of the project, resolve problems, and review requests for payment.

Labor Standards Requirements

Construction management requirements include conducting job site interviews with workers using Attachment 9-12: Record of Employee Interview Form.

[Attachment 9-12:
Record of Employee
Interview Form](#)

The grantee must conduct interviews using the representative sampling technique and the interviews should include a sufficient sample of job classifications represented on the job to allow for a reasonable judgment as to compliance. At least 20 percent of the workers on-site, and at least one in each job classification working at the site, should be interviewed.

The grantee should ensure the following actions are performed:

- DOH recommends that interviews be conducted at least once during the course of each phase of construction on each project.
- Payrolls should be used to verify data obtained during on-site interviews. Check to see that employees are being paid the amounts specified in the wage determination, the amount shown on the payrolls, and the hours shown on the payrolls. Include hours of the supervisor.
- Identification and correction of any discrepancies between on-site interviews, payrolls, and wage rates.
- A fully completed and signed Record of Employee Interview form is maintained in the contract file.

Interview Protocols

The following guidelines should be observed by persons conducting job site interviews:

- The interview should take place on the job site if it can be conducted properly and privately (this is a one-on-one process).
- The interviewer should see that the wage determination and other required posters are properly displayed.
- The interviewer should observe the duties of workers before initiating interviews. Employees of both the prime and sub-contractors should be interviewed. Administrators may choose to complete the Project Wage Rate Sheet found in Attachment 9-13.

[Attachment 9-13
Project Wage Rate Sheet](#)

This should be posted adjacent to the wage determination and other required posters on the job site at a location readily accessible to workers.

To initiate the interview, the authorized person shall:

- Properly identify himself/herself;
- Clearly state the purpose of interview; and
- Advise the worker that information given is confidential, and his/her identity will be disclosed to the employer only with the employee's written permission.

When conducting employee interviews, the interviewer should pay particular attention to:

- The employee's full name.
- The employee's permanent mailing address.
- The last date the employee worked on that project and number of hours worked on that day.
- The interviewer should make it clear that these questions relate solely to work on the project and not other work.
- The employee's hourly rate of pay. The aim is to determine if the worker is being paid at least the minimum required by the wage determination.

The interviewer should be sure the worker is not quoting their net hourly rate or "take-home" pay. If it appears the individual may be underpaid, the interviewer should closely question the worker:

- Ask for any records.
- Arrange to re-interview the employee.
- Enter the worker's statement of his/her classification.
- Observe duties and tools used:
 - Enter any comments necessary.
 - Enter date interview took place.

The payroll examiner must compare information on the Record of Employee Interview form with the certified payroll submission: If no discrepancies appear, "None" should be written in the comment space of the Record of Employee Interview form. If discrepancies do appear, appropriate action should be initiated. When necessary, action has been completed, the results must be noted on the interview form.

Wage Restitution

Where underpayments of wages have occurred, the employer will be required to pay wage restitution to the affected employees. Wage restitution must be paid promptly in the full amounts due, less permissible and authorized deductions. All wages paid to laborers and mechanics for work performed on the project including wage restitution, must be reported on a certified payroll report.

Notification to the Prime Contractor

The contract administrator will notify the prime contractor in writing of any underpayments that are found during payroll or other reviews. The notice will describe the underpayments and provide instructions for computing and documenting the restitution to be paid. The prime contractor is allowed 30 days to correct the underpayments. If wage violations are not corrected within 30 days after notification to the prime contractor, the recipient may withhold payment due to the contractor of an amount necessary to ensure the full payment of restitution. Note that the prime contractor is responsible to the contract administrator for ensuring that restitution is paid. If the employer is a subcontractor, the subcontractor will usually make the computations and restitution payments and furnish the required documentation through the prime contractor.

Computing Wage Restitution

Wage restitution is simply the difference between the wage rate paid to each affected employee and the wage rate required on the wage determination for all hours worked where underpayments occurred. The difference in the wage rates is called the adjustment rate. The adjustment rate times the number of hours involved equals the gross amount of restitution due.

Correction Payrolls

The employer will be required to report the restitution paid on a correction certified payroll. The correction payroll will reflect the period of time for which restitution is due (for example, Payrolls #1 through #6, or payrolls for a specified beginning date through a specified ending date). The correction payroll will list:

- Each employee to whom restitution is due and their work classification,
- The total number of work hours,
- The adjustment wage rate (the difference between the required wage rate and the wage rate paid),
- The gross amount of restitution due,
- Deductions, and
- The net amount to be paid.

A properly signed Statement of Compliance must be attached to the correction certified payroll. Generally, the contractor is not required to obtain the signature of the employee on the correction payroll to evidence receipt of the restitution payment or to submit copies of restitution checks (certified, cashiers, canceled or other, or employee-signed receipts or waivers) in order to document the payment.

Review of Corrected Certified Payroll

The contractor administrator will review the correction payroll to ensure that full restitution was paid. The prime contractor shall be notified in writing of any discrepancies and will be required to make additional payments, if needed. Additional payments must be documented on a supplemental correction payroll within 30 days.

The contractor is required to provide the employee with a Documentation of Restitution Employee Release Form (Attachment 9-14) to verify that the employee is in agreement with the amount of restitution and relinquishes all claims of underpayment.

Unfound Workers

Sometimes, wage restitution cannot be paid to an affected employee because the employee has moved or otherwise can't be located. After wage restitution has been paid to all of the workers who could be located, the employer must submit a list of any workers who could not be found and paid including name, employee identification number, last known address and the gross amount due. At the end of the project, the prime contractor will be required to establish a deposit or escrow account in an amount equal to the total amount of restitution that could not be paid. The grantee must continue to attempt to locate the unfound employee(s) for three years after completion of the project. After three years, any amount remaining in the account must be credited and/or forwarded to DOH.

[Attachment 9-14:
Documentation of Restitution
Employee Release Form](#)

Section 9.8 Enforcement Reports

The U.S. Department of Labor Regulations require all federal agencies to submit a report to the Secretary of Labor regarding all enforcement actions where underpayments by a contractor or subcontractor occurred in excess of \$1,000 or where there is reason to believe that the violations were willful. The instructions for filling out the form and the form itself can be found in Attachment 9-11.

Liquidated Damages for Overtime Violations

As mentioned previously, failure to pay workers at least time and a half whenever overtime violates the Contract Work Hours and Safety Standards Act (more than 40 hours per week) makes the contractor liable for liquidated damages of \$10 per day for every day each worker exceeded 40 hours a week without being paid time and a half. Grantees should contact their DOH Program Advisor for assistance if a violation occurs.

[Attachment 9-11:
Instructions and Section 5.7
Enforcement Report](#)

Semi-Annual Labor Standards Enforcement Reports

DOH must submit Semi-Annual Labor Standards Enforcement Reports to the Department of Labor (DOL) twice a year. Grantees will submit the necessary information on all contracts, funded in whole or in part with CDBG dollars, subject to Davis-Bacon and related acts awarded each reporting period on the Semi-Annual Grantee Performance Report.

Equal Opportunity Requirements

The grantee must also visit the construction site to ensure the project site is posted with the required Equal Employment Opportunity is the Law poster (provided in Attachment 9-6). These visits can be done in conjunction with employee interviews for labor standards compliance. The results of each visit should be noted in the Equal Opportunity Compliance file.

[Attachment 9-6:
Required Contracting Posters](#)

In addition, the grantee should interview each contractor during the course of work to determine compliance with the Standard CDBG-assisted Equal Employment Opportunity Construction Contract Specifications contained in the contract.

Equal Opportunity Compliance Files

Equal opportunity compliance files must be maintained for each contractor on the project. At project completion, each equal opportunity compliance file should contain the following items:

- Verification of contractor/subcontractor eligibility concerning Section 3 and equal opportunity, (or cross reference the contract file that includes fully executed certifications).
- Contractor eligibility, cross-referenced from Labor Standards Compliance file.
- Correspondence concerning contractor equal opportunity compliance.
- Site visit reports indicating equal opportunity posting on site and contractor compliance with equal opportunity provisions, cross-referenced from Labor Standards Compliance file.
- Equal opportunity problems uncovered in employee interviews and evidence of resolution.
- Evidence of interview with contractor concerning equal opportunity compliance.

Section 9.9 Review and Payments

Progress Payments

Upon agreement as to quantities of work completed, a contractor may submit requests for partial or progress payments. Written inspection reports must accompany the contractor's requests for partial payment. Inspection reports, copies of field measurement notes, and test results used to verify contractor's periodic pay estimate for partial payment should be attached to and filed with the periodic estimate for partial payment.

Upon receipt of certificates for partial payment and necessary documentation, the grantee must check equal opportunity and labor standards compliance files to ensure that:

- All weekly payrolls and Statements of Compliance have been received, reviewed, and any discrepancies resolved; and
- Employee interviews have been conducted as necessary, checked against payrolls and the wage

rate decisions, and all discrepancies corrected.

Retainage from Progress Payments

Grantees have found it helpful to maintain the 5 percent retainage from partial payments until after final inspection, in case of any unresolved problems. See below for information on how retainage is addressed in the Final Payment.

Change Orders

Change orders must be prepared by the construction inspector and/or architect/engineer. Change orders are permissible where the cumulative cost of all such orders does not exceed 15 percent of the original contract price and these changes do not constitute a major alteration of the original scope of work. If the proposed change orders will cumulatively exceed 15 percent of the original contract, the grantee must contact DOH for prior approval.

Each change order must be accompanied by a supporting statement that describes why the change is necessary, cost estimates, and any needed plans and specifications. The grantee must approve and authorize change orders before they are given to the contractor. Change orders should be kept to an absolute minimum and cannot be issued after final payment.

Final Payment Request

When construction work has been completed, the contractor must certify completion of work and submit a final request for payment. The grantee or the architect/engineer should make the final inspection and prepare a written report of the inspection prior to the issuance of a final certificate of payment. Before making final payment (less 5 percent retainage), the grantee must ensure that:

- All weekly payrolls and Statements of Compliance have been received, reviewed, and discrepancies have been resolved;
- Any underpayments of wages and/or liquidated damages have been appropriately handled and documented;
- All discrepancies identified through job site interviews have been resolved;
- All other required equal opportunity and labor standards provisions have been satisfied;
- All contract submissions have been received;
- All claims and disputes involving the contractor have been resolved;
- All files are complete; and
- As-built plans have been filed.

If the inspection is satisfactory, the grantee can then issue acceptance of work and final payment, less a 5 percent retainage.

Payment of Retainage

As soon as filing of the acceptance of the work and upon submission of a clear lien certificate by the contractor, but no more than 30 days from submission Form 3-3, the grantee should release the 5 percent retainage that has been withheld from each progress and final payment to the contractor.

If any claims or liens remain after the 30-day period, the grantee must take appropriate action for disposition of the retainage and all claims against the bonds in accordance with state law.

NOTE: Grantees should include the full retainage amount in the final [Form 3-3: Payment Requisition Form](#) to DOH.

Section 9.10 Other Resources

HUD Office of Davis Bacon and Labor Standards

https://www.hud.gov/program_offices/davis_bacon_and_labor_standards

HUDEXchange Davis Bacon and Labor Standards

<https://www.hudexchange.info/programs/davis-bacon-and-labor-standards/>

CDBG Small Cities Davis Bacon Workshop

<https://portal.ct.gov/-/media/DOH/2022-Small-Cities-Application/Powerpoints/04-Davis-Bacon-Labor-Standards.pptx>

HUD Regional Office 2020 Davis Bacon Presentation

<https://portal.ct.gov/-/media/DOH/2020-SC-Application-Powerpoints/14-Davis-Bacon-Labor-Standards-for-Entitlements-and-Grantees-WEB.pptx>

Chapter 10: Contract Development and Modifications

Introduction

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

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

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

Section 10.1 Contract Development

Contracts paid with State and Small Cities CDBG funds must utilize a Firm, Fixed-Price Contract. A Firm, Fixed-Price Contract requires that the contractor deliver the product or service for the agreed-upon price. This type of contract is required for:

- Professional services, including Grant Administration, Labor Standards, and Environmental Review,
- Engineering or Architectural services,
- Legal fees, rate consultant, or any other type of professional services required, and
- Construction of the project activities.

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

[2 CFR 200.323\(d\)](#)

NOTE: All service provider contracts must include a firm fixed rate or not-to-exceed amount, and may not just be listed as a percentage of the CDBG grant.

Section 10.2 Contract Requirements

All contracts executed for performance of CDBG related activities must include a full and complete description of the federal contract provisions as listed in Appendix II to Part 200.

[Appendix II to Part 200 –
Contract Provisions for
Non-Federal Entity](#)

- Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- Contracts for more than the simplified acquisition threshold currently set at \$250,000, must include language requiring domestic preferences for procurements in compliance with [2 CFR 200.322](#) and the Build American, Buy America Act (BABA).
- All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-federal entity including the manner by which it will be affected and the basis for settlement.
- Rights to Inventions Made Under a Contract or Agreement. If the federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal-appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.

All contracts executed for performance of CDBG related activities must include contract provisions as required by 24 CFR Part 570 Subpart K, including lead-based paint, acquisition of real property, and minimizing displacement.

[24 CFR 570 Subpart K](#)

All construction contracts must include the HUD 4010: Federal Labor Standards Provisions.

[9-1: Federal Labor Standards Provisions \(HUD 4010 Form\)](#)

All construction contracts for projects that exceed \$200,000 in HUD funding must include language applying Section 3 requirements in any subrecipient agreement or contract. Grantees must also require subrecipients, contractors, and subcontractors meet the prioritization requirements of [§75.19](#), regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.

[24 CFR 75.19](#)

Bonding Requirements

Bonds are negotiable instruments required by federal and state law from construction contractors as a form of insurance. The bonds are available to contractors from surety companies, which are then turned over to the grantee to protect against situations that may arise. Some of these situations include:

- Work not completed as specified and/or the contractor refuses to finish the work without a change order or price escalation;
- Laborers or subcontractors are not being paid for work and are suing the grantee to recover their loss; or
- Payment of liquidated damages is required, arising from labor standards violations.

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

1. Applicable Davis-Bacon and Related Acts (Davis-Bacon) Wage Decision assigned to the project.
2. Bid Bond (submitted with the bid), Payment Bond and Performance Bond obtained by contractor and provided to Grantee to insure contract fulfillment.
 - The Bid Bond guarantees that the selected bidder will execute the required contract documents within the specified period of time. The Bid Bond must be equal to 5% of the bid price (contracts over \$50,000).
 - The Labor & Material Payment Bond is binding upon the contractor, subcontractors and their successors or assigns, for the payment of all indebtedness to a person for labor and service performed, material furnished, or services rendered. The payment bond must be for 100% of the contract price (contracts over \$100,000).

[CGS 49-41](#)

- The Performance Bond ensures that the contractor will fulfill all obligations under the contract within one year of substantial completion. The performance bond must be for 100% of the contract price (contracts over \$25,000).
- If a construction manager is employed, each subcontract exceeding \$100,000 shall be bonded or a certified check required.

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

Insurance Requirements

The project's Assistance Agreement between the DOH and the Grantee will outline the insurance requirements for the Grantee.

The Grantee shall require all contractors and all professional service providers (i.e., engineer, architect, grant administrator, etc.) to obtain the following types of insurance, in amounts no less than the stated limits, against claims for injuries to persons or damages to property which may arise from or in connection with the CDBG assisted project; provided however, that if this project is (i) financial assistance of less than \$100,000, or (ii) a planning grant, only items 1 and 2 as set forth herein shall apply:

- 1) Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. Coverage shall include Premises and Operation, Independent Contractors, Product and Completed Operations and Contractual Liability. If a general aggregate is used, the general aggregate limit shall apply separately to the Agreement or the general aggregate limit shall be twice the occurrence limit.
- 2) Workers' Compensation and Employer's Liability: Statutory coverage in compliance with compensation laws of the State of Connecticut. Coverage shall include Employer's Liability with a minimum limit of \$100,000 each accident, and \$500,000 Disease – Policy limit, \$100,000 each employee. Certain classifications of business entities (sole proprietor with no employees) are excluded from this requirement under Connecticut State Law.
- 3) Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury. Coverage extends to owned, hired and non-owned automobiles. If the vendor/contractor does not own an automobile, but one is used in the execution of the contract, then only hired and non-owned coverage is required. If a vehicle is not used in the execution of the contract, then automobile coverage is not required.
- 4) Directors and Officers Liability: \$1,000,000 per occurrence limit of liability; provided, however, that Directors and Officers Liability insurance shall not be required for limited liability corporations or limited partnerships.
- 5) Comprehensive Crime Insurance: \$100,000 limit for each of the following coverages: Employee Dishonesty (Form O), Forgery/Alteration (Form B), and Money and Securities coverage for Theft, Burglary, Robbery, Disappearance and Destruction.
- 6) Builders Risk: (Construction Phase) With respect to any work involving the construction of real property during the construction project, if Agency is taking a collateral position in the property, the Applicant shall maintain Builder's Risk insurance providing coverage for the entire work at the project site. Coverage shall be on a Completed Value form basis in an amount equal to the projected value

of the project. **The Grantee shall be listed as A.T.I.M.A. and a copy must be submitted to DOH upon receipt.**

- 7) Property Insurance: (Post Construction) If the Agency is taking a collateral position in the property, the Applicant shall maintain insurance covering all risks of direct physical loss, damage or destruction to real and personal property and improvements and betterments (including flood insurance if property is within a duly designated Flood Hazard Area as shown on Flood Insurance Rate Maps (FIRM) set forth by the Federal Emergency Management Agency (FEMA)) at 100% of Replacement Value for such real and personal property, improvements and betterments or the maximum amount available under the National Flood Insurance Program. The State of Connecticut shall be listed as a Loss Payee.

Additional Insurance Provisions

- 1) Described insurance shall be primary coverage and Applicant and Applicant's insurer shall have no right of subrogation recovery or subrogation against the State of Connecticut.
- 2) Contractor shall assume any and all deductibles in the described insurance policies.
- 3) Each insurance policy above shall not be suspended, voided, cancelled or reduced except after thirty (30) days prior written notice by certified mail has been given to the State of Connecticut, with the exception that a ten (10) day prior written notice by certified mail for non-payment of premium is acceptable.
- 4) Each policy shall be issued by an Insurance Company licensed to do business by Connecticut Department of Insurance and having a Best Rating of A-, VII, or equivalent or as otherwise approved by Agency.

Contract Contents and Provisions

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

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

Retainage Requirements

A retainage account may be set up to the project is satisfactorily completed, all suppliers have been paid in full, and all contractors, subcontractors and suppliers have submitted lien waivers. The amount of retainage withheld may not exceed 5% of the total contract amount according to Connecticut General Statutes.

[CGS 42-158k](#)

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

Retainage Account funds may be:

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

If the contractor has provided Contractor's Affidavit of Release of Liens (AIA Form G706A) and lien waivers from major subcontractors and suppliers, a contractor may request the balance of retainage. If these documents are not provided, retainage cannot be paid until 91 days after the date on the Certificate of Substantial Completion.

Change Order Procedures

No change orders are permitted prior to the onset of construction. While the CDBG funded project is under construction, circumstances may arise that require changes to the scope of work called for in the original contract. Change orders are permitted if properly prepared and approved. Total net (+/-) change orders on a project may not exceed 15% of the original contract amount. Change orders must be approved by the Grantee's governing board, in writing. The Grantee must notify DOH for approval if total change orders will exceed 15% of the original contract amount. When additional units of materials are needed, the cost used to calculate the change order amount must be the same price as quoted in the original contract.

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

Construction projects may sometimes encounter unforeseen circumstances which require changes to the scope of the project contract which exceed the 15% maximum net change orders permitted. Should this occur, it is the responsibility of the project Architect or Engineer to present to the Grantee a written explanation of the nature of the required changes and a full and complete explanation as to why the circumstances encountered were unforeseen during project design. The decision to approve this change must be made by the Grantee after DOH approval.

Disclosure Reports and Code of Conduct

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

[Attachment 10-1:
Disclosure Report](#)

In order to affirm that no conflict of interest exists on the implementation of any contracts which are a part of the federally assisted project, every Grantee must complete a Disclosure Report, to be included in the Assistance Agreement. The Disclosure Report must be updated throughout the project as additional contracts are awarded and maintained in the project files.

In addition, when a potential conflict of interest arises on a project a Request for Exception to Conflict of Interest must be completed and submitted to DOH for review and approval. If you have any questions about the possibility of a potential conflict, please contact DOH immediately. (See Conflicts of Interest in [Chapter 1: Project Administration](#).)

[Attachment 1-8: Conflict
of Interest Exception
Request](#)

Contractor Debarment

Contracts for work or services for compensation on a project funded in whole or in part with CDBG funds may not be awarded to parties excluded from participation in federally assisted projects. Please refer to [Chapter 4: Procurement](#) for more information on determining debarred contractors.

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

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

Recommendations for debarment for any of the above violations may be addressed to DOH staff stating the conditions under which the violations occurred.

Section 10.3 Budget Revisions

Minor Budget Revisions

From time to time, grantees may need to revise budget line items to meet actual costs. These revisions must be accomplished prior to submitting a payment request from DOH. In order to accomplish such changes, Grantees must submit a revised Financing Plan and Budget to DOH along with a clear narrative detailing those changes, including the reasons for the change. Requests must be made prior to the final quarter of the budget period (in other words, no last minute requests will be accepted).

[Attachment 10-2:
Financing Plan and
Budget](#)

Section 10.4 Subrecipient Agreements

It is not uncommon for grantees to carry out project activities through a subrecipient. A subrecipient is defined as a public or private nonprofit agency, authority, or organization, or other eligible entity, that is provided CDBG funds to carry out eligible activities on behalf of the grantee.

The most likely scenario under which a grantee would opt to utilize a subrecipient is when the grantee wishes to “support” certain eligible activities that are either being carried out or are the primary responsibility of some agency outside of the grantee. In effect, the grantee’s goals coincide with the subrecipient’s, and it makes more sense to utilize the capacities of an existing organization rather than create the apparatus necessary to carry out project activities and/or duplicate services. It is crucial to stress the importance of the grantee-subrecipient relationship. The grantee is not absolved of its responsibilities by utilizing a subrecipient to carry out project activities; in fact, many of these responsibilities cannot be undertaken by anyone other than the grantee, such as environmental determinations and requesting funds from DOH. Further, all CDBG requirements are applicable to subrecipients in terms of how they carry out project activities (procurement, financial management, labor compliance, acquisition, etc.).

When is an Entity Not Considered a Subrecipient?

An organization or individual is not considered a subrecipient if the entity is:

- A contractor procured according to the requirements described in [Chapter 4: Procurement](#);
- A homeowner or landlord of an apartment building receiving a rehabilitation loan or grant;
- A nonprofit or for-profit entity receiving relocation payments and other relocation assistance;
- A for-profit business receiving a loan for a special economic development project.

There may be additional nonprofit organizations that are not considered subrecipients. These are certain types of nonprofits authorized under section 5305(a)(15) of the CDBG statute that carry out community economic development, neighborhood revitalization or energy conservation projects. A grantee should contact DOH if they are uncertain regarding the status of a particular organization.

Written Agreements with Subrecipients

In order to protect the grantee, and to ensure the subrecipient's compliance with all relevant requirements, the relationship between the two entities must be formally defined through a written agreement (or contract). Such an agreement's purposes are to clearly establish the terms and conditions under which the CDBG funding is provided and establish a legal basis for action if those terms and conditions are not met.

[Attachment 10-3:
Sample Subrecipient
Agreement](#)

This agreement must contain the following minimum provisions (like the contract provisions discussed in Section 10.3: Contract Requirements above, these require specific language, and simple reference is not sufficient):

- **Scope of Work** – In sufficient detail to provide a sound basis for evaluating performance, a schedule and a budget.
- **Records and Reporting** – Specifying the records that must be maintained and reports which must be submitted in order for the grantee to meet its own record keeping and reporting responsibilities.
- **Program Income (if applicable)** – Subrecipients may be allowed to retain program income for use in specified eligible activities during the life of the agreement. If the grantee allows the subrecipient to retain program income, the agreement must specify which activities may be undertaken with those funds and must be identified in the Grantee's Program Income Re-Use Plan.
- **Administrative Requirements** – Specifically requiring compliance with all applicable uniform administrative mandates.
- **Program Requirements** – Specifying compliance with CDBG requirements and other state and Federal overlay requirements (labor standards, nondiscrimination, and equal opportunity, etc.), except that the subrecipient may not assume the grantee's environmental responsibilities.
- **Conditions for Religious Organizations** – Where applicable, the conditions prescribed by HUD for the use of CDBG funds by religious organizations.
- **Suspension and Termination** – Specifying the conditions for convenience and cause.
- **Reversion of Assets** – Stipulating that, on the expiration of the agreement, the subrecipient must transfer to the grantee any CDBG funds on hand and any accounts receivable attributable to CDBG funds. This must also include provisions designed to ensure that any real property acquired or improved in whole or in part with CDBG funds in excess of \$25,000 is either:
 - Used to meet one of the three national objectives for at least fifteen (15) years after the expiration of the agreement, or longer if stipulated by the grantee; or
 - Disposed of in a manner those results in the grantee being reimbursed in the amount of the current fair market value of the property, less any portion of the value attributable to non-CDBG expenditures.
- **Cessation of the Subrecipient** – Providing remedies and procedures in the event of the subrecipient ceases to exist.
- **Standard Provisions** - Required of all contracts (such as equal opportunity, Section 3, Section 504, labor, etc.). See Section 2: Contract Development of this chapter.

Section 10.5 Submission of Documents to DOH

Once the grantee has executed contracts for CDBG funded projects, the following documents are to be submitted to the Small Cities Construction Specialist:

- One copy of executed contract and grantee's authority to execute (Board Resolution, etc.)
- Notice to Proceed
- Copy of Performance Bond, Labor and Material Payment Bond, and Power of Attorney for Surety (unless under \$100,000).
- Certificate of Insurance from general contractor and all professional service providers (i.e., engineer, architect, grant administrator, etc.) covering liability and workers' compensation and builder's risk, as applicable.

Chapter 11: Reporting and Recordkeeping

Introduction

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

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

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

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

The submission of timely reports is essential for compliance with the Grant Agreement.

Section 11.1 Semi-Annual Reporting

Semi-Annual Progress Reports (formerly Quarterly Grantee Progress Reports) and Contractor/Subcontractor Activity Reports will be used to assess program progress, timeliness and to justify needs. It is important because it provides the Department of Housing (DOH) with information that is required to be provided to the U.S. Department of Housing and Urban Development (HUD). Therefore, both reports must be submitted on time and accurately.

Reporting Period	Due Date
Jan 1 – June 30	July 15
July 1 – December 31	January 15

[Attachment 11-1:
Semi-Annual Progress
Report](#)

[Attachment 11-2:
Contractor/Subcontractor
Activity Report](#)

The twice-yearly reporting requirement begins with the first report deadline after the Grantee submits their first draw request and continues until the Grantee has submitted the Final Semi-Annual Report, Final Contractor/Subcontractor Activity Report, and the Pre-Closeout Certification.

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

Section 11.2 Labor Standards and Construction Reporting

The Grantee is responsible for submitting all required Labor Standards reports as described in [Chapter 9: Labor Standards](#) of this manual and listed below:

- Wage Determination Lock-In Notice
- Copies of Contracts as Awarded
- Notice to Proceed
- Copies of Bonding and Insurance Documentation
- Enforcement Report

Section 11.3 Maintaining Records

Grantees must establish a system for record keeping that assists DOH with the review of files for compliance. In other words, records should be kept in a manner that clearly tells the whole story of a Community Development Block Grant (CDBG) project from beginning to end. **The Grantee is responsible for maintaining all records pertinent to a grant, including supporting documentation, for three years from the date the State closes the program year from which the grant funds were awarded. Because this required record retention period could exceed ten years, the State will notify Grantees when a program year has been closed with HUD and include the end date of the record retention period.**

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

We also suggest that the following procedural guidelines be considered when designing your filing system:

- Separate files should be maintained for each Small Cities Grant Year;
- Files should be coded for each area of compliance to allow for easier access;
- Responsibility for file-keeping should be delegated to a specific individual to provide consistency;
- Files should be secured at all times;
- Files should be maintained in accordance with the attached Required File Listing. The items listed under each file title are required. Appropriate documentation should be located within that file.

11.3.1 Application File

- Copy of original application
- Assistance Agreement (AA)
- Authorized Signature for Request for Payment form
- All correspondence/info prior to the signing of the grant agreement, including comments from other state agencies Program revisions (if applicable)
- Approved Financial Plan and Budget (and revisions)

11.3.2 National Objectives

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

- Low/Mod Area Benefit
 - Boundaries of service area
 - Census data including total persons and percentage low/mod
 - Evidence area is primarily residential
 - Survey documentation (if applicable)
- Low/Mod Limited Clientele
 - Documentation that the beneficiaries are low/mod or presumed to be low/mod (by category)
 - Low/Mod Housing (see also Housing section below)
 - Income verification of households (using the Section 8 definition) including source documentation
- Low/Mod Job Creation and Retention
 - Number of jobs created or retained
 - Type and title of jobs created or retained
 - Income of persons benefiting from the jobs created or retained
- Slum and Blight
 - Area designation (e.g., boundaries, evidence area meets State slum/blight requirements)
 - Documentation and description of blighted conditions (e.g., photographs, structural surveys, or development plans)
 - If applicable, evidence that the property meets spot designation requirements (e.g., inspections)

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- Urgent Need
 - Documentation of threat to health and safety
 - Documentation of recent origin
 - Certification that other financing resources were unavailable and CDBG had to be used (including ability to borrow, etc.)

11.3.3 Citizen Participation File

- Citizen Participation Plan
- Evidence that citizens were furnished appropriate information (as required in application process)
- Affidavit of the Notices of Public Hearing
- Minutes from the public hearing
- Citizen outreach techniques, including evidence of marketing effort for direct benefit activities such as housing rehabilitation
- Citizen complaints and relevant correspondence (if applicable)

11.3.4 Environmental Review Record (ERR)

For all projects:

- Environmental Review Record Checklist
- Scope of Work for Project/Activity
- Copy of any environmental studies (e. g. archaeological surveys, etc.)
- Copy of all maps and drawings
- Photographs of the project site
- Copy of Request for Release of Funds
- Release of Funds from DOH

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Exempt and CENST Activity Project Classification

- Copy of the Certificate of Exempt/CENST Activity
- Copy of Request for Release of Funds
- Copy of Notice of Release of Funds Notification

Categorically Excluded Projects Subject To

- Copy of Environmental Review for CEST Activity
- Copy of all Consultation letters and responses

- Copy of the Notice of Intent to Request Release of Funds (NOI/RROF) advertisement
- Copy of Floodplain Process documentation (if applicable)
- Copy of Publishers Affidavit for NOI/RRO
- Copy of the RROF Certification
- Copies of any letters received in response to the NOI/RROF
- Copy of Release of Funds Notification from DOH

Assessed Activity Project Classification

- Copy of Environmental Assessment Form
- Copy of Environmental Assessment Checklist
- Photographs of the project site
- Copy of all Agency/Interested Parties Consultation letters
- Written determinations from relevant agencies (SHPO, DEP, Wetlands, etc.)
- Copy of the “Combined Notice of Finding of No Significance”
- Environmental Impact and a Request for Release of Funds
- Copy of Publishers Affidavit for Notice
- Copy of the RROF Certification
- Request for Release of Funds (RROF)
- Release of Funds (ROF)
- Comments received pursuant to the ERR (if applicable)

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Beginners](#)

11.3.5 Civil Rights

- Documentation of completion of the required Fair Housing Action Steps
- Documentation that the project is designed to redress past discrimination
- A copy of the provisions for nondiscrimination given to developers, contractors, etc.
- Demographic statistics on all beneficiaries and denied applicants of site-specific activities (i.e., housing rehab)
- Documentation of Section 3 certifications from all contractors and subcontractors.
- Documentation that contractors complied with the Civil Rights requirements as explained at the pre-construction conference
- Fair Housing Strategy

- Documentation of all other efforts to further local fair housing and opportunity
- Documentation of compliance with the requirements under Section 504 of the Rehabilitation Act of 1973, as amended

11.3.6 Financial

- Copies of all Vendor Invoices
- Cash Receipts Journal
- Cash Disbursement Journal
- General Ledger
- Property Management Register
- Subsidiary Ledger on Rehabilitation Loans
- Journal Entry Voucher (optional)
- Federal Cash Control Register (optional)
- Expenditure Summary Report (optional)

11.3.7 Procurement

All Procurements utilizing CDBG funds:

- Documentation of Cost Reasonableness Estimate for all procurements

Supplies/Materials

- Copy of Request for Quotation (RFQ) (email, telephone notes, etc.)
- Documentation of Notice to DAS for M/WBE participation
- Documentation of all quotes received
- Justification of selection

Professional Services

- Copy of the Request for Proposal (RFP) or Request for Qualifications (RFQ)
- Copy of the RFP/RFQ newspaper advertisement
- Documentation of notification to DAS for M/WBE participation
- List of companies who submitted Statements of Qualifications or Proposals
- RFP/RFQ evaluation and scoring documents
- List of short-listed firms and documentation of interview process

- Short-listed firms evaluation and scoring documents
- Justification for selection of contractor

Construction and Related Services

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

11.3.8 Contract Development

Professional Services

- Copy of Contract with the required federal contract provisions (outlined in the DOH Assistance Agreement)
- Disclosure Report for each contract

Construction – Related Services

- Copy of Contract with the required federal contract provisions (outlined in the DOH Assistance Agreement)
- Copy of the Bid Guarantee
- Copy of the Performance Bond
- Copy of the Payment Bond
- Copy of contractor(s) insurance policy
- Disclosure Report for each contract
- Proof of the established Retainage Account (if applicable)
- Documentation on all Change Orders

11.3.9 Payment File

- Copies of all Contractor/Consultant Invoices
- Copies of Payment Requests in Chronological order

- Approved Cost Summary (and revisions)
- Authorized Signature for Request for Payment form
- Original Project Expenditure Account Agreement

11.3.10 Audit File

- Copy of Audit Reports
- Responses to Audit Findings (if applicable)
- Copy of DOH Acceptance or Disapproval letter
- Grantees response to DOH findings (applicable if audit was disapproved by DOH)
- Request for Proposal (RFP) for auditing firm

11.3.11 Acquisition and Relocation Files

Acquisition

A separate file must be maintained for each property acquired and must include:

- Property owner name and address
- Address of property to be acquired
- Copy of market estimate on property valued under \$10,000.00
- Copy of Appraiser's identification Card (when applicable)
- Preliminary Acquisition Notice to Owner Invitation to the owner to accompany appraiser Appraisal Reports
- Review of Appraisal
- Copy of written purchase offer
- Purchase agreement
- Copy of donation/waiver forms (if applicable)
- The deed to the property to be acquired

Relocation

A separate file must be maintained for each household relocated and must include:

- A household survey, which should include the names, ages and demographic information of the household to be relocated

- A description of the nature of the advisory services offered, including the dates they were offered and any brochures or pamphlets explaining their rights
- Evidence of correspondence concerning the rights and payments available to displaced persons
- 90day advance Relocation Notice (and evidence of delivery)
- 30day Displacement Notice (and evidence of delivery) Evidence of at least three referrals to comparable units Inspection report on referral units
- Documentation on the type of payment made
- Evidence that payment was made (canceled check or the like)

11.3.12 Labor Standards

- Copy of Wage Determination Assignment Notice
- Copy of Wage Determination Lock-in Notice
- Justification of Wage Determination effective other than bid opening (if applicable)
- Copy of Invitation for Bid
- Copy of Publishers Affidavit for IFB
- Copy of construction plans and specifications with appropriate labor standards documentation attached
- Copy of Pre-Bid Conference Sign-in sheet (if applicable)
- Copy of the Contractor/Subcontractor Verification form
- Copy of the Notice of Contract Award
- Copy of the construction-related contract(s) with the HUD 4010 form and Federal Construction Contract Provisions referenced or attached
- Copy of the Preconstruction Conference Notes
- Copy of contractor(s) fringe benefit programs
- Copy of any apprenticeship certification programs, if applicable
- Copy of Contractor(s) Certification form
- Copy of Subcontractor(s) Certification forms, if applicable
- Copy of all weekly certified payroll reports for contractor(s)/subcontractor(s)
- Copy of all employee interviews
- Documentation of any wage deficiencies and copies of restitution payments (if applicable)

- Copy of the Final Inspection/Project Completion report

11.3.13 Contractor File

- Copies of Payment Requests in Chronological order
- Original Project Expenditure Account Agreement

11.3.14 Reporting File

- Semi-Annual Progress Reports
- Semi-Annual Contractor/Subcontractor Activity Report

11.3.15 Monitoring File

- Construction Closeout Checklist
- Construction Closeout Certification
- Project At-a-Glance Worksheet (as applicable)
- DOH monitoring letters
- Evidence of corrective actions in relation to DOH findings (if applicable)
- Certificate of Completion

[Attachment 12-6: Project At-a-Glance Worksheet - Housing Rehab](#)
and
[Attachment 12-7: Project at-a-Glance Worksheet - Public Housing \(under construction\)](#)

11.3.16 Housing Rehab Files

- See Appendix I: File Checklist in the CDBG Residential Rehab Standards Manual in [Chapter 7: Housing Rehabilitation](#) of this Manual.

[7-28: CDBG Residential Rehab Standards](#)

Chapter 12: Monitoring and Closeout

Introduction

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

Section 12.1 Construction Monitoring Process

On the last day of each month, once construction has started, grantees must complete and email the Interim Construction Monitoring Checklist for each ongoing project to the Small Cities Construction Specialist. The Construction Specialist will conduct random on-site inspections. An ongoing project is defined as a project that is currently undergoing construction.

[Attachment 12-1:
Interim Construction
Monitoring Checklist](#)

Section 12.2 Initiation of Closeout Process

Once the grantee has determined all costs to be paid with grant dollars have been incurred, they will initiate closeout with DOH. Costs are incurred when goods and services are received and/or contract work is performed. With respect to rehabilitation activities that are carried out by means of a revolving loan fund, loan guarantee accounts or similar mechanisms, costs are considered incurred at the time funds are initially used for activities as described in the Grantees Small Cities Application.

[Attachment 12-2:
Construction Closeout
Checklist](#)

Prior to submitting the pre-closeout certificate to DOH on a construction project, all activities must be completed and the Construction Closeout Checklist (Attachment 12-2) and Construction Compliance Certification (Attachment 12-3) must be completed and placed in the file for review at monitoring.

[Attachment 12-3:
Construction Compliance
Certification](#)

Section 12.3 Closeout Procedures

Within 30 days of the final Request for Payment, the grantee will initiate the process below:

1. The grantee must submit a Final Semi-Annual Report, a Final Contractor/Subcontractor Activity Report, and the Pre-Closeout Certification within thirty (30) days of final funds drawdown. Grantees MUST denote "Final" on their last Semi-Annual Report.

[Attachment 11-1:
Semi-Annual Report](#)

[Attachment 11-2:
Contractor/Subcontractor
Activity Report](#)

2. After receipt of the Final Semi-Annual Report, Final Contractor/Subcontractor Report, and Pre-Closeout Certification (Attachment 12-4), DOH will notify the grantee of the scheduled monitoring date. DOH will monitor grantee files to determine that all applicable laws and regulations have been carried out satisfactorily.
3. The grantee will immediately refund to DOH any grant amounts determined to be ineligible at the time of monitoring.
4. Upon receipt of ineligible funds and resolution of all audit and monitoring findings, when applicable, DOH will issue a Certificate of Completion.

[Attachment 12-4:
Pre-Closeout Certification](#)

Section 12.4 Monitoring Process

Overview

DOH will conduct an on-site monitoring to review all grant documentation, financial records, and the actual facility and/or improvements. The purpose of the monitoring is to verify the project has met the stated goals and objectives of all federal CDBG regulations and that all contractors, subcontractors and suppliers have been paid in full and have provided final lien waivers. Successful monitoring meetings largely depend upon the organization and accuracy of record keeping by the Grant Administrator.

Monitoring also provides an opportunity for grantees and/or grants administrators to seek technical assistance in areas of concern or confusion.

Scheduling the Visit

A visit is scheduled in advance. The Chief Executive Officer (CEO) of the grantee, as well as the grant administrator, is notified of the date, time, location and purpose of the review visit in writing.

Entrance Meeting/Interview

Once on-site, the first thing that typically occurs is an entrance meeting/interview. DOH staff will conduct an entrance meeting/interview to state the purpose of the review and outline which files and documentation will be needed during the review. Grantees should be prepared to provide an overview of the project as well as its status and any issues prior to the beginning of the reviews. The DOH staff will also ask about particular concerns or needs regarding the project so that technical assistance can be scheduled, if appropriate.

Monitoring of Files and Other Documentation

Utilizing the DOH Monitoring Checklist, DOH staff will review the files to determine if all requirements have been met. The primary areas being examined are consistency with the specific terms of the grant agreement and compliance with state and federal requirements.

[Attachment 12-5:
DOH Monitoring
Checklist
\(under construction\)](#)

Record keeping is the most important component of monitoring. Grantee files pertaining to the CDBG project must be orderly and complete. In addition, if files are maintained by or located in another office such as an engineer or clerk, these files should be obtained and available for review.

[Attachment 12-6:
Project At-a-Glance -
Housing Rehab](#)
and
[Attachment 12-7:
Project At-a-Glance -
Public Housing
\(under construction\)](#)

DOH has created the Project At-a-Glance Worksheets for Housing Rehabilitation and Public Housing Modernization to assist both the Grantee and DOH staff in the review of these projects.

If required materials are not available on the date of the monitoring, DOH will request that the Grantee or Grant Administrator submit the required documentation within 15 days. If not submitted within 15 days, the issues will be listed on the official monitoring letter. After the monitoring meeting or desk review, DOH will forward a letter to the Grantee informing them of their grant status. This letter will state one of the following results:

1. **No Findings:** If the Grantee's performance was found to be in compliance with all CDBG regulations, DOH will state the project had no findings and will inform the Grantee to proceed to the next step of the Closeout process.
2. **Unresolved Findings:** If compliance issues were raised at the monitoring meeting, DOH will address these issues in writing. The Grantee will be given 30 days to resolve these issues. After DOH reviews the submitted documentation, Grantee will be advised how to proceed with the Closeout process.

Grantees should note that significant and/or repeated findings or concerns will impact their rating/ranking when applying for additional funds.

Section 12.5 Record Retention

Once the project has received final closeout, the grantee is required to retain all records pertaining to the project until notified from DOH that records may be destroyed. Refer to [Chapter 11: Reporting and Recordkeeping](#) for more information on the records that must be maintained.

Section 12.6 Change of Use Restrictions

The CDBG regulations contain provisions regarding changing the use of real property within the grantee's control that was acquired or improved, in whole or in part, with CDBG funds. These provisions require that the property be maintained for the original eligible use and to continue to meet a national objective for at least fifteen (15) years after the local unit of governments has received a Certificate of Completion from DOH.

If the project involved acquisition or improvement of real property using CDBG funds:

- A grantee may not change the use or planned use of any such property from that for which the acquisition or improvement was made, unless DOH and grantee provide affected citizens with reasonable notice of and opportunity to comment on any proposed change; and
- The grantee must have a recorded use restriction recorded with the land records office, for a minimum of 15 years.
- The new use of the property must qualify as meeting one of the national objectives and is not a building for the general conduct of government. However, if DOH and the grantee determine, after consultation with affected citizens, that the reuse of the property is not a CDBG eligible activity and does not meet a national objective, it may retain or dispose of the property for the changed use. DOH may require reimbursement in the amount of the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, and improvements to, the property. Following the reimbursement of the CDBG program, the property no longer is subject to any CDBG requirements.

[Attachment 7-29:
Sample Use Restriction](#)
and
[Attachment 7-30:
Sample Use Restriction
Public Housing](#)

Glossary of Terms and Acronyms

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

- **ACH Routing Number:** The number assigned to each bank by the Federal Reserve for the routing of financial transactions.
- **ADA:** Americans with Disabilities Act of 1991.
- **Allowable Costs:** Costs that are acceptable under 2 CFR 200 and are approved as part of an activity in the grant agreement.
- **Amendment:** A written revision or change to the contract/grant agreement.
- **American Indian/Alaskan Native:** A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.
- **Appraised Value:** An estimate and opinion of the value of property resulting from the analysis of facts. The three generally accepted approaches to real estate value estimates are: (1) market approach - comparison with known sales of other properties in the same area and classification; (2) cost approach-reproduction costs less depreciation; and (3) income approach-capitalization of the estimated net income.
- **Assurance:** A written statement or contractual agreement signed by the chief executive officer in which a grantee agrees to administer Federally-assisted programs in accordance with laws and regulations.
- **Beneficiaries:** Persons to whom assistance, services or benefits are ultimately provided.
- **Change Order:** A written revision or change to a contract.
- **CGS:** Connecticut General Statutes.
- **Collateral:** Security given as a pledge for the fulfillment of an obligation normally in the form of fixed assets (i.e., land, building, equipment, etc.).
- **Community Based Development Organization (CBDOs):** A locally based non-profit that is certified by the CDBG program to implement CDBG activities under Section 105(a)15 and retain CBDO proceeds which are not considered program income and are not federal funds.
- **Community Development Block Grant (CDBG):** The Federal entitlement program that provides funds to States and cities/counties for community development programs and projects.
- **Compliance:** The fulfillment of the requirements of applicable laws, implementing regulations and instructions.
- **Competitive Negotiation:** Discussion regarding technical and price proposals with offers in the competitive range for a contract being awarded using the competitive proposals or noncompetitive proposal method of procurement.

- **Competitive Sealed Bid:** The procurement method for requesting competitive sealed bids. This method of procurement requires specifications be written clearly, accurately and completely describing the requirements. A public bid opening is held and evaluation of bids and award of the contract are based on the lowest responsible bid submitted by a responsive and responsible contractor.
- **Condemnation:** The act of taking private property for public use by a political subdivision.
- **Consolidated Plan (Con Plan):** A plan prepared in accordance with the requirements set forth in 24 CFR Part 91, which describes community needs, resources, priorities, and proposed activities to be undertaken under certain HUD programs, including CDBG.
- **Contract Amendment:** Any written alteration in the specifications, delivery point, day of delivery, contract period, price, quantity or other provision of an existing contract, between the local unit of government and any consultants, contractors or sub-recipients.
- **Contractors:** A contractor is an entity paid with project funds in return for a specific service (e.g., construction). Contractors must be selected through a competitive procurement process.
- **Cost Reimbursable:** A type of contract where contractors are paid for the work accomplished. The contract specifies an estimate of total costs and designates a maximum dollar amount that cannot be exceeded without the approval of the contracting officer.
- **Councils of Government (COGs):** Regional planning and development organizations in which counties and cities work together to accomplish common goals and receive shared benefits.
- **Deed Restriction:** A deed restriction is a limitation on the use of your property that appears in the deed to your property and is put there by another person. ... Deed restrictions also are referred to as covenants, conditions, and restriction (CCRs), or sometimes restrictive covenants.
- **Department of Administrative Services (DAS):** The agency within the State of Connecticut that administers the small and minority business program.
- **Department of Housing (DOH):** The agency within the State of Connecticut that administers the State CDBG Program.
- **Discrimination:** Unequal treatment of a class of persons. An action, policy or practice is discriminatory if the result is unequal treatment of a particular protected class.
- **Displaced Person or Business:** When a person or business is forced to move permanently as a direct result of acquisition, demolition or rehabilitation of HUD-assisted projects carried out by public agencies, nonprofit organizations, private developers, and others.
- **DUNS Number:** The Data Universal Numbering System (DUNS) is a unique numeric identifier assigned to a single business entity, developed and regulated by Dun & Bradstreet (D&B).
- **Easement:** The right, privilege or interest one party has in the land of another and is an encumbrance against the property that is subject to it. An easement may be permanent or temporary.

- **Equal Employment Opportunity (EEO):** Refers to a number of laws and regulations that together require that CDBG grantees provide equal opportunity to all persons without regard to race, color, religion, age, familial status, disability, sex, sexual orientation, gender identity, or national origin in the administration of their programs.
- **Eligible Costs:** The costs of a project that are acceptable according to Section 105 of the Housing and Community Development Act and that are consistent with the Assistance Agreement.
- **Eminent Domain:** The power of the government to take private property for public use upon just compensation. The power extends to all lands acquired for the purpose of a higher public character deemed necessary for the proper performance of governmental functions essential to the life of the State.
- **Environmental Assessment (EA) Checklist:** A concise public document to aid in a grantee's compliance with the National Environmental Policy Act.
- **Environmental Clearance:** A clearance given by DOH to indicate a grantee has met the CDBG environmental procedures and sufficient documentation and certification have been provided.
- **Environmental Impact Statement (EIS):** The documentation that is required when a project is determined to have a potentially significant impact on the environment.
- **Environmental Review:** The technical process of identifying and evaluating the potential environmental effects of a specific project within each impact category and as a whole.
- **Environmental Review Record (ERR):** Documentation of the environmental review process including all assessments or environmental impact statements, published notices, notifications and correspondence relating to a specific project.
- **Equity:** Funds that will be invested in a project by a private company designated as the participating party in the grant agreement.
- **Extremely Low-Income:** As defined in the Consolidated Plan regulations and Section 8 Program, a family whose annual income does not exceed 30 percent of the area median family income.
- **Fair Housing:** Refers to a number of Federal and State laws and regulations that prohibit a wide range of discriminatory practices and require that CDBG programs be administered in a manner that affirmatively furthers fair housing.
- **Fair Market Value:** The price at which a willing seller would sell and willing buyer would buy a piece of real estate with neither being under abnormal pressure. As defined by the courts, the highest estimated price a property would bring if exposed for sale in the open market.
- **Family:** As defined in the Entitlement program a group of persons residing together, and includes but is not limited to: a family with or without children, an elderly family; a near-elderly family; a disabled family; or a displaced family. An individual living in a housing unit that contains no other person(s) related to him/her is considered to be a one-person family for this purpose.
- **Federal Assistance:** Any funding, property or aid provided for the purpose of assisting a beneficiary.

- **Fee Simple:** Absolute ownership of real property with unrestricted rights of disposition during the owner's life.
- **Firm Fixed-Price Contract:** A contract that provides for a price that is not subject to any adjustment in the performance of the contract.
- **Finding of No Significant Impact (FONSI):** A public document by a Federal agency or a CDBG grantee briefly presenting the reasons why an action not otherwise excluded (40 CFR 1508.4) or exempt will not have a significant effect on the human environment and for which an environmental impact statement will not be prepared.
- **Funding Agency:** Term used to refer to the entity that provides funding for an activity, project or program, as used particularly when completing environmental requirements. In the case of CDBG funds, DOH is the funding agency.
- **Grantee:** Refers to eligible communities that receive and use CDBG funds under the State of Connecticut's CDBG Program.
- **Hispanic or Latino:** A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
- **Household:** As defined in the Entitlement program, all persons occupying the same housing unit, regardless of their relationship to each other. The occupants could consist of a single family, two or more families living together, or any other group of related or unrelated persons who share living arrangements.
- **Inspection:** The examination and testing of supplies and services to determine if they conform to contractual requirements.
- **Internal Controls:** Policies and procedures that ensure project transactions will be carried out in conformity with applicable regulations and agency policy.
- **Invitation for Bids (IFB):** Under the sealed bidding method of procurement, the written solicitation document that explains what the grantee is buying and requests bids from potential contractors.
- **Language Assistance Plan (LAP):** A plan developed by organizations to address other-than-English language service capabilities for limited-English proficient (LEP) individuals.
- **Lease:** A contract in which a property owner (lessor) transfers the possession of an asset to another party (lessee), usually in exchange for the payment of rent.
- **Legally Binding Agreement:** Document entered into between the grantee and the nonprofit and/or participating party that defines and delineates each party's responsibilities as contained in the grant agreement.
- **Lien Position:** The order in which creditors will be satisfied in case of default.
- **Life Estate:** An estate or interest held during the term of a particular person's life.
- **Limited English Proficiency (LEP) Individuals:** Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.

- **Local Match:** Funds provided by the locality/grantee as a condition of award/use of CDBG funds. Local match can come from a variety of non-grant, cash sources.
- **Low and Moderate Income (LMI):** As defined in the Consolidated Plan regulations and Section 8 Program a family whose annual income whose annual income is below 80 percent of the area family median income.
- **Low-income:** A household/family having an income below 50 percent of the area median income.
- **Microenterprise:** A commercial enterprise that has five or fewer employees, including the owner (or owners) of the business.
- **Minority:** A person or groups of persons differing from others in some characteristics such as race, color, national origin, religion, sex, disability or familial status.
- **Minority Business Enterprise/Woman-owned Business Enterprise (MBE/WBE):** Companies owned by minorities or women, that are certified by Department of Administrative Services.
- **Miscellaneous Revenue:** Revenue recaptured by a grantee that is not program income and not subject to Federal requirements.
- **Moderate-income:** A household/family having an income above 50 percent but below 80 percent of the median income for the area.
- **Monitoring:** A routine review of projects during and after Federal assistance has been provided to the grantee.
- **National Objective(s):** Refers to the three main goals of the CDBG Program—(1) benefit to LMI persons, (2) prevent or eliminate slums/blight, or (3) meet a need having a particular urgency. All funds expended under the program must meet one of the three national objectives.
- **National Origin:** Can be defined as a person's ancestry, nationality group, lineage or country of birth of parents and ancestors before their arrival in the United States.
- **Native Hawaiian/Other Pacific Islander:** A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- **Noncompetitive Proposals:** The method of procurement in which the grantee solicits proposal(s) from one source or a limited number of sources. This process may be used only under very limited circumstances and DOH must approve the use of noncompetitive proposals.
- **Noncompliance:** Failure or refusal to comply with an applicable law or regulation or DOH requirement.
- **Nondiscrimination:** The absence or avoidance of discrimination. See Discrimination above.
- **Notice of Intent/Request Release of Funds (NOI/RROF):** The notice the grantee completes and submits to DOH once the appropriate level of environmental review has been completed.

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

- **Responsible Bidder:** A bidder who has the technical and financial capacity to secure the necessary resources in order to deliver the goods or services including meeting all the conditions as required by the bid.
- **Responsible Entity (RE):** Term used to refer to the entity responsible for completing and certifying an environmental review record, as required under 24 CFR Part 58. In the case of CDBG funds, grantees (that are local governments) are the responsible entity.
- **Responsive Bid:** A bid that conforms exactly to the requirements in the invitation for bids (IFB).
- **Revolving Fund:** A separate fund that is independent of other program accounts established to carry out specific activities that, in turn, generate payments to the fund for use in carrying out such activities. Commonly used under CDBG program income funds for ongoing housing rehabilitation or economic development activities.
- **Right of Way:** A privilege operating as an easement upon land whereby the owner has given to another the right to pass over the land to construct a roadway or use as a roadway a specific part of the land. The right to construct through or over the land telephone, telegraph or electric power lines, or the right to place underground water mains, gas mains or sewer mains.
- **Section 3 Business:** These are business concerns that are 1) fifty-one percent (51%) or more owned by Section 3 residents; 2) Whose permanent, full-time employees include persons, at least thirty percent (30%) of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or 3) That provides evidence of a commitment to subcontract in excess of twenty-five percent (25%) of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in items (1) or (2) above.
- **Section 3 Resident:** Is a person of low- and moderate income (see definition above) that reside in the county which the CDBG project is located.
- **Single Annual Audit:** The Single Annual is a rigorous, organization-wide audit or examination of an entity that expends \$750,000 or more of Federal assistance (commonly known as Federal funds, Federal grants, or Federal awards) received for its operations.
- **Specifications:** Clear and accurate description of the technical requirements of a service or supply contract.
- **State Historic Preservation Office (SHPO):** The State office that determines whether a grantee's project includes historically significant properties under applicable environmental review requirements. In Connecticut, this office is within the DECD Office of Tourism.
- **Scope of Work:** Written definition of work to be performed that establishes standards sought for the goods or services to be supplied, typically used for service contracts.
- **Section 104(d):** Refers to Section 104(d) of the Housing and Community Development Act of 1974, as amended. Defines statutory requirements for relocation assistance in HUD programs.

- **Statute/Statutory:** Refers to requirements that have their basis in the law passed by Congress. In the case of CDBG, the statute is Title I of the Housing and Community Development Act of 1974. Statutory provisions cannot be waived by HUD, except in cases of a natural disaster, and must be changed or approved by Congress. There are also some parts of the Connecticut General Statutes applicable to the CDBG Program.
- **Statutory Checklist:** A checklist covering environmental compliance required by other Federal agencies, executive orders and other HUD regulations (24 CFR 58.5).
- **Sub-recipient:** Sub-recipients are nonprofit organizations chosen by the grantee to undertake certain eligible CDBG activities.
- **System for Award Management (SAM):** An information system tool that streamlines the Federal acquisition business processes by acting as a single authoritative data source for vendor, contract award, and reporting information.
- **Termination for Convenience:** Termination of a contract on a unilateral basis when the grantee no longer needs or requires the products or services or when it is in the best interest of the grantee.
- **Termination for Cause:** Termination of a contract when the contractor fails to perform or make progress so as to endanger performance.
- **Time Delay:** An interruption during which services, supplies or work are not delivered in accordance with the performance time schedule stated in the contract.
- **Uniform Federal Accessibility Standards (UFAS):** Uniform standards for the design, construction and alteration of buildings so that physically disabled persons will have ready access to and use of them in accordance with the Architectural Barriers Act.
- **Uniform Relocation Act (URA):** The Federal regulation governing the acquisition of real property and the relocation or displacement of persons from Federally-assisted projects.
- **Use Restriction:** See *Deed Restriction*.
- **US Department of Housing and Urban Development (HUD):** HUD establishes the regulations and requirements for the program and has oversight responsibilities for the use of CDBG funds.
- **US Department of Labor (DOL):** Department of the U.S. Government that is responsible for Federal labor regulations and requirements.
- **US Environmental Protection Agency (EPA):** Department of the U.S. Government that is responsible for Federal environmental regulations and requirements.
- **Very Low-income:** As defined by the Consolidated Plan regulations and Section 8 Program, a family whose annual income falls in the range of 31 to 50 percent of the area median family income.